



GOVERNMENT GAZETTE

OF THE

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Government Notice

MINISTRY OF WORKS AND TRANSPORT

No. 293

2018

AMENDMENT OF NAMIBIAN CIVIL AVIATION REGULATIONS, 2001: CIVIL AVIATION ACT, 2016

Under sections 54 to 57 of the Civil Aviation Act, 2016 (Act No. 6 of 2016) I have, after consultation with the Board of Directors of the Namibia Civil Aviation Authority -

- (a) made the regulations set out in the Schedule;
- (b) determined that the said regulations come into effect on the date of publication of this notice, except for regulation 10 (relating to Part 139) which comes into effect on 1 January 2019; and
- (c) repealed Government Notice No. 181 of 5 July 1996 with effect from the date of publication of this notice.

J. MUTORWA
MINISTER OF WORKS AND TRANSPORT

Windhoek, 19 October 2018

SCHEDULE

Definition

1. In these regulations “the Regulations” means the Namibian Civil Aviation Regulations published under Government Notice No. 1 of 2 January 2001, as amended by Government Notice No. 57 of 1 April 2006, Government Notice No. 201 of 1 November 2006, Government Notice No. 80 of 4 April 2017 and Government Notice No.210 of 31 August 2018.

Amendment of table of contents of Regulations

2. The table of contents to the Regulations is amended -
- (a) by the insertion under heading “PROCEDURES” of the following titles:
- “Part 2 Units of measurement to be used in air and ground operations”;
 “Part 3 Regulations making, issuing of technical standards, exemptions, directives, filing of differences and other procedures”;
- (b) by the substitution for the titles “Part 11” and “Part 13” of the following titles:
- “Part 11 Establishment of technical committees, panels and related procedures”;
 “Part 13 Enforcement procedures”;
- (c) by the insertion under the heading “RULES OF THE AIR AND GENERAL OPERATING RULES” of the following title:
- “Part 90 Performance-based navigation”;
- (d) by the substitution for the title “Part 92” of the following title:
- “Part 92 Safe transport of dangerous goods by air”;
- (e) by the insertion after the title “Part 107” of the of the following Parts:
- “AVIATION SECURITY**
- Part 108 Acceptance, forwarding, storage and carriage of cargo, mail and in-flight supplies
 Part 109 Aviation security training organisations
 Part 110 Aviation security screeners and instructors certification
 Part 111 Aviation security programmes and security measures
 Part 112 (Reserved for future use)
 Part 113 Aviation security service providers: certification
 Part 114 Aviation security background checks”;
- (f) by the substitution for the title “Part 139” of the following title:
- “Part 139 Aerodromes”;
- (g) by the insertion after the heading “**ORGANISATIONS**” of the following title:
- “Part 140 Safety management systems and related matters (SMS)”;
- (h) by the substitution for the title “Part 185” of the following title:
- “Part 185 Offences, fines and related matters”.

Amendment of regulation 1.00.1 of Regulations

3. Regulation 1.00.1 of the Regulations is amended -

(a) by the deletion of the definitions of “accident”, “accountable manager and compliance officer”, “aerodrome”, “aerodrome control service”, “aerodrome flight information service”, “aerodrome traffic”, “aircraft”, “air navigation facility”, “air traffic”, “air traffic control service”, “air traffic service”, “alerting service”, “approach control service”, “area control service”, “commercial air transport operation”, “controlled airspace”, “controlled flight”, “crew member”, “dangerous goods”, “flight information service”, “incident”, “international flight”, “manoeuvring area”, “owner” and “pilot-in-command”;

(b) by the insertion after the definition of “accelerate-stop distance available” of the following definition:

““access control” means the application of means by which the entry of unauthorised persons or unauthorised vehicles or both may be restricted or prohibited;”;

(c) by the insertion after the definition of “acoustical change” of the following definitions:

““acts of unlawful interference” means acts or attempted acts so as to jeopardise the safety of civil aviation and air transport, including -

(a) unlawful seizure of aircraft in flight;

(b) unlawful seizure of aircraft on the ground;

(c) hostage-taking on board aircraft or on aerodromes;

(d) forcible intrusion on board an aircraft, at an airport or on the premises of an aeronautical facility;

(e) introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes;

(f) communication of false information such as to jeopardise the safety of an aircraft in flight or on the ground, of passengers, crew members, ground personnel or the general public, at an airport or on the premises of a civil aviation facility; and

(g) use of an aircraft with intent to cause death or serious bodily injury to persons, serious damage to an aircraft or other property or serious damage to the environment; and

“administrative fines” are the category of fines referred to in section 54(2)(c)(ii) in the Act, and which are imposed by the Authority;”;

(d) by the substitution for the definition of “Aeronautical Information Circular” of the following definition:

““Aeronautical Information Circular” means a notice issued by the -

(a) Executive Director under these regulations and containing information that does not qualify for the origination of a NOTAM or for inclusion in the AIP, but which relates to flight safety, air navigation, technical, administrative or legislative matters; or

- (b) Head of Air Navigation Services pursuant to regulation 3.04.1;”;
- (e) by the insertion after the definition of “AIP supplement” of the following definition:
“air carrier” means a person who operates an air service as defined in section 1 of the Air Services, 1949 (Act No. 51 of 1949);”;
- (f) by the insertion after the definition of “aircraft component” of the following definition:
“aircraft in flight” means an aircraft from the moment when all its external doors are closed following embarkation until the moment when such doors are open for disembarkation;”;
- (g) by the insertion after the definition of “airworthiness design standards” of the following definition:
“airworthiness directive” means an airworthiness directive which the Executive Director is empowered to issue under section 38(3) of the Act;”;
- (h) by the insertion after the definition of “automatically deployable emergency locator transmitter” of the following definition:
“aviation directive” means an aviation directive which the Executive Director is empowered to issue under section 38(6) of the Act;”;
- (i) by the insertion after the definition of “aviation recreation” of the following definition:
“aviation security” means the combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference that jeopardise or have the potential to jeopardise the security of civil aviation;”;
- (j) by the insertion after the definition of “bogus part” of the following definition:
“bomb threat” means a communicated threat, anonymous or otherwise, which suggests or infers, whether true or false, that the safety of an aircraft in flight or on the ground or of any airport or civil aviation facility or any person may be in danger from an explosive or other item or device;”;
- (k) by the insertion after the definition of “causes” of the following definition:
“cargo building” means a building through which cargo passes between air and ground transport, and in which processing facilities are located or in which cargo is stored pending transfer to air or ground transport;”;
- (l) by the insertion after the definition of “co-pilot” of the following definitions:
“Co-Mail” means air carrier company mail, shipped within the company’s network of stations;
“Co-Mat” means air carrier company materials, shipped within the company’s network of stations;”;
- (m) by the insertion after the definition of “defined point before landing” of the following definitions:
“design work”, in relation to a terminal instrument flight procedure, means any of the following work:

- (a) designing the procedure or a part of the procedure;
- (b) verifying, maintaining, reviewing, amending or adapting the procedure; or
- (c) supervising a person carrying on any work mentioned in paragraph (a) or (b);

“diplomatic bag” means a shipping container having diplomatic immunity from search or seizure;”;

- (n) by the insertion after the definition of “designated aviation medical examiner ” of the following definition:

“designated inspector, authorised officer or authorised person” means a person designated as such by the Executive Director pursuant to section 37(1) of the Act, to perform functions and exercise powers under these regulations;”;

- (o) by the insertion after the definition of “Document NAM-CATS-OPS 137” of the following definitions:

“Document NAM-CATS-PBN 90” means a document on the Namibian Civil Aviation Technical Standards relating to Performance-based Navigation, which is published by the Executive Director in terms of section 227 of the Act;

“Document NAM-CATS-SMS 140” means a document on the Namibian Civil Aviation Technical Standards relating to the Safety Management Systems, which is published by the Executive Director in terms of section 227 of the Act;

“Document NAM-CATS-UOM” means a document on the Namibian Civil Aviation Technical Standards relating to the Units of Measurement used in civil aviation, which is published by the Executive Director in terms of section 227 of the Act;”;

- (p) by the insertion after the definition of “employment permit” of the following definition:

“enforcement code” means the code referred to in regulation 13.01.1(2) that enables the Executive Director to enforce the Act and these regulations;”;

- (q) by the insertion after the definition of “hazard” of the following definition:

“Head of Air Navigation Services” means the head of Air Navigation Services appointed in terms of section 49(2) of the Act;

- (r) by the insertion after the definition of “heliport operating minima” of the following definition:

“high-risk cargo or mail” means cargo or mail presented by an unknown entity and cargo or mail showing signs of tampering must be considered as high risk if, in addition, it meets either one of the following criteria:

- (a) specific intelligence indicates that the cargo or mail poses a threat to civil aviation;
- (b) the cargo or mail shows anomalies that give rise to suspicion; or
- (c) the nature of the cargo or mail is such that baseline security measures alone are unlikely to detect prohibited items that could endanger the aircraft;”;

- (s) by the insertion after the definition of “International Regulations Preventing Collisions at Sea” of the following definition:
- “in-flight supplies” means all items intended to be taken on board an aircraft for use, consumption or purchase by passengers or crew members during a flight, other than -
- (a) cabin baggage;
 - (b) items carried by persons other than passengers; and
 - (c) air carrier company mail (Co-Mail) and company materials(Co-Mat);”;
- (t) by the insertion after the definition of “kite” of the following definitions:
- “known consigner”, relation to -
- (a) cargo, means the originator of property for transportation by air, and who has established business with a regulated agent or aircraft operator;
 - (b) mail, means the originator of mail for transportation by air, and who has established business with a regulated postal authority or administration,
- and who in either case, has been certificated by the Executive Director as such;
- “known supplier of airport supplies” means a supplier whose procedures meet the security rules and standards prescribed in Part 108 sufficiently to allow delivery of airport supplies to a security restricted area;
- “known supplier of in-flight supplies” means a supplier whose procedures meet the security rules and standards prescribed in Part 108 sufficiently to allow delivery of in-flight supplies to an air carrier or regulated supplier, but not directly to aircraft;”;
- (u) by the insertion after the definition of “landing distance available” of the following definition:
- “landside” means that area of an airport and buildings to which both travelling passengers and the non-travelling public have unrestricted access;”;
- (v) by the insertion after the definition of “Mach number” of the following definition:
- “mail” means dispatches of correspondence and other items tendered by, and intended for delivery to, postal services;”;
- (w) by the insertion after the definition of “register” of the following definitions:
- “registry manual” means the manual of the Civil Aviation Registry (CAR) referred to in regulation 3.01.1(3);”;
- “regulated agent” means an agent, freight forwarder or any other entity who conducts business with an operator and provides and ensures security controls that are accepted or required by the Executive Director in respect of cargo, and mail and who has certificated by the Executive Director as such;
- “regulated supplier of in-flight supplies” means a supplier whose procedures meet the security rules prescribed in Part 108 to a standard sufficient to allow delivery of in-flight supplies directly to aircraft, and who has been certificated by the Executive Director as such;”;

- (x) by the insertion after the definition of “scheduled commercial air transport operation” of the following definition:
- “screening” means the application of technical or other means which are intended to identify or detect weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference;”;
- (y) by the insertion after the definition of “search and rescue region” of the following definitions:
- “security” means a combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference;
- “security audit” means an in-depth compliance examination of all aspects of the implementation of the national civil aviation security programme;
- “security background check” means the procedures prescribed in section 134 of the Act, including a check of a person’s identity and previous experience including, where legally permissible, any criminal history, as part of the assessment of an individual’s fitness to implement a security control or for unescorted access to a security restricted area;
- “security control” means a process by which the introduction of weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference can be prevented;
- “security equipment” means devices of a specialised nature for use, individually or as part of a system, in the prevention or detection of acts of unlawful interference with civil aviation and its facilities;
- “security inspection” means an examination of the implementation of relevant national civil aviation security programme requirements by an operator of an aircraft, airport, or other entity involved in security;
- “security programme” means written measures adopted to safeguard international civil aviation against acts of unlawful interference;”;
- (z) by the insertion after the definition of “Selcall watch and Selcall callsign” of the following definition:
- “senior accountable manager”; means the natural person of the participant or holder, including an owner or operator, who is to have or is likely to have control over the exercise of privileges under an aviation document, carries responsibility for day-to-day aviation activities and compliance of the participant or holder, performs the duties as required by the Act, these regulations and technical standards, and who meets the fit and proper person test and other relevant prescribed requirements in the manner contemplated in section 69 of the Act;”;
- (aa) by the insertion after the definition of “taxiway” of the following definition:
- “technical standard”, in relation to civil aviation, means any standard, including any rule, requirement, method, specification, characteristic or procedure, issued by the Executive Director in accordance with section 227 of the Act in respect of civil aircraft or aircraft components, or in respect of persons engaged in any civil aviation activity or in respect of civil aviation related services, facilities or equipment;”;

(bb) by the substitution for the definition of “the Act” of the following definition:

“the Act” means the Civil Aviation Act, 2016 (Act No. 6 of 2016);”;

(cc) by the insertion after the definition of “type of aircraft” of the following definitions:

“unaccompanied baggage” means baggage that is transported as cargo and may or may not be carried on the same aircraft with the person to whom it belongs;

“unknown cargo” means any cargo for which there is no evidence that it has been subjected to the applicable screening procedures or continuous security controls specified in Part 108 and the NCASP;” and

(dd) by the insertion after the definition of “validation examiner” of the following definition:

“violation” means the breach, including the contravention or failure to comply with, or manner of careless or incompetent manner in which the privileges or duties of an aviation document was carried out or utilised, or grossly negligent or wilful conduct in respect of, any provisions of the Act, a regulation, a technical standard or an aviation directive;”.

Amendment of regulation 1.00.2 of Regulations

4. Regulation 1.00.2 of the Regulations is amended by insertion in the appropriate places of the list of abbreviations of the following abbreviations:

- (iA) CAR means the Civil Aviation Registry established under section 52 of the Act;
- (iiA) NCASCQP means the Namibia Civil Aviation Security Quality Control Programme;
- (iiB) NCASP means the Namibia Civil Aviation Security Programme;
- (iiC) NCASTP means Namibia Civil Aviation Security Training Programme;
- (uuA) SI means the International System of Units; and
- (uuB) SSP means the State Safety Programme.

Insertion of Parts 2 and 3 in Regulations

5. The following Parts are inserted after the heading “Procedures” of the Regulations:

“PART 2 UNITS OF MEASUREMENT TO BE USED IN AIR AND GROUND OPERATIONS

LIST OF REGULATIONS

SUBPART 1 GENERAL

2.01.1 Applicability

SUBPART 2: STANDARD APPLICATION OF UNITS OF MEASUREMENT

2.02.1 Standard SI units

2.02.2 Non-SI units for permanent use with SI units

2.02.3 Additional non-SI alternative units for temporary use with SI

2.02.4 Application of specific units

2.02.5 Termination of use of non-SI alternative units

**SUBPART 1
GENERAL**

Applicability

2.02.1 (1) This Part -

- (a) applies to all aspects of civil aviation air and ground operations in Namibia; and
- (b) contains specifications for the use of standardised system of units of measurement in civil aviation air and ground operations based on the international system of units (SI) and certain non-SI units considered necessary for use in Namibia to meet the requirements of civil aviation.

(2) The technical definitions of the SI of measurement are set out in Document NAM-CATS-UOM.

**SUBPART 2
STANDARD APPLICATION OF UNITS OF MEASUREMENT**

Standard SI units

2.02.1 (1) The SI developed and maintained by the General Conference of Weights and Measures (CGPM) must, subject to regulations 2.02.2 and 2.02.3, be used as the standard system of units of measurement for all aspects of civil aviation air and ground operations in Namibia.

(2) The prefixes and symbols referred to in subregulation (3) must be used to form names and symbols of the decimal multiples and submultiples of SI units and the use of the term SI units must include base units and derived units as well as their multiples and sub-multiples.

(3) The SI unit prefixes in accordance with subregulation (2) must be as prescribed in the Document NAM-CATS-UOM.

Non-SI units for permanent use with SI units

2.02.2 The non-SI units to be used as primary units of measurement in addition to the SI units specified in regulation 2.02.1 must be as prescribed in Document NAM-CATS-UOM, and include units for measurement of specific quantities of -

- (a) mass;
- (b) plane angle;
- (c) temperature;
- (d) time; and
- (e) volume.

Additional non-SI alternative units for temporary use with SI

2.02.3. The additional non-System International (non-SI) units to be used in Namibia with the SI must be as described in Document NAM-CATS-UOM and include the units for measuring the following:

- (a) distance (longitudinal);
- (b) elevation or distance (altitude, elevation, height, vertical speed);
- (c) speed (horizontal); and
- (d) speed (vertical).

Application of specific units

2.02.4 (1) The application of units of measurement for certain quantities used in civil aviation air and ground operations including the means and provisions for design and training must be as prescribed in Document NAM-CATS-UOM.

(2) Means and provisions for design, procedures and training must be established for operations in environments involving the use of standard and non-SI alternatives of specific units of measurement or the transition between environments using different units, with due consideration to human performance.

Termination of use of non-SI alternative units

2.02.5 The application of non-SI alternative units listed in this Part must continue to apply in Namibia until a decision is reached by the ICAO on the dates of termination of their use following an agreement on unified international application of the SI equivalent units.

PART 3

REGULATIONS MAKING, ISSUING OF TECHNICAL STANDARDS, EXEMPTIONS, DIRECTIVES, FILING OF DIFFERENCES AND OTHER PROCEDURES

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- 3.05.4 Publication of differences

**SUBPART 1
PROCEDURES FOR MAKING REGULATIONS****Applicability**

3.01.1 (1) This Part is applicable to the making, amendment and revocation of regulations (hereafter collectively referred to as “the making of regulations”).

(2) The Authority may amend these procedures, and similarly, any other regulations, after conducting a regulation-making procedure after the date of coming into force of these regulations.

(3) The documentation required under these regulations and any other Part, whether in physical or electronic form, must be registered with the CAR in accordance with the procedures set out in the registry manual approved by the Executive Director.

Submission of documents

3.01.2 (1) In these regulations where a person is required to submit a document “in writing to the Authority”, he or she must submit that document either -

- (a) physically by hand to the head offices of the Authority, for the time being at the c/o No 12 Rudolf Hertzog Street, Windhoek;

- (b) by post to the head offices of the Authority, namely, Private Bag 12003 Ausspannplatz, Windhoek;
- (c) by electronic mail, to the following address: legal@ncaa.com.na, and any other address as indicated by the Authority for the purpose of emailing;
- (d) by facsimile to the facsimile number as indicated by the Authority; or
- (e) in any other manner approved in writing by the Authority.

(2) The Authority may set out alternative addresses in the “Notice of Intention to Make Regulations”.

Regulations-making procedure: notice

3.01.3 (1) The Authority must initiate a regulations-making process to make regulations required to be prescribed by the Act.

(2) The regulations process under subregulation (1) comprises the procedures set out in this Part to make regulations in a manner that is compliant with the Act, and necessary or expedient in order to implement the provisions of the Act.

(3) A regulations-making procedure under subregulation (1) must be initiated by the Authority by the publication of a “Notice of Intention to Make Regulations” uploaded to the website and intranet of the Authority, and in at least two newspapers circulating nationally in Namibia, or in the *Gazette*, as the Authority may consider appropriate.

(4) The “Notice of Intention to Make Regulations” -

- (a) must include a concise statement of the purpose and reason for the proposed regulations;
- (b) must, if not included in the publication mentioned in subregulation (3), indicate how a draft of the proposed regulations can be obtained; and
- (c) may, as part of subregulation (3), include a reference to an explanatory memorandum or other document, providing background information, defining issues or setting out the Authority’s preliminary views.

(5) A “Notice of Intention to Make Regulations” must be registered with the CAR in the manner provided for in the registry manual and be available for scrutiny at the head offices of the Authority during normal business hours.

(6) Copies of the notice referred to in subregulation (5) may be made available to the public on payment of a prescribed fee determined in Part 187 or by way of download from the Authority’s website or intranet, free of charge.

Proposals to initiate regulation-making process: notice

3.01.4 (1) Any person may submit a proposed regulation in writing to the Authority and request the Authority to initiate the regulation-making process in accordance with the notice issued under regulation 3.01.3(3).

(2) The notice referred to in subregulation (1) must include a “Proposal to Initiate a Regulation” in the format acceptable to the Executive Director and must contain at least the following information:

- (a) the name and contact details of the person making the submission and the name and contact details of the person for whom the submission is made, if different;
- (b) explain the interests of the proposer;
- (c) state the contents of the regulation or the amendment proposed or specify the regulation which the proposer wishes to be withdrawn; and
- (d) a clear and concise statement setting out the purpose and reasons for the proposed regulation.

(3) If, in the opinion of the Authority, the submitted proposed regulation provide sufficient reasons for initiating a regulation-making process, the Authority must initiate the regulation-making process.

- (4) If, in the opinion of the Authority, the submitted proposed regulations -
 - (a) do not provide sufficient reasons for initiating regulation-making process;
 - (b) is frivolous or vexatious or malicious; or
 - (c) will compromise civil aviation safety and security,

the Authority must decline the request and notify the person who submitted the request in writing, stating the particular reasons the request is declined.

Written submissions

3.01.5 (1) After the Authority publishes a “Notice of Intention to Make Regulations”, any person or group of persons may in writing submit comments to the Authority within the time set out in the “Notice of Intention to Make Regulations”, which time may not be less than 30 days from the date of publication the notice.

(2) For public consultations during the regulations-making process, and when considered appropriate, the Authority must also provide the opportunity for the submission of a reply to comments by the proposer of the regulation in a “Notice of Intention to Make Regulations”.

(3) Reply comments must be submitted in writing to the Authority within the time established by the Authority, which time may not be less than 14 days from the submission of written comments.

(4) The times for the submission of comments are to be determined by the Authority in light of the nature of the proposed regulation.

(5) The Authority may consider written submissions not timely filed if, in its opinion, it is practicable to do so.

(6) The Authority may request further written submissions to secure further information or clarification, which submissions must be provided to the Authority in the manner set out by the Authority.

- (7) All written submissions must -

- (a) contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different;
- (b) be clear and concise; and
- (c) conform to any further requirements determined by the Authority as set out in the “Notice of Intention to Make Regulations” or, if applicable, the relevant *Gazette* notice.

Oral hearings

3.01.6 (1) Despite the provisions on public meetings of the Board contemplated by section 17(8) to (11) of the Act, if the Authority considers it appropriate, it may also hear oral submissions after compliance with regulations 3.01.3, 3.01.4 and 3.01.5.

(2) The Authority may invite members of the public to make oral submissions either in the “Notice of Intention to Make Regulations” or subsequently by notice at least once in two English language newspapers circulating nationally in Namibia or uploaded to the website or intranet of the Authority, provided that members of the public must be given at least 21 days’ notice prior to the scheduled date of the hearing.

(3) Unless otherwise specified by the Authority, hearings are open to the public.

(4) The format and agenda of the hearing is at the discretion of the Authority, depending on the nature of the regulation-making process, except that the hearing may take on the character of a workshop or conference.

(5) All oral submissions must -

- (a) include a statement of the name and contact details of the person making the oral submission and the name and contact details of the person for whom the oral submission is made, if different;
- (b) be clear and concise; and
- (c) conform to any further requirements determined by the Authority as set out in the “Notice of Intention to Make Regulations”.

(6) The Authority may request further oral or written submissions to secure further information or clarification, which submissions must be provided to the Authority in the manner set out by the Authority.

(7) At the conclusion of the hearing, the secretariat referred to in regulation 3.01.11 must prepare a concise report summarising the oral submissions which report must be placed in the relevant regulation making file in the CAR in the manner set out in the registry manual.

Confidential information

3.01.7 (1) A person making written submissions may designate information as confidential, but, if the Authority is of the opinion that the information is not confidential, it must inform the person that it may withdraw the information from the regulation-making process or agree with the person that the information will be treated as confidential.

(2) A person making oral submissions may request a closed hearing on the grounds that the submissions are confidential, and a closed hearing must be treated as a confidential meeting.

Record of minutes

3.01.8 (1) All documents considered relevant by the Authority to a regulation-making process, including “Proposals to Initiate a Regulation Making Process”, “Notices of Intention to Make Regulations”, written submissions, petitions for reconsideration and reports of oral hearings, and the Authority must maintain reports of confidential meetings in a regulation making file kept separately for each regulation-making process, physically at the CAR and where appropriate, electronically, for download from the Authority’s website or intranet.

(2) Except for confidential information, any person may examine a regulation making file at the CAR for scrutiny at the head offices of the Authority during normal business hours.

(3) Copies of the file referred to subregulation (2) may be made available to the public on payment of a fee determined by the Authority under Part 187, and from the website or intranet of the Authority, where copies may be downloaded free of charge.

Publication of regulations

3.01.9 (1) After considering all written submissions recorded as filed and oral recordings, if any, the Executive Director must submit the draft regulations for consideration by the Board, in compliance with a consultation procedure or its recommendation, as the case may be, and thereafter, to the Minister for approval and issue of the regulations in the *Gazette*, with or without changes to the draft regulations.

(2) The Authority must maintain copies and the originals, and a register, of regulations made or deemed to have been made under the Act, and physically at or in the database of the CAR for scrutiny in the manner provided for in the registry manual.

(3) Any person may examine the register of regulations and copies of regulations either -

(a) at the CAR at the head offices of the Authority during normal business hours or copies may be made on payment of a fee determined by the Authority under Part 187; or

(b) by download from the Authority’s website or intranet, free of charge.

Reconsideration

3.01.10 (1) The Authority may reconsider any regulations made in terms of the regulation-making procedures, within a period of 12 months after publication of the regulations.

(2) Any person (the “requesting party”) may submit a request in writing to the Authority to reconsider any regulation made or any technical standard or aviation directive issued, in terms of the regulation-making procedures, within 12 months of the publication of the final regulations in the *Gazette* or the publication of the technical standard or aviation directive, and the Authority must reconsider such regulation, technical standard or aviation directive within a period of 90 days from the date of receipt of the request.

(3) The requesting party must submit the request on a “Reconsideration Form” uploaded by the Authority and made available for download from the Authority’s website.

(4) The requesting party must indicate in the “Reconsideration Form” his or her direct or substantial interest in the matter and the safety and security considerations that form the basis for the request.

(5) If the Authority is satisfied that there are sufficient reasons to reconsider the regulations, it may grant the request and authorise a hearing on the reconsideration in the manner set out in regulation 3.01.6.

(6) The Authority must communicate to the requesting party its decision within 30 days of the filing of the request for reconsideration and the reasons for the decision.

(7) The Executive Director may decline the request for reconsideration on the same grounds as provided for in regulation 3.01.4(4).

Administration

3.01.11 Any administrative work as well as secretarial work, in connection with the making of regulations must be carried out by staff members of the Authority designated for such purpose by the Executive Director.

Civil aviation regulations technical advisory panel

3.01.12 The Civil Aviation Regulations Technical Advisory Panel which the Executive Director may establish for each or any regulation-making procedure in terms of Part 11 is responsible for the related actions and procedures set out in this Part.

Subscriber notification service

3.01.13 To facilitate the consultation process in the process of making regulations the Executive Director may make available on the website or intranet of the Authority, a subscriber notification service to which interested persons may subscribe and unsubscribe at no cost and by which every subscriber must be notified by e-mail, of any proposal to amend any regulation by way of insertion, substitution, repeal, deletion or any other manner.

SUBPART 2 ISSUING OF TECHNICAL STANDARDS

Procedure

3.02.1 The procedure for making regulations in this Part applies, subject to necessary changes and modifications that may be required by the context, to the making of technical standards in the manner contemplated by section 227 of the Act.

Publication

3.02.2 A technical standard must be published by upload on the website and intranet of the Authority for free downloading, but a person may also order the technical standard from the Authority in either hard copy or electronic format at a fee as may be determined by the Authority under Part 187.

Keeping and inspection of technical standards

3.02.3 The Authority must keep originals and copies of published technical standards issued under these regulations and must register the standards with the CAR in the manner provided in the registry manual and make them available for inspection by any person.

SUBPART 3
PROCEDURE FOR GRANTING EXEMPTIONS AND ACCEPTANCE OF
ALTERNATIVE METHODS OF COMPLIANCE

Applicability

3.03.1 The Executive Director may exempt an applicant from the requirements of these regulations or any other regulations made under sections 54 to 58 of the Act after having regard to either -

- (a) the requirement that has been substantially complied with and that further compliance is unnecessary;
- (b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement;
- (c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or
- (d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case,

and that the risk to civil aviation safety and security is not or is not likely to be significantly increased by the granting of the exemption.

Application for exemption

3.03.2 (1) An application for an exemption must be made in writing to the Executive Director and must -

- (a) state the name, street and postal address of the applicant;
- (b) state the requirement from which exemption is requested;
- (c) explain the interests of the applicant in the exemption requested, including the nature and extent of the exemption requested and a description of each person or thing to be covered by the exemption;
- (d) contain any information, views or arguments supporting the application;
- (e) explain why the applicant believes that the exemption should be granted, including the reasons why it would not be possible or desirable to comply with the requirement which is the subject of the application, as well as the extent to which the exemption may affect civil aviation safety and security; and
- (f) include a summary of the application which summary must contain a reference to the requirement from which exemption is requested and a brief description of the general nature of the exemption requested.

(2) An application for an exemption must be accompanied by the appropriate fee prescribed in Part 187 and -

- (a) must be submitted at least 60 days or such shorter period as the Executive Director may allow on good cause shown, before the proposed effective date of the exemption; or
 - (b) in the case of an urgent exemption, must be submitted five working days before the proposed effective date of the exemption or such shorter period as the Executive Director may allow on good cause shown.
- (3) In cases where an application for exemption cannot be processed within the periods referred to in subregulation (2), the Executive Director must notify the applicant and in the case of urgent exemptions adjust the prescribed applicable fee to the amount as prescribed in Part 187.

Processing of application for exemption

3.03.3 The Executive Director may, before deciding whether to grant or refuse an exemption, afford the applicant an opportunity to make representations either in writing or in person, regarding the exemption.

Granting or refusal of exemption

3.03.4 (1) The Executive Director may in the manner contemplated in section 46 of the Act -

- (a) grant an exemption, subject to such conditions and for such period which the Executive Director may determine, which may not exceed 180 days; or
 - (b) refuse an exemption.
- (2) The Executive Director must give written notice to the applicant of -
- (a) the Executive Director's decision; and
 - (b) if the decision was to refuse to grant the exemption or to impose a condition not sought by the applicant, the reasons for the decision.
- (3) The Executive Director must within five working days from the date from which any exemption has been granted, and in such manner as decided by the Executive Director, publish the full particulars thereof for download from the Authority website or intranet.

Application for extension of exemption

3.03.5 (1) The Executive Director may not grant an exemption under this Part to a person in the same or similar terms as an exemption previously granted under this Part to the person unless that person -

- (a) applies, in accordance with regulation 3.03.2, for the new exemption; and
 - (b) includes with the application a statement of the additional reasons why the exemption is necessary or the reasons why the continuation of the exemption is necessary.
- (2) The Executive Director may grant an extension to an exemption under such conditions and for such period which the Executive Director may determine, which may not exceed 180 days.

(3) An application for the extension of exemption must be accompanied by the fees prescribed in Part 187.

(4) The provisions of regulations 3.03.3 and 3.03.4 apply with the necessary changes in relation to the consideration of an application mentioned in subregulation (1).

Acceptance of alternative method of compliance

3.03.6 (1) The Executive Director may, on good cause shown by an applicant, approve an alternative method of compliance, if the Executive Director is satisfied that civil aviation safety and security is not or is not likely to be compromised.

(2) An application for acceptance of an alternative method of compliance must be in the format, and dealt with in the same manner, as prescribed in regulations 3.03.2, 3.03.3 and 3.03.4.

SUBPART 4

PUBLICATION OF AERONAUTICAL INFORMATION CIRCULARS, AVIATION DIRECTIVES, AVIATION NOTICES, TECHNICAL GUIDANCE MATERIAL AND PAMPHLETS

Publication of aeronautical information circulars

3.04.1 Subject to the securing of services as contemplated in section 10(6) of the Act, and the information services requirements contemplated in section 53 of the Act, and in compliance with Part 174 (Aeronautical Information Services), the Head of Air Navigation Services may publish aeronautical information circulars, containing information on -

- (a) technical standards, practices or procedures including methods that, for purposes of provision of air navigation services, are found to be acceptable for compliance with the associated regulations on air navigation services;
- (b) the differences to be notified in terms of Subpart 5, but with the approval of the Executive Director; and
- (c) issues that can properly and effectively be distributed to interested parties by any means whatsoever.

Directives: aviation and airworthiness

3.04.2 (1) Whenever the Executive Director from time to time issues any aviation directive as contemplated in section 38(6) of the Act, the objective of the applicable regulatory requirement to be met thereby, and any change or amendment to the directive, if any, must be indicated in the relevant aviation directive.

- (2) As a general requirement the aviation directive must explain that it -
 - (a) is remedial and desirable in the context of the aviation activity in question;
 - (b) does not conflict with matters already authorised, prohibited or otherwise contemplated elsewhere in the Act or these regulations; and
 - (c) does not or is not likely to compromise civil aviation safety and security.

(3) An aviation directive must be of general application, or may be directed at a particular group of affected persons, and not be limited in its application to an individual civil aviation participant.

(4) The Executive Director must forthwith upload an airworthiness directive issued under section 38(3) of the Act or an aviation directive issued under section 38(6) of the Act, as the case may be, on the website or intranet of the Authority and, where appropriate, in such other place or manner as will, in the Executive Director's opinion, most effectively inform the public and those directly affected by the issue of the directive.

(5) An airworthiness directive or aviation directive must be registered with the CAR in the manner set out in the registry manual.

Issue and publication of aviation notices

3.04.3 (1) The Executive Director may, in accordance with subregulation (2), issue civil aviation notices regarding any matter which the Executive Director may consider necessary or expedient to publish in order that the objects of the Act and these regulations may be achieved.

(2) Subject to subregulation (3), the Executive Director must upload notices referred to in subregulation (1) to the website or intranet of the Authority, and where appropriate publish it in such other place or manner as will, in the opinion of the Executive Director, most effectively inform the public and those affected by that notice.

(3) Where the Executive Director determines that the interests of aviation safety or security require immediate action, he or she may forego publication of an aviation notice under subregulations (1) and (2) but he or she must, to the extent practicable, advise affected persons of the issue of the notice.

Issue and publication of technical guidance material, advisory pamphlets and other information

3.04.4 (1) The Executive Director may issue technical guidance material, advisory pamphlets containing information, other guidance and training material to assist designated inspectors, authorised officers or authorised persons, in the implementation and continued compliance with the Act, these regulations and technical standards pursuant to section 10(1)(l) and (m) of the Act.

(2) The Head of Air Navigation Services may, pursuant to regulation 3.04.1 but subject to Part 174, publish an advisory pamphlet in an Aeronautical Information Circular or in such other manner as will, in his or her opinion, most effectively inform the public and those affected on air navigation services.

Amendment, suspension or withdrawal of aviation directives, aviation notices or advisory pamphlets

3.04.5 The Executive Director or the Head Air Navigation Services, as the case may be, may at any time amend, suspend or withdraw any directive, notice or advisory pamphlet issued under this Part and must upload notification of any such amendment, suspension or withdrawal to the website or intranet of the Authority.

Maintenance of documents in CAR and related matters

3.04.6 (1) With a view to the establishment of the CAR pursuant to section 52 of the Act, and for matters in relation to its administration, the Executive Director must designate a staff member of the Authority as head of the CAR who must at the same time be the designated person responsible for compliance with the provisions of sections 61(4) and 227(4), as the case maybe, of the Act.

(2) The designated head of the CAR must keep the registry manual providing for the procedures for channelling, lodging and securing or archiving of the prescribed documents and issued out to the public, in the manner as set out in regulation 3.01.1.

(3) The designated head of the CAR must ensure the review, and monitor compliance with the registry manual, by the staff members of the Authority.

(4) The designated head of the CAR, must on behalf of the Executive Director, ensure the establishment and maintenance of the register of inspectors, authorised officers and authorised persons as designated in the manner contemplated in section 37 of the Act, to ensure compliance with section 36(d) of the Act.

(5) The head of the CAR must, on behalf of the Executive Director, issue any required measures on public access, copying, audit and inspection of such documents, and related matters in the manner contemplated in section 52(3) and (4) of the Act.

SUBPART 5

PROCEDURES FOR THE IDENTIFICATION AND NOTIFICATION OF DIFFERENCES

General

3.05.1 (1) The Authority must develop and implement procedures for the review of regulatory requirements to ensure the regulations or practices are in full accord, where practicable, with any established international standards or, where necessary, recommended practices, and in accordance with its prescribed procedures.

(2) If the Authority finds it impracticable to comply in all respects with any international standard or procedure or to bring its own regulations or practices into full accord with any international standards or procedures after amendment of the standards or procedures, a notification of difference may be filed in accordance with regulation 3.05.3.

(3) The responsibility under the Chicago Convention for the identification and notification of differences rests with the Authority.

(4) In the course of discharging the responsibility to notify, the Authority must, when necessary, liaise with other relevant agencies of the Government of Namibia on the identification and the notification functions set out in this Subpart.

(5) In the case of amendments to international standards, if the Authority does not make the appropriate amendments to its own regulations or practices, notice must be given to the ICAO within 60 days for the adoption of the amendment to the international standard or an indication of the action which the Authority proposes to take.

(6) If the Authority considers it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, it must give immediate notification to the ICAO of the differences between its own practice and that established by the international standard.

Identification of differences

3.05.2 The following differences may, without limitation, be identified by the Authority:

- (a) a category A identification: when a provision of these regulations is more stringent than the corresponding Standard and Recommended Practice

(SARP) or imposes an obligation within the scope of the Annex which is not covered by an SARP;

- (b) a category B identification: when a provision of these regulations is different in character from the corresponding ICAO SARP or when the regulation differs in principle, type or system from the corresponding SARP, without necessarily imposing an additional obligation; and
- (c) a category C identification: when a provision of these regulations is less protective than the corresponding SARP or when no regulation has been promulgated to address the corresponding SARP, in whole or in part.

Notification of differences

3.05.3 (1) The notification of differences must be in the format as may be determined by the ICAO and, without limitation, must be notified by the Executive Director, in the following manner:

- (a) reference - the number of the paragraph or subparagraph in an Annex as amended which contains the Standard or Recommended Practice to which the difference relates;
- (b) category - indicate the category of the difference as mentioned in regulation 3.05.2;
- (c) description of the difference - clearly and concisely describe the difference and its effect;
- (d) remarks - indicate reasons for the difference and intentions including any planned date for implementation by Namibia.

(2) The notification of differences referred to in subregulation (1) must be submitted within the timelines indicated by ICAO, unless it is found to be impracticable due to circumstances as reported to or by and condoned by the Minister in terms of section 4(2) of the Act.

(3) The Executive Director must ensure that all identified differences are promptly recorded and notified -

- (a) by means of the ICAO on-line system for the electronic filing of differences; and
- (b) by the creation and maintenance of a printed register of differences within the CAR on the record to be designated as the "Register of Namibian Notification of Differences from ICAO Standards and Recommended Practices".

(4) The Executive Director must, in accordance with the provisions of sections 52(4) and 53 of the Act, provide access to, and permit the copying of, documentation and information relating to the notification of differences by Namibia under the Chicago Convention.

Publication of differences

3.05.4 (1) The Authority must publish in the Aeronautical Information Publication a list of significant differences between the national regulations and practices and the

related ICAO Standards, Recommended Practices and Procedures, given in a form that would enable a user to differentiate readily between the requirements of Namibia and the related ICAO provisions -

- (a) by means of the ICAO on-line system for the electronic filing of differences; and
- (b) by the creation and maintenance of a printed register of differences within the CAR on the record to be designated as the "Register of Namibian Notification of Differences from ICAO Standards and Recommended Practices".

(2) The Executive Director must, in accordance with the provisions of section 52(4) of the Act, provide access to, and permit the copying of, documentation and information relating to the notification of differences by Namibia under the Chicago Convention.

Substitutions of Parts 11 and 13 of Regulations

6. The Regulations are amended by the substitution for Parts 11 and 13 of the following Parts:

“PART 11 ESTABLISHMENT OF TECHNICAL COMMITTEES, PANELS AND PROCEDURES

LIST OF REGULATIONS

SUBPART 1: INTERNAL CIVIL AVIATION REGULATIONS, TECHNICAL COMMITTEES, PANELS AND RELATED PROCEDURES

- 11.01.1 General
- 11.01.2 Meetings of internal committees
- 11.01.3 Secretariat, minutes and records
- 11.01.4 Remuneration of members

SUBPART 2: NATIONAL AIRSPACE COMMITTEE

- 11.02.1 Institution of Committee
- 11.02.2 Submission of proposals
- 11.02.3 Processing and consideration of proposals
- 11.02.4 Issuing of aeronautical information

SUBPART 3: STATE SAFETY PROGRAMME STEERING COMMITTEE

- 11.03.1 State Safety Programme
- 11.03.2 SSP Steering Committee: composition and functions

SUBPART 1 INTERNAL CIVIL AVIATION REGULATIONS, TECHNICAL COMMITTEES, PANELS AND RELATED PROCEDURES

General

11.01.1 (1) The Executive Director must establish internal technical committees or panels to advice and recommend appropriate regulatory measures to comply with the powers conferred on, or the functions or duties entrusted to, the Executive Director by or under the Act and

these regulations, based on good corporate governance and the proper management and control of the affairs of the Authority.

(2) For the purposes of this Part the following internal technical aviation safety and security committees may be established on the basis of subregulation (1):

- (a) Civil Aviation Regulations Technical Advisory Panel (CARTAP);
- (b) National Airspace Committee (NAirC); and
- (c) National Safety Programme Steering Committee (NSPC)

(3) The establishment of additional committees is done on the recommendation of a committee of the Board established in terms of section 20 of the Act.

Meetings of internal committees

11.01.2 (1) Each committee established under this Part must be chaired by the Executive Director or a staff member of the Authority assigned by the Executive Director for the purposes of chairing a committee in the Executive Director's stead.

(2) The membership of a committee consists of not less than three staff members of the Authority designated by the Executive Director for respective purposes.

- (3) A committee may consist of representatives, designates or invitees from -
- (a) the Namibian Police Force;
 - (b) the Namibian Defence Force ;
 - (c) the Namibia Revenue Agency established by the Namibia Revenue Agency Act, 2017 (Act No. 12 of 2017);
 - (d) the department of immigration control in the Ministry responsible for home affairs;
 - (e) an organisation or association representing aviation operators and owners associations;
 - (f) an organisation or association representing commercial aviation operators;
 - (g) an organisation or association representing recreational aviation operators;
 - (h) the Ministry;
 - (i) the Air Navigation Services unit referred to in section 49 of the Act;
 - (j) the Airports Company referred to in section 2 of the Airports Company Act, 1998 (Act No. 25 of 1998); and
 - (k) any other organisation designated by the Executive Director.

(3) Each committee must make resolutions at its meetings on recommendations and advice to the Executive Director by way of consensus, and any divergent views must be formally recorded.

(4) Each committee must hold meetings at such times and places as may from time to time be determined by the chairperson, but at least three meetings each year must be held.

(5) The Executive Director may at any time call an extraordinary meeting of the committee in circumstances which the Executive Director considers it necessary.

Secretariat, minutes and records

11.01.3 (1) Each committee must be supported by a secretariat which consists of staff of the Authority designated for that purpose by the Executive Director.

(2) The secretariat must cause minutes to be kept of every meeting of the respective committees, and which must in each case also be submitted as a report to the Executive Director indicating the matters discussed at the meeting.

(3) The minutes of a committee must be tabled for approval at an ensuing meeting of the committee and be filed with the CAR for recordkeeping by the secretariat.

(4) Subject to the provisions in this Part, a committee must develop its terms of reference determining the procedures to be followed in the performance of its functions and the procedures to be followed by any subcommittee, if any, in the performance of the functions of the subcommittee, for approval by the Executive Director.

(5) Committees may establish subcommittees of experts of limited duration and membership to provide technical guidance on the work or programme of a committee, and the secretariat referred to in subregulation (1) must provide secretarial services to any such subcommittee.

Remuneration of members

11.01.4 A member of a committee established in terms of this Part, and a member of any subcommittee established in terms thereof, may not be remunerated in respect of the functions performed by such member as a member of the committee or a subcommittee, unless they have been assigned by the Executive Director to perform a task which requires specialist expertise or skills.

SUBPART 2 NATIONAL AIRSPACE COMMITTEE

Institution of Committee

11.02.1 (1) In accordance with the objectives set out in section 56 of the Act on navigable airspace, the National Airspace Committee (the Committee) must consider proposals made by users and service providers and provide guidelines and recommendations to the Executive Director on -

- (a) the designation of airspace and related matters for purposes of air navigation services;
- (b) the classification of such designated airspace and related matters for purposes of air navigation services;
- (c) the introduction, amendment or withdrawal of such airspaces;
- (d) the allocation of air traffic services provided or intended to be provided within airspaces or at aerodromes;

- (e) the validity of current airspace structures and associated air traffic services provided within such structures as defined in the national airspace master plan (NAMP);
- (f) the introduction, amendment or withdrawal of communication navigation and surveillance (CNS) or air traffic management (ATM) facilities, where these affect the designation or classification of airspace or the NAMP;
- (g) the application for an aerodrome aviation document as well as any significant amendment thereof as required under Part 139, where such aerodrome is situated -
 - (i) within any portion of airspace designated as a control zone (CTR) or an aerodrome traffic zone (ATZ) or within 10 nautical miles of such airspace's boundary;
 - (ii) under any portion of airspace designated as a terminal control area (TMA);
- (h) proposals for significant amendments of aerodrome aviation documents for any airspace or manoeuvring changes;
- (i) the compliance and use of the airspace by any remotely piloted aviation system (RPAS) or any unmanned aerial vehicle system (UAVS), or any part thereof, for beyond visual line of sight (BVLOS) use; and
- (j) any matter relating to the national airspace, including such matter referred to it by the Executive Director.

(3) A representative of the Namibian Defence Force (Namibian Airforce referred to in section 2 of the Defence Act, 2001 (Act No. 1 of 2001) or a representative from that force designated for such a meeting, must be the chairperson of the Committee.

(4) Subject to the provisions of the regulations in this Part, the Committee must, in consultation with the Executive Director, determine the procedures to be followed and the criteria to be taken into account when the Committee exercises its functions.

Submission of proposals

11.02.2 (1) Any interested person may submit to the National Airspace Committee referred to in regulation 11.02.1, a proposal on -

- (a) the introduction, amendment or withdrawal of national airspace designation or classification;
- (b) the allocation of air traffic services provided or intended to be provided within airspaces or at aerodromes;
- (c) the introduction, amendment or withdrawal of communication navigation and surveillance (CNS) or ATM facilities where these affect the designation or classification of airspace or the national airspace master plan (NAMP);
- (d) the application for an aerodrome aviation document as well as any significant amendment thereof as per regulation 139.03.8, in case of a certificate, and 139.04.8, in case of a licence, where such aerodrome is situated -

- (i) within any portion of airspace designated as a control zone (CTR) or aerodrome traffic zone (ATZ) or within 10 nautical miles of such airspace's boundary; or
 - (ii) under any portion of airspace designated as a terminal control area (TMA); or
 - (e) the use of an RPAS or UAVS for BVLOS usage in designated airspace.
- (2) The proposal referred to in subregulation (1) must be submitted in writing to the Authority, and must -
- (a) contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different;
 - (b) be clear and concise; and
 - (c) conform to any further requirements determined by the Authority as set out in the "Notice of Intention to Amend Airspace Designation or Classification" issued by the Executive Director in the *Gazette*.

Processing and consideration of proposals

11.02.3 (1) The secretariat of the Committee must put any received proposal on the agenda of the next meeting of the committee, as long as the agenda has not yet been closed, in which case it must be put on the agenda of the subsequent meeting.

(2) The secretariat must notify the proposer in writing of the time and place of the meeting during which the proposal will be considered, to give the proposer the opportunity to motivate his or her proposal and to participate in the deliberations thereon in person or in support of a representative association, organisation or body, if he or she so wishes.

(3) The Committee must give due consideration to the proposal and take a position thereon, if necessary after obtaining additional information and advice.

(4) The secretariat must inform the proposer in writing of any decision by the Committee in respect of his or her proposal, and should the decision have been a rejection, stating the reasons therefore.

(5) The Committee must give due consideration to any comments received and make an appropriate recommendation to the Executive Director.

Issuing of aeronautical information

11.02.4 The Executive Director must, if he or she is satisfied, after considering the recommendation made by the Committee in terms of regulation 11.02.1(1), that giving effect to the proposal is in the interest of aviation safety, publish the changes in the AIP.

SUBPART 3
STATE SAFETY PROGRAMME STEERING COMMITTEE

State Safety Programme

11.03.1 (1) The Authority is the custodian or placeholder organisation of the State Safety Programme (SSP) for aviation in Namibia in the manner contemplated in Annex 19 of the Chicago Convention.

(2) In compliance with subregulation (1), the Executive Director is responsible and accountable for the formulation of the SSP, and oversees its implementation and coordination within the Namibia civil aviation system contemplated in Part 10 (NCAS) of the Act, and in compliance with Part 140 and the technical standards prescribed in Document NAMCATS-SMS 140.

SSP Steering Committee: composition and functions

11.03.2 (1) The Executive Director must establish an SSP Steering committee, chaired by the designated head of safety in the Authority, that must coordinate the SSP implementation and continuous monitoring activities involving relevant national regulatory and administrative organisations.

- (2) The SSP Steering Committee may further consist of -
- (a) the Director of Investigations in the Directorate or a person designated by him or her;
 - (b) the head of meteorological services in the Ministry or a person designated by him or her;
 - (c) a representative from the Government nominated by the Permanent Secretary of the Ministry;
 - (d) the senior accountable manager at the Air Namibia (Proprietary) Limited or a person designated by him or her;
 - (e) the senior accountable manager at the Namibian Airports Company referred to in section 2 of the Airports Company Act, 1998 (Act No. 25 of 1998) or a person designated by him or her;
 - (f) the president of the Aircraft Owners and Pilots Association of Namibia or a person designated by him or her;
 - (g) a representative from the Namibian Defence Force (Namibian Airforce); and
 - (h) the Head of the Air Navigation Services Unit of the Authority or a person designated by him or her.

(3) The SSP Steering Committee may co-opt any expert body or person as adviser at its discretion.

- (4) The functions of the SSP Steering Committee include -
- (a) the development of policy and decisions pertaining to SSP activities as considered necessary;

- (b) periodic review of the State safety policy, and its priorities and performance indicators;
 - (c) advise on, and review of, senior accountable management and key personnel requirements to meet the safety requirements of the Namibia civil aviation system, the enforcement policy and safety data protection and voluntary or mandatory information sharing;
 - (d) the resolution of the issues pertaining to the implementation of the SSP; and
 - (e) the promotion of the SSP to applicable service providers.
- (5) The SSP Steering committee may meet as frequently as may be necessary to ensure resolution of safety concerns.
- (6) The Executive Director must ensure that the decisions taken during proceedings of the committee are communicated to relevant entities, and monitor the implementation of decisions in accordance with acceptable management practices.

PART 13 ENFORCEMENT PROCEDURES

LIST OF REGULATIONS

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- 13.01.1 Applicability
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SUBPART 1
ENFORCEMENT POWERS OF EXECUTIVE DIRECTOR, DESIGNATED INSPECTORS,
AUTHORISED OFFICERS AND AUTHORISED PERSONS AND PROCEDURES FOR
INSPECTIONS AND INVESTIGATIONS

Applicability

- 13.01.1** (1) This Part applies to -
- (a) alleged violations by holders or participants, inclusive of aircraft operators, crew members, owners, passengers and pilots-in-command;
 - (b) designated inspectors, authorised officers and authorised persons, performing functions or exercising powers or delegated powers of inspection, investigation, control and monitoring adherence as required under Part 5 of the Act; and
 - (c) the review of entry into and exiting from, and within, the Namibia civil aviation system (NCAS) contemplated in Part 10 of the Act.
- (2) The Executive Director must publish, for the use, application training and guidance of designated inspectors, authorised officers, and authorised persons, and holders or participants -
- (a) an enforcement code which must set out the relevant procedures, determinations and decisions on enforcement provided for in these regulations, the technical standards and directives;
 - (b) any amendments to the enforcement code; and
 - (c) any other directives, advisory and information pamphlets, setting out the manner in which enforcement actions, including inspections and investigations, duties, powers and responsibilities, and the required forms for use, shall be conducted and exercised.
- (3) In compliance with section 66 of the Act, every participant or holder must produce, when so requested by the Executive Director, the management system for monitoring and review, and submit reports in the format as directed, on the provision of training, and supervision to its staff and on the provision of sufficient resources to ensure that safety standards and conditions attached to aviation documents are complied with.
- (4) The Executive Director, and through his or her delegations, must in the manner contemplated by section 38 of the Act, report on monitoring actions on adherence to the requirements of subregulation (3), and may apply the enforcement code where the availability of manuals, guidance material and other material which are needed to ensure that the Act and these regulations are not contravened, are inadequate.
- (5) Despite the provisions on offences as provided for in the Act which are subject to the Criminal Procedure Act of 1977 (Act No. 51 of 1977), and the suspension, revocation and imposition of conditions (including endorsement) on aviation documents contemplated in sections 42 and 43 of the Act, enforcement through the imposition of administrative fines must be applied in the manner as set out in this Part and in any other Part of these regulations.

Authority of designated inspectors, authorised officers and authorised persons

13.01.2 (1) In addition to any specific power granted to, or duty imposed on, a designated inspector, authorised officer or authorised person or under the Act or these regulations, and required under the delegations issued by the Executive Director as contemplated by section 37 of the Act, such designated inspector, authorised officer or authorised person may, upon showing his or her credentials, or if required, to produce his or her credentials -

- (a) without prior notification to the holder or participant, enter any premises for the purposes of the on-site inspection of any aircraft, aircraft factory, aerodrome, civil aviation related facility, aircraft component, aircraft equipment, licence, certificate, permit, approval, authorisation, register, computer, data, cable, book or document which the designated inspector, authorised officer or authorised person believes to be either in or on such premises, in the possession of the holder or participant or suspected of being under the custody or control of the holder or participant;
- (b) search, impound, confiscate, remove or retain anything, article, book, register, computer, data, cable, document, aircraft, aircraft component, aircraft equipment, vehicle, licence, certificate, permit, approval or authorisation, which the designated inspector, authorised officer or authorised person reasonably believes relates to a contravention of the Act or these regulations and record same for purposes of evidence;
- (c) ground any aircraft which the designated inspector, authorised officer or authorised person reasonably believes to be unsafe, not duly registered or not airworthy;
- (d) close any aviation related facility which the designated inspector, authorised officer or authorised person reasonably believes does not comply with the Act or these regulations;
- (e) require the pilot of an aircraft, a crew member, holder or participant to furnish his or her name and address and any other particulars concerning his or her juristic person;
- (f) require any person on an aerodrome or in an aircraft, aircraft factory or civil aviation related facility to furnish his or her name and address and any other particulars concerning either or his or her juristic person and to furnish such information as is, or at his or her disposal, concerning the juristic person of the pilot, owner of any aircraft or of any aerodrome or a crew member, any aerodrome, holder, participant, aircraft factory or other civil aviation related facility;
- (g) require the owner or operator, crew member, holder or participant of an aircraft to furnish such information as may be necessary concerning the juristic person of the pilot of the aircraft at any time or during any particular period;
- (h) inspect an aircraft or any part, component or equipment of such aircraft, for the purpose of ascertaining whether the provisions of the Act and these regulations are being complied with;
- (i) ascertain the mass of any aircraft with or without load and, for the latter purpose, require any passengers or goods to be removed from such aircraft;

- (j) call upon any person required by these regulations to be the holder of a licence, certificate, permit, approval or authorisation or, in the case of a crew member or an aircraft maintenance engineer, his or her logbook, for inspection within a reasonable time to be stipulated by such inspector, authorised officer or authorised person; and
- (k) call upon the owner, operator, crew member, holder or participant or pilot-in-command of any aircraft, to produce or cause to be produced for inspection any licence, certificate, permit, manual, logbook or other document relating to the aircraft.

(2) Before a designated inspector, authorised officer or authorised person exercises any power under subregulation (1)(a), (b), (c) or (d), he or she must, unless he or she has already secured a warrant from a competent court, obtain the prior approval of the Executive Director.

(3) If it appears to any designated inspector, authorised officer or authorised person that any aircraft or aeronautical product, as it appears to him or her -

- (a) is intended or likely to be flown or used in such circumstances that the flight or usage would involve a contravention of the Act or these regulations; or
- (b) is likely to be a cause of danger to persons in the aircraft or when using the aeronautical product or to persons or property on the ground,

the designated inspector, authorised officer or authorised person may take such action to detain and seize the aircraft or aeronautical product in the manner contemplated in section 47 of the Act, and such other action as he or she may consider necessary for the purpose of causing the circumstances relating to the flight or usage to be investigated or the aircraft or aeronautical product to be inspected.

(4) If an aircraft or aeronautical product has been detained or seized pursuant to the provisions of subregulation (3), the aircraft or aeronautical product may not be operated or used until the Executive Director, being satisfied that the Act or these regulations are being complied with, approves, or until such alterations or repairs or any adjustments have been effected which the Executive Director considers necessary, to render such aircraft fit for flight or that the threat or danger on the safe use of the aeronautical product has been removed.

In-flight inspections

13.01.3 (1) The Executive Director may authorise a designated inspector, authorised officer or authorised person to carry out, at any time, an in-flight inspection in any civil aviation aircraft engaged in an aircraft operation.

(2) The owner, operator or pilot-in-command of an aircraft must immediately take all reasonable steps to accommodate the designated inspector, authorised officer or authorised person to facilitate the carrying out of the in-flight inspection.

(3) The provisions of this regulation may not be construed as derogating from the duties to be executed by an in-flight security officer authorised in terms of section 159 of the Act.

Notice of infringement: suspension, revocation and imposition of conditions

13.01.4 (1) A designated inspector, authorised officer or authorised person must within seven days of exercising any power under regulation 13.01.1, complete and submit an inspection report in writing and in the form set out in the enforcement code to the Executive Director

stating the reasons why, in the opinion of the designated inspector, authorised officer or authorised person, such holder or participant must have his or her aviation document suspended or revoked and the conditions thereon to be imposed with endorsement, in the manner as set out in section 44 of the Act.

(2) Following on the report made in terms of subregulation (1) the Executive Director may issue a notice on infringement with particulars in the form set out in the enforcement code, informing the holder or participant, as the case may be, of the intention to suspend or revoke the privileges associated with the aviation document in issue or to impose conditions thereon, including its endorsement, in the manner contemplated by sections 42 and 43 of the Act, and in such manner, by notice -

- (a) prevent the holder or participant from being part of any safety or security inspection, certification process or audit or from performing any of the functions that he or she or it is permitted to perform in terms of the Act and these regulations; or
- (b) proceed with an investigation or administrative actions leading to an administrative fine or criminal prosecution, as the case may be, after such participant or holder has been given at least 14 days within which to comply with any directive issued by the Executive Director pursuant to the infringement notice.

(3) The Executive Director may, on good cause shown, in writing withdraw a notice of infringement issued under subregulation (2) and, send a copy of the withdrawal to the holder or participant cited in the infringement notice and to the designated inspector, authorised officer or authorised person or person concerned with the inspection report.

Notice of investigation of participant or holder of aviation document

13.01.5 (1) Pursuant to section 41 of the Act, the Executive Director must issue a notice of investigation to a holder or participant, as the case may be, similar in the form set out in the enforcement code which must at least -

- (a) indicate the particulars and address or addresses of the holder or participant being the subject of an investigation;
- (b) specify the nature of the alleged conduct or act with reference to the Act, these regulations, the technical standards or aviation directive that is the subject of the investigation;
- (c) include evidence being relied upon pertaining to the alleged conduct or act;
- (d) indicate the particulars, contact details and address of the lead investigator, if any;
- (e) indicate the expected commencement date and conclusion date of the investigation; and
- (f) invite the participant or holder to make representations either orally or in writing on the allegations **within 30 days of the issue or service of the notice.**

(2) Following the investigation, the Executive Director must, as part of the results thereof, including any recommendations required to be made pursuant to section 41(2)(b)(ii) of the Act, inform the holder or participant that the reasonable grounds identified require that further action be taken following the investigation regarding -

- (a) an alleged offence in terms of the Act;
- (b) contravention of, or failure to comply with, the Act or these regulations;
- (c) failure to comply with conditions as required by the Act, these regulations or the technical standards; or
- (d) the manner of careless or incompetent conduct with any aviation safety and security standard and practices,

and that the recommendations or actions as contemplated in sections 42 and 43 of the Act, where relevant will be taken, and, in addition, either -

- (i) that the prescribed process regarding court action to impose a fine or imprisonment or both such fine and imprisonment as contemplated in section 54(2)(c)(ii) of the Act, read with regulation 13.03.2, will be pursued by the Authority;
- (ii) the imposition of an administrative fine as provided in Subpart 3, read with Part 185, by the Executive Director; or
- (iii) the taking of other action as in the discretion of the Executive Director is considered appropriate to meet the requirements as contemplated in section 66 of the Act.

(3) The results of an investigation may cause the Executive Director to reject the proposed action, report or recommendation, of a designated inspector, authorised officer or authorised person, as the case may be, and to allow the inspection or another or related inspection, on the alleged violation in issue, to be conducted afresh.

SUBPART 2 DOCUMENTS, RECORDS AND EVIDENCE

Service of documents and records

13.02.1 (1) Any notice or related documents served on an individual in terms of this Subpart must be served -

- (a) by giving it to the individual personally;
- (b) by leaving it at, or by sending it by registered mail to the address of the place of residence or business of the individual's last known to the Executive Director or designated inspector, authorised officer or authorised person;
- (c) by giving it, at the place of residence or business of the individual's last known to the Executive Director or designated inspector, authorised officer or authorised person, to an individual who is, or is reasonably believed to be, above the age of 16 years and apparently an occupant of, or employed at, the place; or
- (d) by sending it to the last known electronic communication address of the individual.

(2) Any notice served on a juristic person in terms of this Subpart must be served -

- (a) by sending it by registered mail to the head office, registered office, principal place of business or other postal address of the juristic person;
 - (b) by giving it to an individual who is, or is reasonably believed to be, an officer of, or in the service of, the juristic person and above the age of 16 years, at the head office, registered office, principal office or other place of business of the juristic person; or
 - (c) by sending it to the last known email or electronic communication address of the juristic person or a representative of the juristic person.
- (3) The Executive Director must ensure that -
- (a) proper records of all enforcement actions taken in terms of these regulations are kept in the premises of the Authority and with the Civil Aviation Registry; and
 - (b) copies of all notices issued, reports written and decisions taken in respect of any alleged offence, violation or any inspection or investigation undertaken in terms of this Part are retained on the individual's or juristic person's file or holder's or participant's file with the Authority.

Evidence

13.02.2

- (1) In proceedings under this Part -
- (a) a written statement certified and signed by a designated inspector, authorised officer or authorised person that a licence, rating, certificate, permit, approval, authorisation or exemption, as the case may be, has been or has not been granted or issued to a specific person must, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein;
 - (b) a document certified and signed by a designated inspector, authorised officer or authorised person to be a copy of a licence, certificate, permit, approval, authorisation or exemption and signed by the Executive Director must, upon the mere production thereof, be accepted as *prima facie* proof of the fact that the person whose name appears as the holder of the licence, certificate, permit, approval, authorisation or exemption, as the case may be, on that copy, was the holder of the licence, certificate, permit, approval, authorisation or exemption at the time when the offence or violation was committed;
 - (c) a document certified by a designated inspector, authorised officer or authorised person to be an extract or a copy signed by the Executive Director, of any register maintained in terms of the Act or these regulations must, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein; and
 - (d) evidence supplied by a designated inspector, authorised officer or authorised person and obtained by the use of specialised equipment, such as weighing scales, video recorders, small hand-held recording devices, cameras, smartphones, navigation and communication transceivers and secondary equipment, must be proved in terms of any law, including the common law rules relating to the admissibility and proof of evidence.

(2) The Executive Director must ensure that any evidentiary material that is the subject of any process of inspection, investigation, enforcement review or court action and that requires its detention and seizure as contemplated in section 47 of the Act, is deposited in a secure room or office separate from the CAR, but under the supervision of the head of the CAR referred in regulation 3.04.6(1), to ensure its retention status as evidence for purposes of any such process.

SUBPART 3 ADMINISTRATIVE FINES

Administrative fines

13.03.1 (1) Despite the provisions of sections 42 and 43 of the Act regarding the suspension and revocation, and imposition of conditions, including endorsement, of aviation documents, a designated inspector, authorised officer or authorised person may recommend to the Executive Director to take action, after application of the procedures set out in this Part, which may result in the imposition of the appropriate category of administrative fine prescribed in regulation 185.01.3 where it is established, on a balance of probabilities, that the conduct or act of a holder or participant constitutes a violation.

(2) The power of a court to impose and provide penalties in the amounts similar to or lower than the administrative fine threshold provided for in subregulation (1) for various offences as contemplated in the Act, does not imply that the Executive Director may not impose an administrative fine for a violation based on the same set of facts that constitute the offence.

Process on imposition of administrative fine

13.03.2 (1) The Executive Director may, by way of process instituted in terms of this Part, seek the imposition of an administrative fine not exceeding N\$200 000 for any violation to the extent provided for, where appropriate, in the Act, these regulations, the technical standards or aviation directives.

(2) The criteria to be used on the imposition of administrative fines must be in the manner set out in Subpart 2 of Part 185.

Administrative fine notice

13.03.3 (1) A designated inspector, authorised officer or authorised person must prepare the administrative fine notice in writing and in the form set out in the enforcement code, for issuing by the Executive Director to the holder or participant, if the designated inspector, authorised officer or authorised person is satisfied, following an inspection in the manner provided under regulation 13.01.4 or investigation in the manner provided under regulation 13.01.5, that the holder or participant, as the case may be, has -

- (a) contravened or caused failure with regard to;
- (b) acted in a negligent, careless or incompetent manner with regard to; or
- (c) not complied with,

the Act, these regulations, the technical standards or aviation directive, to the extent indicated in the administrative fine notice.

(2) An administrative fine notice must -

- (a) specify the nature of the alleged act or conduct committed;

- (b) include evidence being relied upon pertaining to the alleged act or conduct;
 - (c) specify the administrative fine payable for the act or conduct;
 - (d) invite the alleged infringer to make representations either orally or in writing on the allegations or pay the administrative fine within 30 days of the issue or service of the notice; and
 - (e) specify the rights and obligations pertaining to the notice.
- (3) If the holder or participant pays the administrative fine referred to in subregulation (2), any liability specified in the notice is considered as discharged.
- (4) Despite the provisions on the administrative fines in subregulation (3), the Executive Director may require the holder, participant or a person designated by the Executive Director to -
- (a) complete or submit any rectification required that led to the imposition of the administrative fine; and
 - (b) submit the acceptance of a corrective action plan.
- (5) The Executive Director may withdraw the administrative fine notice -
- (a) prior to the payment of the fine, upon a favourable outcome of enforcement review representation as set out in Supart 4;
 - (b) prior to conclusion of court proceedings, if any, on good cause shown by the Executive Director; or
 - (c) on the resolution of the matter on appeal by the High Court.

Use of information regarding administrative fines

13.03.4 (1) The imposition of an administrative fine in terms of this Part does not constitute a previous conviction by the holder or participant and is not for criminal record purposes.

(2) The records on the information on inspections and investigations set out in this Part are part of the records required under section 52 of the Act and may not be made available for public scrutiny, except by way of a court order.

(3) Nothing in this regulation prevents the service of an administrative fine notice by the Executive Director on an individual or juristic person for repeating an offence based on the records held by the Authority.

SUBPART 4 INTERNAL REVIEWS

Administrative review of decisions of designated inspectors, authorised officers and authorised persons

13.04.1 (1) A holder or participant whose rights have been detrimentally affected by an administrative action taken in terms of this Part by a designated inspector, authorised officer or authorised person under delegation in terms of the Act, may, after payment of the non-

refundable application fee prescribed in Part 187, apply to the Executive Director to seek an internal review of such a decision.

(2) An internal review referred to in subregulation (1) must be lodged on the appropriate form similar to the form set out in the enforcement code, within 30 days after receipt of the infringement notice referred to in regulation 13.01.4(2) in terms whereof the applicant becomes aware of the decision or recommendation of the designated inspector, authorised officer or authorised person.

(3) If, on receipt of an application for review made under subregulation (1), the Executive Director decides that further investigations or inquiries must be carried out before he or she makes a decision on the application, the Executive Director must ensure that -

- (a) the designated inspector, authorised officer or authorised person whose decision or recommendation is the subject matter of the review;
- (b) any person who was responsible for supervising the designated inspector, authorised officer or authorised person who made the decision or recommendation; and
- (c) any other person who was in any way involved in the making of the decision or recommendation,

does not in any way participate in the further investigation or inquiry or the determination of the matter on review.

(4) The Executive Director must within 14 days of receiving the application for review confirm, amend or withdraw the decision or recommendation in writing.

(5) The Executive Director must, upon the request by the person in relation to whom a decision or recommendation is confirmed, amended or withdrawn under subregulation (4), within 14 days of the application furnish written reasons for the decision.

(6) The Executive Director may after the provision of the reasons in terms of subregulation (5), proceed to institute an investigation in terms of regulation 13.01.5.

(7) An application for review in terms of this regulation must be considered finalised if upon compliance with either of the actions set out in subregulation (3), (4) or (5), the applicant takes no further action within 30 days of any written notice of such actions.

Administrative review of decisions of Executive Director

13.04.2 A holder or participant may exercise the rights on review of a decision of the Executive Director based on remedies available under the laws of Namibia.

Insertion of Part 90 in Regulations

7. The Regulations are amended by the insertion after the heading “RULES OF THE AIR AND GENERAL OPERATING RULES” of the following Part:

**“PART 90
PERFORMANCE-BASED NAVIGATION**

LIST OF REGULATIONS

90.00.1	Applicability
90.00.2	PBN operations
90.00.3	PBN operational approval

Applicability

90.00.1 This Part applies to persons, aircraft and operators engaged in commercial or non-commercial operations by manned aircraft registered in Namibia.

PBN Operations

90.00.2 Where an aircraft is configured to use performance-based navigation (PBN), the owner or operator of that aircraft may only operate that aircraft in designated airspace, and on routes or in accordance with procedures where PBN specifications are established, if the owner or operator has been granted an approval by the Executive Director to conduct such operations.

PBN operational approval

90.00.3 (1) The applicant for the approval referred to in regulation 90.00.2 must provide evidence to the Executive Director that -

- (a) the relevant airworthiness approval of the RNAV (aRea NAVigation) system has been obtained;
- (b) a training programme for the flight crew members involved in these operations has been established, including initial and recurrent checking of competence;
- (c) operating procedures have been established specifying -
 - (i) the equipment to be carried, including its operating limitations and appropriate entries in the minimum equipment list (MEL);
 - (ii) flight crew composition and experience requirements;
 - (iii) normal procedures;
 - (iv) contingency procedures;
 - (v) monitoring and incident reporting; and
 - (vi) electronic navigation data management in accordance with Document NAM-CATS-PBN 90.

(2) Applications for PBN operational approval must comply with the detailed provisions for individual categories of PBN operations published in Document NAM-CATS-PBN 90.

Substitution of Part 92 of Regulations

8. The Regulations are amended by the substitution for Part 92 of the following Part:

**“PART 92
SAFE TRANSPORT OF DANGEROUS GOODS BY AIR**

LIST OF REGULATIONS

92.00.1	Applicability
92.00.2	Prohibition of transportation of dangerous goods by air
92.00.3	Classification, division and listing of dangerous goods
92.00.4	Designation of dangerous goods inspectors
92.00.5	Powers of dangerous goods inspectors
92.00.6	Training
92.00.7	Validation of foreign certificates
92.00.8	Packing and packaging
92.00.9	Responsibility of shipper
92.00.10	Labelling and marking
92.00.11	Dangerous goods transport document
92.00.12	Inspection for damage or leakage by operator
92.00.13	Loading restrictions in cabin or on flight deck
92.00.14	Separate packaging of dangerous goods
92.00.15	Securing of dangerous goods
92.00.16	Loading in cargo aircraft
92.00.17	Dangerous goods accident and incident reporting
92.00.18	Dangerous goods accident and incident investigation
92.00.19	Dangerous goods accident and incident information
92.00.20	Notification of undeclared or misdeclared dangerous goods
92.00.21	Retention of documents
92.00.22	Dangerous goods carried by passengers or flight crew members
92.00.23	Information to passengers
92.00.24	Powers of aerodrome operator: loading and unloading of dangerous goods
92.00.25	Designation of persons responsible for dangerous goods
92.00.26	Issuing of competency cards
92.00.27	Reporting of undeclared or misdeclared dangerous goods
92.00.28	Surface transport
92.00.29	Dangerous goods by mail
92.00.30	Reporting of dangerous goods occurrences
92.00.31	Storage and loading
92.00.32	In-flight emergencies
92.00.33	Application of Technical Instructions: reporting difficulties and amendments

Applicability

92.00.1 (1) This Part is applicable to all international and domestic operations of civil aircraft and specifically applies to -

- (a) any aircraft which is registered in Namibia or operated in Namibian airspace and which is used for the transportation of dangerous goods and any person who -
 - (i) offers dangerous goods for transportation by air;
 - (ii) transports dangerous goods by air; or

- (iii) accepts dangerous goods for transportation by air; and
- (b) any passenger or flight crew member on board or to be taken on board any aircraft in the manner provided for in Annex 18 of the Chicago Convention read with the Technical Instructions issued as ICAO Doc 9284.
- (2) This Part does not apply to -
 - (a) military aircraft and military personnel who perform their official duties on board a military aircraft;
 - (b) dangerous goods carried in an aircraft where such goods are intended -
 - (i) to provide medical aid to a patient during a flight;
 - (ii) to provide veterinary aid or a humane killer for an animal during a flight;
 - (iii) for spraying, dusting or dropping in connection with lawfully conducted agricultural, horticultural, forestry or pollution control operations; or
 - (iv) for purposes of lawful game and livestock management during a flight;
 - (c) articles and substances which would otherwise constitute dangerous goods but which are required to be on board the aircraft in accordance with the appropriate airworthiness requirements and the provisions of the operations manual concerned, except that articles and substances intended as replacements for such articles and substances must be transported in accordance with the requirements and standards as prescribed in Document NAM-CATS-DG;
 - (d) articles and substances which would otherwise constitute dangerous goods but which are on board the aircraft for the specialised purposes as prescribed in Document NAM-CATS-DG; and
 - (e) articles and substances intended for the personal use of passengers and flight crew members to the extent as prescribed in Document NAM-CATS-DG.

Prohibition of transportation of dangerous goods by air

- 92.00.2** (1) A person may not offer for transportation in an aircraft or transport in an aircraft or accept for transport in an aircraft any -
- (a) of the dangerous goods specifically identified by name or by generic description in Document NAM-CATS-DG as being forbidden for transportation by air under any circumstances;
 - (b) of the dangerous goods identified in Document NAM-CATS-DG as being forbidden for transportation by air under normal circumstances;
 - (c) other dangerous goods, unless in accordance with the provisions of the Act, this Part and the requirements and standards as prescribed in Document NAM-CATS-DG; and

(d) infected live animals.

(2) The Executive Director may, upon application in writing by any person referred to in regulation 92.00.1(1)(b), exempt such person from the provisions of subregulation (1) (b), where the Executive Director determines that -

- (a) a situation of extreme urgency requires the transportation of the dangerous goods;
- (b) other forms of transportation are, in the circumstances, impracticable or inappropriate; or
- (c) full compliance with the provisions of this Part would, in the circumstances, be contrary to the public interest,

and the grant of the exemption applied for would not be contrary to the interests of aviation safety.

(2) The provisions of section 46 of the Act apply with the necessary changes to an application for exemption in terms of subregulation (1).

(3) An application for an exemption under this Part may be made -

- (a) in respect of flights originating in or departing from Namibia; or
- (b) in respect of aircraft not registered in Namibia but engaged in the overflight of Namibian territory.

Classification, division and listing of dangerous goods

92.00.3 The classes, divisions and listing of dangerous goods are contained in Document NAM-CATS-DG.

Designation of dangerous goods inspectors

92.00.4 (1) Subject to the provisions of section 37 of the Act, the Executive Director may designate dangerous goods inspectors to exercise the powers referred to in regulation 92.00.5.

(2) The conditions and requirements for and the rules, procedures and standards connected with a designation referred to in subregulation (1), are as prescribed in Document NAM-CATS-DG.

(3) The Executive Director must sign and issue to each designated dangerous goods inspector a document which states the full name of such inspector and contains a statement indicating that -

- (a) such inspector has been designated in terms of subregulation (1); and
- (b) such inspector is authorised to exercise the powers referred to in regulation 92.00.5 and any other powers delegated by the Executive Director to the inspector under the Act.

Powers of dangerous goods inspectors

92.00.5 (1) A designated dangerous goods inspector may -

- (a) enter and inspect any -
 - (i) aerodrome or hangar;
 - (ii) premises, whether situated inside or outside any aerodrome, where goods, including food products intended for transportation by air are manufactured, produced, prepared or stored or where goods, mail or baggage intended for the transportation by air are packed, held or received or where goods, mail or baggage are received after being conveyed by air; and
 - (iii) aircraft, vehicle, freight or baggage container or unit load device used for the transportation of goods,

in order to ensure that the provisions of the Act, this Part and the requirements and standards as prescribed in Document NAM-CATS-DG are complied with; and

- (b) require any person to forthwith produce or furnish the inspector with all documents, information and any other evidence relating to dangerous goods or baggage in so far as this may be necessary for the proper execution of his or her functions.

suspects that -

- (2) A designated dangerous goods inspector who on reasonable grounds

- (a) any baggage, consignment, freight or baggage container or unit load device contains goods which may not lawfully, in terms of the provisions of the Act, this Part and the requirements and standards as prescribed in Document NAM-CATS-DG, be transported by air; or
- (b) goods which constitute a danger or potential danger to the safety or security of persons, aircraft or any other property are being transported, have been transported or are to be transported by air,

may inspect such baggage, consignment, freight or baggage container or unit load device and, if he or she considers it necessary in the interest of aviation safety, order that such goods be detained and not be loaded in any aircraft.

- (3) A designated dangerous goods inspector may at any time -

- (a) search -

- (i) any baggage, consignment, freight or baggage container or unit load device presented or accepted for transportation by air;
- (ii) any baggage, consignment, freight or baggage container or unit load device received after being transported by air; and
- (iii) any person who has disembarked from an aircraft or who intends to board an aircraft or the baggage or personal possessions of such person,

in order to ascertain whether dangerous goods are being, have been or are to be transported by air;

- (b) take reasonable steps to satisfy himself or herself that the mass, quantity or composition of any -
- (i) goods or baggage offered or presented for transportation in any consignment;
 - (ii) passengers' baggage;
 - (iii) freight or baggage container or unit load device;
 - (iv) stores transported by the operator or owner of an aircraft or his or her agent; and
 - (v) goods or baggage on board an aircraft,
- comply with the requirements and standards as prescribed in Document NAM-CATS-DG;
- (c) take reasonable steps to satisfy himself or herself that the requirements and standards as prescribed in Document NAM-CATS-DG are complied with regarding the separation of the classes of dangerous goods in storage areas, unit load devices, vehicles and aircraft;
- (d) require goods to be removed from an aircraft if the requirements and standards referred to in paragraphs (b) and (c) are not complied with;
- (e) request any person to produce or cause to be produced for inspection, any document relating to a consignment intended for transportation by air or which has been transported by air or any other document specified in Document NAM-CATS-DG;
- (f) question any person handling dangerous goods in order to ascertain whether that person complies with the provisions of the Act, this Part and the requirements and standards as prescribed in Document NAM-CATS-DG relating to the handling of such dangerous goods; and
- (g) condemn any dangerous goods which, in his or her reasonable opinion, are not in a good condition or the storage or use of which he or she considers to be dangerous and order any such dangerous goods -
- (i) to be returned to the owner of the goods or to the person who delivered the goods to the place where they are inspected by the designated dangerous goods inspector; or
 - (ii) where the owner of the goods or the person who delivered the goods cannot be found or identified, to be destroyed forthwith; and
- recover any expenses incurred in connection with the return or destruction of the goods from that owner or person, as the case maybe.

(4) Any search referred to in subregulation (3)(a)(iii) must be conducted in accordance with the requirements of section 144 of the Act as if such search were a search carried out under section 140(1) of that Act.

(5) The provisions of this Part are without prejudice to the general powers under the Act, of the Executive Director, and to the specific powers under the Act of aviation security officers insofar as they may be of general or specific application to dangerous goods.

Training

- 92.00.6** (1) Any -
- (a) shipper of dangerous goods, including a packer and shipper's agent;
 - (b) operator of any aircraft used in a commercial air transport operation in terms of Parts 91, 121, 127 or 135;
 - (c) person -
 - (i) who performs the act of accepting, handling, loading, unloading, transferring or other processing of cargo, on behalf of an operator;
 - (ii) located at an aerodrome, who performs the act of processing passengers on behalf of an operator;
 - (iii) not located at an aerodrome, who performs the act of checking in passengers on behalf of an operator;
 - (iv) other than an operator, who is involved in the processing of cargo; or
 - (v) engaged in the security screening of passengers, their baggage and cargo,

must ensure that the following categories of any personnel in his, her or its employ successfully complete initial dangerous goods training and recurrent dangerous goods training -

- (aa) cargo personnel including any person who has access to a cargo warehouse;
- (bb) personnel engaged in the ground handling, storage and loading of dangerous goods;
- (cc) passenger handling personnel;
- (dd) security personnel who deal with the screening of passengers, their baggage and cargo;
- (ee) flight crew members;
- (ff) packers;
- (gg) shippers;
- (hh) shipper's agents;
- (ii) any person who has unescorted access to a cargo warehouse who is not responsible for the handling, storage, loading or transportation of cargo; and

(jj) cabin crew members.

(2) Training as required by this Part may only be provided by an aviation training organisation approved in terms of Part 141.

(3) The subject matter of initial dangerous goods training and refresher dangerous goods training are as prescribed in Document NAM-CATS-DG.

(4) The persons, employees or agencies referred to in subregulation (1) must complete recurrent dangerous goods training every 24 months, calculated from the date of the successful completion of the initial dangerous goods training or the preceding recurrent dangerous goods training, as the case may be.

(5) Upon the successful completion of the initial dangerous goods training or the recurrent dangerous goods training referred to in subregulation (3), the dangerous goods training organisation concerned must issue to the candidate a certificate of competence in the handling of dangerous goods to be transported by air.

(6) Any instructor conducting a dangerous goods training programme must successfully complete a category 6 initial training course and thereafter successfully complete a dangerous goods training recurrent course within 24 months calculated from the date of the completion of the initial course with an aviation training organisation approved under Part 141.

(7) The curriculum for the training referred to in subregulation (6) is as prescribed in Document NAM-CATS-DG.

(8) An operator of an aerodrome or, where appropriate or necessary, a holder and its respective service providers and subcontractors must maintain a record of training of personnel, including third party personnel, and such records must be made available on-site and upon request.

Validation of foreign certificates

92.00.7 (1) The Executive Director may upon application in writing by any person, validate any foreign certificate issued in respect of the handling of dangerous goods to be transported by air, if the holder of the certificate submits documentary proof that -

- (a) such certificate has been obtained from an approved foreign training organisation; and
- (b) he or she has successfully completed the refresher dangerous goods training referred to in regulation 92.00.6(3), where applicable.

(2) The application referred to in subregulation (1) must be accompanied by the appropriate fee as prescribed in Part 187.

(3) The provisions of regulation 92.00.6(4) and (5) apply with the necessary changes to the holder of a certificate referred to in subregulation (1).

Packing and packaging

92.00.8 (1) A shipper must ensure that all dangerous goods which the shipper prepares or offers for transportation by air, are packed in accordance with the provisions of this Part and the requirements and standards as prescribed in Document NAM-CATS-DG.

- (2) A shipper must ensure that any packaging used for the transportation of dangerous goods by air -
- (a) complies with the material and construction specifications of, and is tested initially in accordance with, the requirements and standards as prescribed in Document NAM-CATS-DG; and
 - (b) is of good quality and be constructed and securely closed so as to prevent leakage caused by changes in temperature, humidity, pressure or vibration under normal conditions of transportation by air.
- (3) A shipper must ensure that inner packaging is packed, secured or cushioned to prevent its breakage or leakage and to control its movement within the outer packaging during normal conditions of transportation by air.
- (4) A shipper must ensure that packaging in direct contact with dangerous goods is resistant to any chemical or other action of such goods and cushioning, and that absorbent materials do not react dangerously with the contents of the receptacles.
- (5) A shipper must ensure that packaging for which retention of a liquid is a basic function, is capable of withstanding, without leaking, the pressure as prescribed in Document NAM-CATS-DG.
- (6) A receptacle used for the transportation of dangerous goods by air may not be re-used by the shipper until such receptacle has been inspected by such shipper and found free from corrosion or other damage.
- (7) If a receptacle, used for the transportation of dangerous goods by air, is re-used by the shipper, all necessary measures must be taken by the shipper to prevent contamination of subsequent dangerous goods transported therein.
- (8) If, because of the nature of their former contents, uncleaned empty receptacles may present a hazard, the shipper must ensure that such receptacles are tightly closed and treated according to the hazard that they constitute.
- (9) A shipper must ensure that no harmful quantity of any dangerous substance adheres to the outside of a package.

Responsibility of shipper

92.00.9 (1) A shipper must ensure that dangerous goods offered for transportation by air are not dangerous goods identified as forbidden for transported by air in terms of regulation 92.00.2 and are -

- (a) identified, classified, packed, marked and labelled; and
- (b) accompanied by a properly executed dangerous goods transport document,

in accordance with the provisions of this Part and the requirements and standards as prescribed in Document NAM-CATS-DG.

(2) A shipper must ensure that any person employed by him or her or any person employed to act on his or her behalf, who is involved in the preparation of a consignment of dangerous goods to be transported by air, is trained in accordance with the provisions of regulation 92.00.6.

Labelling and marking

92.01.10 (1) Any person who offers any package containing dangerous goods for conveyance by air must ensure that such package is labelled with the appropriate label or labels in accordance with the requirements and standards as prescribed in Document NAM-CATS-DG.

(2) Any person who offers any package containing dangerous goods for conveyance by air must ensure that such package is marked with the proper shipping name, UN number, class of hazard and subsidiary risk, and that any authorisation reference of the contents of the package is in accordance with the requirements and standards as prescribed in Document NAM-CATS-DG.

(3) Any person who offers any package containing dangerous goods for transportation by air must ensure that each packaging which is manufactured in accordance with a packaging specification as prescribed in Document NAM-CATS-DG, is marked with the appropriate packaging specification marking as prescribed in Document NAM-CATS-DG.

(4) Packaging may not be marked with a packaging specification marking unless such packaging complies with the appropriate packaging specification as prescribed in Document NAM-CATS-DG.

(5) In addition to the languages required by the State of origin, the English language must be used for the markings related to dangerous goods.

Dangerous goods transport document

92.00.11 (1) Any person who offers dangerous goods for transportation by air must, unless otherwise provided for in Document NAM-CATS-DG, complete, sign and provide the operator with a dangerous goods transport document and such other appropriate documents as prescribed in Document NAM-CATS-DG.

(2) A dangerous goods transport document must contain the information as prescribed in Document NAM-CATS-DG as well as a declaration, signed by the person referred to in subregulation (1), indicating that the dangerous goods offered for transportation by air are -

- (a) fully and accurately described by their proper shipping names;
- (b) identified, classified, packed, marked and labelled in accordance with the requirements and standards as prescribed in Document NAM-CATS-DG;
- (c) in proper condition for transportation by air in accordance with the requirements and standards as prescribed in Document NAM-CATS-DG; and
- (d) not dangerous goods identified as forbidden for transportation by air in terms of regulation 92.00.2.

(3) The English language must be used for the dangerous goods transport document.

(4) The operator of an aircraft in which dangerous goods are to be transported, may not accept such dangerous goods for transportation by air -

- (a) unless the dangerous goods are accompanied by a completed dangerous goods transport document, except where Document NAM-CATS-DG provides that such document is not required; and

- (b) until such operator has inspected the exterior or the package, overpack or freight or baggage container containing the dangerous goods in accordance with the acceptance procedures as prescribed in Document NAM-CATS-DG.
- (5) The operator referred to in subregulation (1) must develop and use an acceptance checklist to ensure that the provisions of subregulation (1) regarding the acceptance of dangerous goods for transportation by air are complied with.
- (6) The acceptance checklist referred to in subregulation (2), must comply with the requirements as prescribed in Document NAM-CATS-DG.
- (7) The operator of an aircraft in which dangerous goods are to be transported must provide the pilot-in-command, as soon as practicable before departure of the aircraft, with the written information as prescribed in Document NAM-CATS-DG.
- (8) The operator referred to in subregulation (1), must provide information in the operations manual and other relevant publications to the flight crew members and employees concerned to enable such flight crew members and employees to carry out their duties with regard to the transportation by air of dangerous goods, and such information must include the information as prescribed in Document NAM-CATS-DG.
- (9) Operators, shippers or other organisations involved in the transport of dangerous goods by air must provide such information to their personnel as will enable the personnel to carry out their responsibilities with regard to the transport of dangerous goods and must provide instructions as to the action to be taken in the event of emergencies arising involving dangerous goods.

Inspection for damage or leakage by operator

- 92.00.12** (1) The operator of an aircraft in which dangerous goods are to be transported must inspect the exterior of each package and overpack containing dangerous goods and each freight or baggage container or package containing radioactive materials to ensure that there is no damage to or leakage from such package, overpack and freight or baggage container, before loading such package, overpack and container into the aircraft or into a unit load device.
- (2) The operator referred to in subregulation (1) must inspect a unit load device before loading such device in the aircraft to ensure that there is no damage to or leakage from any dangerous goods contained therein.
- (3) Damaged or leaking package, overpack, freight or baggage container or unit load device may not be loaded into an aircraft.
- (4) If any package, overpack or freight or baggage container containing dangerous goods appears to be damaged or leaking after loading such package, overpack or freight or baggage container into an aircraft, the operator must remove or arrange for the removal of such package, overpack or freight or baggage container from the aircraft and must ensure that the remainder of the consignment is in a proper condition for transportation by air and that no other package, overpack or freight or baggage container has been damaged or contaminated.
- (5) The operator of an aircraft referred to in subregulation (1) must inspect each package or overpack containing dangerous goods, or a freight or baggage container or package containing radioactive materials, for signs of damage or leakage upon unloading such package, overpack or freight or baggage container from the aircraft or unit load device, and if damage or leakage has occurred, the area where such package, overpack, freight or baggage container or unit load device was stowed in the aircraft, must be inspected for damage or contamination.

(6) If a package, overpack or freight or baggage container containing radioactive materials is found to be damaged or leaking, the operator must -

- (a) take all necessary precautions to restrict access to such package, overpack or freight or baggage container containing radioactive materials; and
- (b) designate a qualified person to assess the extent of the contamination and the radiation level.

(7) If any hazardous contamination is found in an aircraft as a result of damage to or leakage from a package or overpack containing dangerous goods, the operator must decontaminate the aircraft immediately.

(8) The operator must remove an aircraft from service immediately when such aircraft is contaminated by radioactive materials and may not return such aircraft to service until the radiation level resulting from the fixed contamination at any accessible surface and the non-fixed contamination, is below the values as prescribed in Document NAM-CATS-DG.

(9) Any person responsible for the conveyance and opening of packages containing infectious substances who becomes aware of damage to or leaking from such packages, must -

- (a) avoid handling such infectious substances, where possible;
- (b) inspect adjacent packages for contamination;
- (c) inform the appropriate public health authority or veterinary authority of such damage or leakage;
- (d) provide the appropriate authority of the country of transit with information regarding any possible contamination; and
- (e) notify the shipper or the consignee accordingly.

(10) The operator of an aircraft in which dangerous goods are to be transported must comply with the storage and loading provisions of this Part and the requirements and standards as prescribed in Document NAM-CATS-DG.

Loading restrictions in cabin or on flight deck

92.00.13 Unless otherwise provided for in Document NAM-CATS-DG, a person may not stow dangerous goods in an aircraft cabin occupied by passengers or on the flight deck of an aircraft.

Separate packaging of dangerous goods

92.00.14 (1) The operator of an aircraft in which dangerous goods are to be transported must ensure that packages containing dangerous goods which might react dangerously when coming into contact with each other, are not stowed in an aircraft next to each other or in a position that would allow interaction between them in the event of leakage.

(2) The operator must ensure that a package containing a toxic or infectious substance is stowed in an aircraft in accordance with the requirements and standards prescribed in Document NAM-CATS-DG.

(3) The operator must ensure that a package containing radioactive materials is stowed in an aircraft in a manner which separates the package from persons, live animals, and undeveloped film, in accordance with the requirements and standards as prescribed in Document NAM-CATS-DG.

Securing of dangerous goods

92.00.15 (1) The operator of an aircraft in which dangerous goods are to be transported, must, when dangerous goods are loaded into the aircraft, protect such dangerous goods from being damaged, and must secure such dangerous goods in the aircraft in a manner which will prevent any movement in flight that could change the positioning of the packages.

(2) When securing packages containing radioactive materials, the operator must ensure that the securing is adequate in order that the requirements regarding the separation of radioactive materials referred to in regulation 92.00.14(3) are complied with.

(3) An operator, shipper, and other person engaged in the transport of dangerous goods by air, must establish dangerous goods security measures to minimise theft or misuse of dangerous goods that may endanger persons, property or the environment, in accordance with the provisions of Document NAM-CATS-DG.

Loading in cargo aircraft

92.00.16 Unless otherwise provided for in Document NAM-CATS-DG, an operator must load a package or overpack, containing dangerous goods and bearing a “cargo aircraft only” label in such manner that any flight crew member or other person authorised by the operator, can see, handle and, where size and weight permit, separate such package or overpack from other cargo in flight.

Dangerous goods accident and incident reporting

92.00.17 (1) The operator of an aircraft, the person in charge of a cargo warehouse, an aerodrome manager or the person in charge of ramp and ground handlers involved in a dangerous goods accident or dangerous goods incident within Namibia, must, within 48 hours after such accident or incident has occurred, notify -

- (a) in the case of an accident, the Executive Director, any air traffic service Unit (ATSU) or the nearest police station; or
- (b) in the case of an incident, any ATSU,

of such accident or incident, and such ATSU or police station, as the case may be, must immediately on receipt of the notification, notify -

- (i) the Executive Director; and
- (ii) where such accident or incident occurs at an aerodrome, the aerodrome manager.

(2) The operator of a Namibian registered aircraft involved in a dangerous goods accident or dangerous goods incident or an accident or serious incident where dangerous goods carried as cargo may be involved, must, as soon as practicable, notify -

- (a) the appropriate authority of the State in territory where the accident or incident has occurred, directly or through any ATSU; and

- (b) the Executive Director,

of such accident or incident.

(3) Any notification of a dangerous goods accident or dangerous goods incident must contain the particulars as prescribed in Document NAM-CATS-DG.

(4) In the event of an aircraft accident or a serious incident where dangerous goods carried as cargo may be involved, the operator of the aircraft carrying the dangerous goods as cargo must provide information, without delay, to emergency services responding to the accident or serious incident about the dangerous goods on board, as indicated in the operator's dangerous goods manual.

(5) In the event of an aircraft incident, the operator of an aircraft carrying dangerous goods as cargo must, if requested to do so, provide information without delay to emergency services responding to the incident, as indicated in the operator's dangerous goods manual.

(6) Reports of incidents and accidents involving dangerous goods must be collated and analysed by the Executive Director as part of the State safety programme required under Part 11.

Dangerous goods accident and incident investigation

92.00.18 The investigator in charge designated by the Director of Investigations under section 84(1) of the Act must investigate all dangerous goods accidents and dangerous goods incidents reported in terms of regulation 92.00.17, and the provisions of Part 11 of the Act will apply with the necessary changes to such investigation.

Dangerous goods accident and incident information

92.00.19 In the case of a consignment for which a dangerous goods transport document is required in terms of this Part, the operator or cargo handling organisation must ensure that the information as prescribed in Document NAM-CATS-DG is available at all times for use in an emergency response to dangerous goods accidents or dangerous goods incidents.

Notification of undeclared or misdeclared dangerous goods

92.00.20 (1) The operator of an aircraft in which dangerous goods are transported within Namibia or, in the case of Namibian a registered aircraft, outside Namibia must, within 48 hours after the discovery of -

- (a) any undeclared or misdeclared dangerous goods; or
- (b) dangerous goods not permitted in terms of regulation 92.00.2,

on board the aircraft or in the baggage or on the person of a passenger or flight crew member, notify the Executive Director or the appropriate national authority thereof, as the case may be.

(2) In order to prevent the occurrence of instances of undeclared and misdeclared dangerous goods in cargo, each operator must establish procedures for investigating and compiling information concerning such occurrences in any State or territory and which involve the transport of dangerous goods originating in, or destined for, another State or territory, and those procedures must be clearly stated in the manual of procedures (MOP).

(3) Reports of occurrences of instances must be made available to the Executive Director or the appropriate authority of the State in which this occurred, within 48 hours.

Retention of documents

92.00.21 (1) The operator of an aircraft in which dangerous goods are transported, must ensure that at least one copy of all records pertaining to a flight on which dangerous goods are transported, including the -

- (a) dangerous goods transport records such as the dangerous goods transport document and air way bill;
- (b) acceptance checklist, if completion of the checklist is required; and
- (c) written information provided to the pilot-in-command in terms of regulation 92.00.11(7), are retained for a period of 90 days, calculated from the date of such flight.

(2) The operator of an aircraft involved in a dangerous goods accident or incident, and the manager of an aerodrome where such accident or incident has occurred must keep records of the dangerous goods incident or accident and any undeclared or misdeclared dangerous goods discovered and such records must be made available on-site and copies supplied to the Executive Director upon request by the Executive Director a designated inspector, authorised officer or authorised person within 48 hours.

Dangerous goods carried by passengers or flight crew members

92.00.22 A passenger or flight crew member may not carry dangerous goods as, or in, carry-on baggage or checked baggage, or on his or her person, except in accordance with the requirements and standards as prescribed in Document NAM-CATS-DG.

Information to passengers

92.00.23 Every operator of an aircraft must ensure that information regarding the types of goods that passengers are prohibited to carry on board an aircraft, is available to such passengers as prescribed in Document NAM-CATS-DG and such information must include -

- (a) applicable information accompanying the passenger ticket; and
- (b) notices which are prominently displayed -
 - (i) at any location where tickets are issued and baggage checked; and
 - (ii) at all check-in- counters and aircraft boarding areas.

Powers of aerodrome operator: loading and unloading of dangerous goods

92.00.24 (1) If in the opinion of any aerodrome operator a possibility exists that persons on a certified or licensed aerodrome may be endangered through the loading or unloading of dangerous goods, the operator may take any of the steps as contemplated in subregulations (2), (3) and (4).

(2) If the operator of an aircraft has informed the aerodrome operator of the proposed loading or unloading, and the aerodrome operator considers that persons or property on the licensed aerodrome may be endangered by the proposed loading or unloading, the aerodrome operator may -

- (a) permit such loading or unloading subject to such conditions as the aerodrome operator may consider necessary to impose with a view to safeguarding persons or property on the aerodrome; or
- (b) prohibit such loading or unloading.

(3) If dangerous goods have been loaded into, or unloaded from, an aircraft without the permission of the aerodrome operator, the aerodrome operator may direct that such dangerous cargo be unloaded from or reloaded into such aircraft, or give such other directions or impose such conditions as the aerodrome operator may consider necessary with a view to safeguarding persons or property on the aerodrome.

(4) The operator of an aircraft carrying dangerous goods on an aerodrome must, if directed to do so by the aerodrome operator, move such aircraft to another place on the aerodrome and keep such aircraft in that place until the aerodrome operator grants permission for such aircraft to be moved.

Designation of persons responsible for dangerous goods

92.00.25 (1) Each operator, ramp handling organisation, ground handling organisation and aerodrome manager must designate a dangerous goods specialist who is responsible for the following matters involving dangerous goods -

- (a) compliance with these regulations;
- (b) quality control;
- (c) reporting of accidents and incidents; and
- (d) maintenance of dangerous goods incidents and accidents records.

(2) The minimum requirement or qualification for the designated dangerous goods specialist is the successful completion of minimum dangerous goods Category 6 training from an aviation training organisation approved under Part 141.

Issuing of competency cards

92.00.26 All personnel required to have a dangerous goods qualification as prescribed in Document NAM-CATS-DG must be issued with a competency card and must carry the card on their person at all times while on duty.

Reporting of undeclared or misdeclared dangerous goods

92.00.27 (1) Any operator, shipper or any other organisation engaged in the transportation of dangerous goods by air, must report any occasion when undeclared or misdeclared dangerous goods are discovered or when dangerous goods not permitted in terms of Document NAM-CATS-DG are discovered in a passenger's baggage.

(2) The report referred to in subregulation (1) must be made to the Executive Director, within 48 hours of the discovery.

Surface transport

92.00.28 An operator must make provision to enable dangerous goods intended for air transport, and prepared in accordance of Document NAM-CATS-DG, to be accepted by such surface transport operators for surface transport to or from aerodromes.

Dangerous goods by mail

92.00.29 (1) An operators and an individual engaged in the transport of dangerous goods by air must establish procedures with the view to controlling the introduction of dangerous goods into air transport through postal and courier services as set out in Document NAM-CATS-DG, and read with Part 108 on Co-Mail.

(2) Staff of any postal operators must be trained appropriate to their responsibilities as set out in Document NAM-CATS-DG.

Reporting of dangerous goods occurrences

92.00.30 Any operator, shipper or individual engaged in the transportation of dangerous goods by air must report any occurrence to the Executive Director, within 48 hours, whenever it is discovered that -

- (a) dangerous goods carried by air have not been loaded, segregated, separated or secured in accordance with the provisions of these regulations and Document NAM-CATS-DG; and
- (b) dangerous goods have been carried on an aircraft without information having been provided to the pilot-in-command in accordance with the provisions of these regulations and Document NAM-CATS-DG.

Storage and loading

92.00.31 The procedure for the loading and stowing of packages and overpacks containing dangerous goods, and freight or baggage containers containing radio-active materials is as prescribed in Document NAM-CATS-DG.

In-flight emergencies

92.00.32 In the event of an in-flight emergency, the pilot-in-command must, as soon as the situation permits, inform the appropriate provider of air navigation services, for the information of the aerodrome authorities, of any dangerous goods on board the aircraft, as provided for in Document NAM-CATS-DG.

Application of Technical Instructions: reporting difficulties and amendments

92.00.33 (1) The Executive Director must inform the ICAO of any difficulties encountered in the application of the Technical Instructions referred to in regulation 92.00.1(1), and, in the manner prescribed in the Technical Instructions, of any amendments which it would be desirable to make to them.

(2) Although an amendment to the Technical Instructions with an immediate applicability for reasons of aviation safety may not yet have been implemented in Namibia, it may nevertheless be applied by way of an Executive Director aviation directive to facilitate the movement of dangerous goods in Namibian territory which are consigned from another State in accordance with that amendment, as long as the goods comply in total with the revised requirements.

Insertion of Parts 108, 109, 110, 111, 113 and 114 in Regulations

9. The Regulations are amended by the insertion after Part 107 of the following Parts:

**“PART 108
ACCEPTANCE, FORWARDING, STORAGE AND CARRIAGE OF CARGO,
MAIL AND IN-FLIGHT SUPPLIES**

LIST OF REGULATIONS

SUBPART 1: GENERAL PROVISIONS

- 108.01.1 Applicability
- 108.01.2 General restrictions on carriage by air of cargo, mail and in-flight supplies

**SUBPART 2: DUTIES AND FUNCTIONS OF REGULATED AGENTS, KNOWN
CONSIGNORS AND AIR CARRIERS OR AIRCRAFT OPERATORS**

- 108.02.1 General duties of regulated agents
- 108.02.2 Duties of regulated agents regarding known consignors
- 108.02.3 Duties of air carriers or aircraft operators
- 108.02.4 Requirements for certification of known consignors

SUBPART 3: SECURITY CONTROLS

- 108.03.1 General
- 108.03.2 Regulated agents: acceptance and delivery of consignments
- 108.03.3 Security controls to be applied by known consignor
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- 108.03.5 Unknown cargo
- 108.03.6 Screening of cargo and mail
- 108.03.7 Cargo and mail exemptions
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- 108.03.10 Air carrier company mail and air carrier company materials to be loaded into aircraft
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**SUBPART 4: IN-FLIGHT SUPPLIES, REGULATED SUPPLIER OF IN-FLIGHT
SUPPLIES OR AIRPORT SUPPLIES AND KNOWN SUPPLIER OF IN-FLIGHT SUPPLIES
OR AIRPORT SUPPLIES**

- 108.04.1 General provisions
- 108.04.2 Security controls: in-flight supplies
- 108.04.3 Screening of in-flight supplies
- 108.04.4 Designation of known suppliers of in-flight supplies
- 108.04.5 Security controls to be applied by air carrier, regulated supplier of in-flight supplies
and known supplier of in-flight supplies
- 108.04.6 Airport supplies: known suppliers of airport supplies
- 108.04.7 Security controls: airport supplies
- 108.04.8 Screening of airport supplies
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- 108.04.10 Security controls to be applied by known supplier of airport supplies

SUBPART 5: CERTIFICATIONS

- 108.05.1 Application for certification as regulated agent
- 108.05.2 Regulated agent's certificate
- 108.05.3 Duties of certificate holder
- 108.05.4 Renewal of regulated agent's certificate

108.05.5	Amendments
108.05.6	Application for certification as known consignor
108.05.7	Designation of inspectors, authorised officers and authorised persons for the certification of known consignors
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108.05.11	Regulated supplier's certificate
108.05.12	Renewal of regulated supplier's certificate
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SUBPART 6: MAIL

108.06.1	General provisions
108.06.2	Express cargo and mail
108.06.3	Transshipment cargo and mail

SUBPART 7: STAFF RECRUITMENT AND TRAINING, HANDLING OF AVIATION CRGO, MAIL AND IN-FLIGHT SUPPLIES

108.07.1	General provisions
108.07.2	Recruitment: background checks
108.07.3	Air cargo security familiarisation training
108.07.4	Standard air cargo security training
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SUBPART 8: SECURITY SCREENING: EQUIPMENT AND EXPLOSIVES DETECTION DOG TEAMS

108.08.1	General provisions
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APPENDICES

Appendix 1:	Trucking/transporter declaration
Appendix 2:	Declaration of commitments: regulated supplier of in-flight supplies and airport supplies
Appendix 3:	Declaration of commitments: known supplier of in-flight supplies
Appendix 4:	Declaration of commitments: known supplier of airport supplies

SUBPART 1 GENERAL PROVISIONS

Applicability

- 108.01.1** (1) This Part applies to all persons engaged in acceptance, forwarding, storage and carriage by air of cargo, mail and in-flight supplies and regulates -
- (a) aviation security in respect of all cargo, mail and in-flight supplies entering security controlled or security restricted areas of an aerodrome;
 - (b) security measures required for the storage and carriage of cargo, mail and in-flight supplies by an air carrier or aircraft operator;

- (c) training requirements for personnel involved in handling air cargo, mail and in-flight supplies; and
- (d) any other aspect incidental to air cargo security or the security of mail or in-flight supplies.

(2) The operator of security designated aerodrome, an air carrier or aircraft operator, a regulated agent, a known consignor and a regulated supplier of in-flight supplies or airports supplies are each respectively responsible, according to the applicable requirements of this Part, for the implementation of the measures set out in this Part.

- (3) A person may not act as -
 - (a) a regulated agent to provide a consignment of cargo or mail to an air carrier or aircraft operator for carriage by air except under the authority of a regulated agent certificate granted in accordance with this Part and any disclosed elements of the NCASP;
 - (b) a certificated known consignor to provide a consignment of cargo or mail to an air carrier or aircraft operator for carriage by air except under the authority of a known consignor certificate granted in accordance with this Part and any disclosed elements of the NCASP; or
 - (c) a regulated supplier of in-flight supplies, except under the authority of a regulated supplier certificate granted in accordance with this Part and any disclosed elements of the NCASP.

General restrictions on carriage by air of cargo, mail and in-flight supplies

108.01.2 (1) An air carrier or aircraft operator may not carry unknown cargo.

(2) An air carrier must treat all unaccompanied baggage as unknown cargo.

(3) Assembled explosive and incendiary devices that are not carried in accordance with the applicable authorisations and safety standards and requirements are prohibited articles in consignments of cargo.

(4) Explosive and incendiary devices, whether assembled or not, and their component parts are prohibited articles in consignments of mail.

(5) Any air carrier or aircraft operator or regulated agent has the right -

- (a) to examine or cause to be examined by his or her handling agent, the packaging and contents of all cargo tendered for carriage by air, and to inquire into the correctness or sufficiency of information or documentation submitted in respect of any cargo; and
- (b) without assuming any liability, to refuse, delay or return any cargo, if there is a reasonable belief that the cargo may contain explosives or dangerous devices.

(6) A regulated agent, an air carrier or aircraft operator or any other entity approved by the Authority must screen all cargo and mail before being loaded on to an aircraft, unless the -

- (a) required security controls have been applied to the consignment by a regulated agent and the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading;
 - (b) required security controls have been applied to the consignment by a known consignor and the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading; or
 - (c) consignment is exempt from screening and has been protected from unauthorised interference from the time that it became identifiable air cargo or identifiable air mail and until loading.
- (7) A regulated agent engaged in the acceptance or storage or the forwarding or handling of cargo or in-flight supplies to be carried by air must hold a regulated agent's certificate which is an aviation document and is issued by the Executive Director.
- (8) Any person in the employ of a regulated agent and involved with known cargo or in-flight supplies must complete the relevant training prescribed by this Part and must hold a certificate of proficiency for such training.
- (9) A regulated agent must draw up a security programme containing all information stipulated in Appendix P to the NCASP, and setting out the manner in which such regulated agent will operate and that security programme must be submitted to the Executive Director for approval.
- (10) Each regulated agent must have a designated official responsible for the implementation, application and supervision of the security controls as prescribed by this Part and the NCASP, and such designated official must undergo the training as prescribed by this Part and the NCASP.
- (11) Any person applying for certification as a regulated agent or as a certificated known consignor, must permit an inspector, authorised officer or authorised person designated by the Executive Director pursuant to section 37(1) of the Act to carry out inspections and audits which may be necessary to verify whether the security measures regarding the handling, transportation and storage of known cargo comply with the requirements of this Part and with any disclosed elements of the NCASP.
- (12) The holder of a regulated agent's certificate, a known consignor's certificate or a regulated supplier's certificate must permit a designated inspector, authorised officer or authorised person referred to in subregulation (11) to carry out such inspections and audits for the purposes of determining compliance with the appropriate requirements prescribed in this Part or in any disclosed elements of the NCASP.
- (13) The holder of a regulated agent's certificate, a known consignor's certificate or a regulated supplier's certificate must permit an authorised officer, inspector or authorised person referred to in subregulation (11) to conduct random checks of cargo, emanating from and through regulated agents, to ensure compliance with this Part and with any disclosed elements of the NCASP.

SUBPART 2
DUTIES AND FUNCTIONS OF REGULATED AGENTS, KNOWN CONSIGNORS AND
AIR CARRIERS OR AIRCRAFT OPERATORS

General duties of regulated agents

108.02.1 Any person certificated by the Executive Director as a regulated agent must -

- (a) maintain records of all shipping documents documenting the transport and handling history of all cargo submitted for carriage in accordance with the requirements of this Part or of any disclosed elements of the NCASP, and, unless otherwise required by the Executive Director or the NCASP, the period of retention of such records must be not less than seven years;
- (b) ensure that, after the receipt of known cargo, and while such cargo is under his or her or its control, such cargo is safeguarded from unlawful interference in accordance with the security measures stipulated in the security programme referred to in regulation 108.01.2(9);
- (c) ensure that the acceptance and handling of cargo and shipping documentation is carried out by trained personnel, who have received job-specific cargo security training, as stipulated in the security programme, required in terms of this Part;
- (d) complete any physical checks or screening in the manner prescribed in this Part and in any disclosed elements of the NCASP, for the purpose of determining whether consignments of cargo contain any explosives, incendiary devices or any other prohibited or harmful articles which may be used to commit acts of unlawful interference;
- (e) ensure that known cargo is sealed with tamper-evident seals and that such seals are intact;
- (f) conduct security background checks on all personnel recruited for accepting all cargo and processing shipping documentation and storing, forwarding or handling of known cargo intended for carriage by air; and
- (g) ensure that each consignment of known cargo is accompanied by a consignment security declaration in the manner stipulated in any disclosed elements of the NCASP.

Duties of regulated agents regarding known consignors

108.02.2 All regulated agents who conduct business with, and receive, known cargo from known consignors must -

- (a) verify whether the known consignor is a holder of a known consignor certificate issued in terms of this Part;
- (b) document the identity and address of the known consignors and advise the Executive Director of the details of these known consignors;
- (c) have on record a declaration from the known consignor stating that -

- (i) consignments of known cargo are prepared in secured premises;
 - (ii) all personnel employed to handle known cargo and shipping documentation have been subjected to background checks and have received job-specific cargo security training as stipulated in the NCASTP;
 - (iii) consignments of known cargo are protected from unlawful interference during preparation, storage and transportation;
 - (iv) consignments do not contain any explosives or other dangerous goods or devices or substances, unless declared as such; and
 - (v) air waybills, dispatch notes or other valid transportation documents have been signed by authorised personnel; and
- (d) conduct random inspection of the premises and cargo of known consignors to ensure that the requirements of this Part and of any disclosed elements of the NCASP are adhered to and, where a substantial non-compliance is identified in the course of such inspection, must forthwith notify the Executive Director in writing providing particulars of every identified non-compliance.

Duties of air carriers or aircraft operators

108.02.3 (1) An air carrier or aircraft operator is responsible for ensuring that appropriate security controls have been carried out, and in so doing, the air carrier or aircraft operator must -

- (a) not accept cargo or mail for carriage on an aircraft engaged in commercial air transport operations, unless the application of screening or other security controls is confirmed and accounted for by a regulated agent or an entity that is approved the Authority;
- (b) ensure that cargo and mail which cannot be confirmed and accounted for by a regulated agent or an entity that is approved by the Authority is subjected to screening;
- (c) carry out appropriate security controls to be applied to any given consignment to the required level;
- (d) protect the consignment from unlawful interference while it is in the custody of the airline;
- (e) ensure that where screening of cargo and mail is conducted, screening is carried out using an appropriate method or methods, taking into account the nature of the consignment;
- (f) ensure that all consignments have been secured to an appropriate level before being placed in the aircraft;
- (g) ensure that all consignments placed on board the aircraft are recorded on the aircraft manifest;
- (h) ensure that cargo and mail that has been confirmed and accounted for must then be issued with a security status which must accompany, either in an

electronic format or in writing, the cargo and mail throughout the secure supply chain;

- (i) ensure that transfer cargo and mail has been subjected to appropriate security controls prior to being loaded on an aircraft engaged in commercial air transport operations departing from Namibia;
- (j) ensure that cargo and mail to be carried on a commercial aircraft are protected from unauthorised interference from the point screening or other security controls are applied until departure of the aircraft;
- (k) ensure that enhanced security measures apply to high-risk cargo or mail to appropriately mitigate the threats associated with it;
- (l) ensure that appropriate security controls, including screening where practicable, are applied to cargo and mail, prior to their being loaded onto an aircraft engaged in commercial air transport operations;
- (m) ensure that catering, stores and in-flight supplies intended for carriage on passenger commercial flights are subjected to appropriate security controls and thereafter protected until loaded into the aircraft; and
- (n) ensure that merchandise and supplies introduced into security restricted areas are subject to appropriate security controls, which may include screening.

Requirements for certification of known consignors

108.02.4 Any person who has a known consignor relationship with a regulated agent and wishes to be certificated by the Executive Director as a known consignor must apply to Executive Director for certification as a known consignor in accordance with Subpart 5.

SUBPART 3 SECURITY CONTROLS

General

108.03.1 (1) An air carrier or aircraft operator may not transport cargo by air unless a valid air waybill or other valid transport documentation recognised by the Executive Director accompanies the cargo.

(2) Any person tendering a diplomatic bag for carriage by air must ensure that it is properly sealed and marked and may only be carried by air, without an airway bill, when accompanied by an employee of the respective embassy holding -

- (a) a valid passport issued to the respective embassy employee; and
- (b) a letter from the official in charge of the embassy from which the diplomatic bag originates, authorising the specific employee to accompany the diplomatic bag.

(3) Diplomatic cargo accompanied by an air waybill must comply with the following requirements:

- (a) the status and number of packages must be clearly indicated on the air waybill;

- (b) the cargo must be properly sealed and marked and bear visible external marks of its character; and
- (c) the person tendering the cargo must be duly authorised in writing by the sending state or originating embassy and must carry official identification.

Regulated agents: acceptance and delivery of consignments

108.03.2 (1) When accepting any consignment, a regulated agent must establish whether the entity from which it receives the consignment is a regulated agent, a known consignor or neither of these.

(2) The person delivering the consignment to the regulated agent or air carrier or aircraft operator must present an identity card, passport, driving licence or other document, which includes his or her photograph and which has been issued by or is recognised by the Executive Director.

(3) The identity card, passport, licence or other document referred to in subregulation (2) must be used to establish the identity of the person delivering the consignment.

(4) When accepting a consignment to which not all required security controls have previously been applied, the regulated agent must ensure that it is screened pursuant to regulation 108.03.6, and that it complies with any disclosed elements of the NCASP.

(5) After the security controls pursuant to subregulations (1) to (3) have been applied, the regulated agent must ensure that -

- (a) access to the consignment is controlled; and
- (b) the consignment is protected from unauthorised interference until it is handed over to another regulated agent or air carrier or aircraft operator.

(6) After the security controls pursuant to subregulations (1) to (5) have been applied, the regulated agent must ensure that any consignment tendered to an air carrier or aircraft operator or another regulated agent is accompanied by appropriate recognised documentation, either in the form of an air waybill or a separate declaration and either in an electronic format or in writing.

(7) The documentation must be available for inspection by authorised representatives of the Executive Director at any point before the consignment is loaded into an aircraft and must provide the following information:

- (a) the site specific name and address of the regulated agent that issued the security status and its unique alphanumeric identifier as received from the Executive Director;
- (b) a unique identifier of the consignment, such as the number of the master air waybill;
- (c) the content of the consignment;
- (d) the security status of the consignment, stating -
 - (i) 'SPX', meaning secure for passenger, all-cargo and all-mail aircraft;
 - (ii) 'SCO', meaning secure for all-cargo and all-mail aircraft only;

- (e) the reason that the security status was issued, stating -
 - (i) 'KC', meaning received from known consignor;
 - (ii) the means or method of screening used;
 - (iii) the grounds for exempting the consignment from screening;
- (f) the name of the person who issued the security status or an equivalent identification, and the date and time of issue; and
- (g) the site specific name and address or unique identifier received from the Executive Director, of any regulated agent who has accepted the security status given to a consignment by another regulated agent.

(8) The consolidations pursuant to subregulation (7)(c), (e), (f) and (g) will be satisfied where the regulated agent is able to establish the nature of the contents, the reason that the security status was issued and the name of the person who issued the security status and the date and time of issue, respectively, by a verifiable audit trail at any time before the consignment is loaded on an aircraft and afterwards for the duration of the flight or for 24 hours, whichever is longer.

(9) When accepting a consignment to which not all required security controls have previously been applied, the regulated agent may also elect not to apply the security controls pursuant to this regulation, but to hand the consignment over to another regulated agent to ensure the application of these security controls.

(10) Security controls to be applied by a regulated agent are subject to any additional provisions laid down in a separate aviation directive issued by the Executive Director.

Security controls to be applied by known consignor

108.03.3 A known consignor must ensure that -

- (a) there is a level of security on the site or at the premises sufficient to protect identifiable air cargo and identifiable air mail from unauthorised interference;
- (b) all personnel with access to identifiable air cargo or identifiable air mail to which the required security controls have been applied have been recruited and trained in accordance with the NCASTP;
- (c) during production, packing, storage, despatch or transportation, as appropriate, identifiable air cargo and identifiable air mail is protected from unauthorised interference or tampering;
- (d) when, for whatever reason, these security controls have not been applied to a consignment or where the consignment has not been originated by the known consignor for its own account, the known consignor must clearly identify this to the regulated agent so that regulation 108.03.2(4) can be applied; and
- (e) consignments to which the appropriate security controls have not been applied are screened in accordance with this Part and with any disclosed elements of the NCASP.

Known cargo

108.03.4 (1) A person may not place cargo on board an air carrier's or aircraft operator's unless the cargo has been -

- (a) subjected to security controls prior to loading whereupon it is deemed to be known cargo and must be declared as such; and
- (b) packed and made known and secured by a certificated known consignor and handed to a regulated agent in compliance with the provisions of this Part and with any disclosed elements of the NCASP.

(2) Known cargo, after acceptance by a regulated agent, must be kept in a secure area, as stipulated in the security programme, to protect it from unlawful interference while in the custody of the regulated agent.

(3) Where known cargo is forwarded from a known consignor to a regulated agent or from one regulated agent to another regulated agent and is kept secure, such cargo must continue to be treated as known cargo.

(4) The air carrier or aircraft operator must ensure that cargo is at all times safeguarded while on the ramp prior to loading on board an aircraft.

(5) Prior to loading on board a commercial air transport aircraft, the air carrier or aircraft operator must ensure that all cargo consignments are visually inspected to ensure that they have not been tampered with.

Unknown cargo

108.03.5 (1) Cargo originating from a consignor that has not been subjected to the security controls prescribed in this Part and with any disclosed elements of the NCASP must be treated as unknown cargo.

(2) Known cargo that, after acceptance by a regulated agent, has not been stored in a secure area, as stipulated in the security programme, must be treated as unknown cargo.

(3) Known cargo, where the seals on the packaging are broken or where there is evidence that the seals or the cargo have or has been tampered with, except where the cargo has been resealed with tamper proof seals by a regulated agent, must be treated as unknown cargo.

(4) Cargo presented as unknown cargo must be subjected to security controls prescribed in this Part before being loaded into an aircraft.

Screening of cargo and mail

108.03.6 (1) When screening cargo or mail the means or method -

- (a) most likely to detect prohibited articles must be employed, taking into consideration the nature of the consignment; and
- (b) employed must be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the consignment.

(2) Where the screener cannot be reasonably sure that no prohibited articles are contained in the consignment, the consignment must be rejected or be rescreened to his or her satisfaction.

Cargo and mail exemptions

108.03.7 (1) The security controls required by this Part are not applicable in respect of -

- (a) human remains;
- (b) live animals;
- (c) *bona fide* consignments of life-saving materials or other essential medical supplies, human organs, blood plasma or similar materials; and
- (d) any nuclear materials.

(2) The regulated agent tendering consignments for carriage by air that are exempted from security controls in terms of subregulation (1) must ensure that such consignments are -

- (a) clearly declared on shipping documents as such;
- (b) physically checked upon receipt for signs of tampering;
- (c) subjected to documentary checks to establish on face value the correctness and sufficiency of information on any document; and
- (d) protected from unauthorised interference at all times.

(3) The cargo mentioned in subregulation (1) is only exempted from security controls if it is tendered by a regulated agent.

- (4) The Executive Director may, where he or she is satisfied that -
 - (a) the requirement for, or objectives of, screening have been substantially complied with;
 - (b) in all the particular circumstances screening should not be required; and
 - (c) there is no risk of compromise to aviation safety or security,

make provision for written exemptions from screening to be specified in the NCASP or by an aviation directive issued pursuant to this Part.

Protection of cargo and mail during transportation

108.03.8 (1) In order to ensure that consignments to which the required security controls have been applied are protected from unauthorised interference during transportation -

- (a) the regulated agent or known consignor must pack and seal the consignment in order to ensure that any tampering would be evident;
- (b) the cargo load compartment of the vehicle in which the consignments are to be transported must be locked or sealed or curtain sided vehicles must be secured so as to ensure that any tampering would be evident or the load area of flatbed vehicles must be kept under observation;

- (c) the transporter who transports on behalf of the regulated agent or known consignor must sign the declaration as contained in Appendix 1, unless the transporter is itself approved as a regulated agent;
- (d) the signed declaration must be retained by the regulated agent, known consignor for whom the transporter provides transport; and
- (e) on request, a copy of the signed declaration must also be made available to the regulated agent or air carrier or aircraft operator receiving the consignment or to the Executive Director.

(2) The requirements contained in subregulation (1)(b), (c), (d) and (e) may not apply during airside transportation or in any other security controlled area.

Protection of cargo and mail at airports

108.03.9 (1) Consignments of cargo and mail that are in a sterile area, are considered to be protected from unauthorised interference.

(2) Consignments of cargo and mail that are stored in a lockable store or on the ramp are sufficiently protected from unauthorised interference if -

- (a) they are physically protected so as to prevent the introduction of any article which might be used to commit an act of unauthorised interference; or
- (b) they are not left unattended and access is limited to persons involved in the protection and loading of cargo and mail into the aircraft.

Air carrier company mail and air carrier company materials to be loaded into aircraft

108.03.10 (1) Before being loaded into the hold of an aircraft, air carrier mail and air carrier materials must either be screened and protected in accordance regulation 108.03.6 or be subjected to security controls and protected in accordance with regulation 108.03.9.

(2) Before being loaded into any part of an aircraft other than the hold of the aircraft, air carrier mail and air carrier materials must be screened and protected in accordance with the provisions relating to cabin baggage.

Air carrier company materials used for passenger and baggage processing

108.03.11 (1) Co-Mat which are used for the purposes of passenger and baggage processing and which could be used to compromise aviation security must be protected or kept under surveillance in order to prevent unauthorised access.

(2) Self-check-in and applicable internet options allowed for use by passengers must be considered to be authorised access to such materials.

(3) Discarded materials which could be used to facilitate unauthorised access or to move baggage either into a security restricted area or into an aircraft must be destroyed or otherwise rendered permanently ineffective for any of the purposes referred to in subregulation (1).

(4) Departure control systems and check-in systems must be managed in such a manner as to prevent unauthorised access.

(5) Self-check-in allowed for use by passengers must be considered to be authorised access to such systems.

SUBPART 4
IN-FLIGHT SUPPLIES, REGULATED SUPPLIER OF IN-FLIGHT SUPPLIES OR
AIRPORT SUPPLIES AND KNOWN SUPPLIER OF IN-FLIGHT SUPPLIES OR
AIRPORT SUPPLIES

General provisions

108.04.1 (1) Unless otherwise stated, the operator of a security designated aerodrome, an air carrier or aircraft operator, a regulated agent, a known consignor and a regulated supplier of in-flight supplies or airport supplies are each according to the applicable requirements in this Part, responsible for the implementation of the measures set out in this Part.

(2) Supplies are considered to be in-flight supplies from the time that they are identifiable as supplies to be taken on board an aircraft for use, consumption or purchase by passengers or crew members during a flight.

Security controls: in-flight supplies

108.04.2 (1) In-flight supplies must be screened before being taken into a security restricted area, unless -

- (a) the required security controls have been applied to the supplies by an air carrier or aircraft operator that delivers the supplies to its own aircraft and the supplies have been protected from unauthorised interference from the time that those controls were applied until delivery at the aircraft;
- (b) the required security controls have been applied to the supplies by a regulated supplier of in-flight supplies and the supplies have been protected from unauthorised interference from the time that those controls were applied until arrival at the security restricted area or, where applicable, until delivery to the air carrier or aircraft operator or another regulated supplier; or
- (c) the required security controls have been applied to the supplies by a known supplier of in-flight supplies and the supplies have been protected from unauthorised interference from the time that those controls were applied until delivery to the air carrier or aircraft operator or regulated supplier.

(2) Any in-flight supplies received from a regulated supplier or a known supplier that shows signs of being tampered with, or where there is other reason to believe that it has not been protected from unauthorised interference from the time that controls were applied, must be screened.

Screening of in-flight supplies

108.04.3 When screening in-flight supplies, the means or method employed must take into consideration the nature of the supplies and must be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the supplies.

Designation of known suppliers of in-flight supplies

108.04.4 (1) Any entity that ensures application of the security controls referred to in this Part and delivers in-flight supplies, but not directly to aircraft, may be designated as a

known supplier by the entity to whom it delivers, but this provision does not apply to a regulated supplier of in-flight supplies.

(2) In order to be designated as a known supplier, the entity must submit a ‘Declaration of Commitment by Known Suppliers of In-flight Supplies’ as contained in Appendix 3, to each entity to whom it delivers.

(3) The senior accountable manager of the entity must sign the declaration referred to in subregulation (2), and the signed declaration must be retained by the entity to whom the known supplier delivers and a copy of the signed declaration must forthwith after receipt be delivered by the entity to the Executive Director.

(4) If there are no deliveries within a period of two years, the status of the known supplier expires.

(5) If the Executive Director or the entity to whom the known supplier delivers is no longer satisfied that the known supplier complies with the requirements of this Part, the entity concerned must forthwith withdraw the status of the known supplier and immediately inform the Executive Director of the withdrawal.

Security controls to be applied by air carrier or aircraft operator, regulated supplier of in-flight supplies and known supplier of in-flight supplies

108.04.5 An air carrier or aircraft operator engaged in commercial air transport, a regulated supplier of in-flight supplies and a known supplier of in-flight supplies must -

- (a) appoint a person responsible for security in the entity;
- (b) ensure that persons with access to in-flight supplies receive security awareness training before being given access to such supplies;
- (c) prevent unauthorised access to its premises and in-flight supplies;
- (d) reasonably ensure that no prohibited articles are concealed in in-flight supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and containers that transport in-flight supplies at all times, except that this requirement does not apply during airside transportation.

Airport supplies: known supplier of airport supplies

108.04.6 (1) An operator of a security designated aerodrome must ensure the implementation of the measures set out in this Subpart.

(2) Supplies are airport supplies from the time that they are identifiable as supplies to be sold, used or made available in security restricted areas of an airport.

Security controls: airport supplies

108.04.7 (1) Airport supplies must be screened before being allowed into security restricted areas, unless security controls have been applied to the supplies by a known supplier and the supplies have been protected from unauthorised interference from the time that those controls were applied until they are taken into the security restricted area.

(2) Airport supplies which originate in the security restricted area may be exempted from these security controls.

(3) Any airport supply received from a known supplier that shows signs of being tampered with, or where there is reason to believe that it has otherwise not been protected from unauthorised interference from the time that controls were applied, must be screened.

(4) Upon delivery at the outlet in the security restricted area, a visual check of the airport supplies must be carried out by the staff of the outlet in order to ensure that there are no signs of tampering.

Screening of airport supplies

108.04.8 When screening airport supplies, the means or method employed must take into consideration the nature of the supplies and must be of a standard sufficient to reasonably ensure that no prohibited articles are concealed in the supplies.

Designation of known suppliers of airport supplies

108.04.9 (1) The operator of a security designated aerodrome may designate any entity that ensures the security controls as referred to in this Part and delivers airport supplies as a known supplier of airport supplies.

(2) In order to be designated as a known supplier, the entity must submit to the operator of a security designated aerodrome a 'Declaration of Commitment by Suppliers of Airport Supplies' as contained in Appendix 4.

(3) The declaration referred to in subregulation (2) must be signed by the senior accountable manager of the entity and the signed declaration must be retained by the operator of the security designated aerodrome as evidence of its designation of the known supplier.

(4) If there are no deliveries within a period of two years, the status of known supplier expires.

(5) If either the Executive Director or the operator of a security designated aerodrome is no longer satisfied that the known supplier complies with the requirements of this Part, the operator of security designated aerodrome must forthwith withdraw the status of the known supplier and advise the Executive Director in writing of the withdrawal.

Security controls to be applied by known supplier of airport supplies

108.04.10 A known supplier of airport supplies must -

- (a) appoint a person responsible for security in the entity;
- (b) ensure that persons with access to airport supplies receive security awareness training before being given access to these supplies;
- (c) prevent unauthorised access to its premises and airport supplies;
- (d) reasonably ensure that no prohibited articles are concealed in airport supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and containers that transport airport supplies.

SUBPART 5 CERTIFICATIONS

Application for certification as regulated agent

108.05.1 (1) An application for a regulated agent's certificate and renewal of such a certificate must -

- (a) be made to the Executive Director in the appropriate format as contained in Appendix P to the NCASP;
- (b) specify every site or sites in respect of which certification is sought;
- (c) include duplicate copies of the security programme of procedures referred to in regulation 108.01.3(9);
- (d) include a duly authorised and signed "Declaration of Security" as contained in Appendix P to the NCASP;
- (e) be accompanied by the appropriate fee or fees as prescribed in Part 187; and
- (f) designate at least one person at each site who has successfully completed a security background check in accordance with the provisions of Part 114 and the NCASP, and who must be responsible for the implementation of the submitted security programme for each site.

(2) A designated inspector, authorised officer or authorised person must examine the security programme and then make an on-site verification of every specified site in order to assess whether the applicant complies with the requirement of this Part, and with any disclosed elements of the NCASP.

(3) If the Executive Director is not satisfied with the information provided under subregulation (1), then the reason for the dissatisfaction must promptly be notified to the entity seeking certification as a regulated agent.

Regulated agent's certificate

108.05.2 (1) The Executive Director must grant the application, if he or she is satisfied that the applicant complies with the requirements set out in this Part, and with any disclosed elements of the NCASP, and that the grant of such application will not be contrary to the interests of civil aviation safety and security.

(2) Where the application is granted, the Executive Director must issue the regulated agent's certificate and must ensure that the necessary details of the regulated agent are entered into the civil aviation registry.

(3) When making the entry in the civil aviation registry in terms of subregulation (2), the Executive Director must give each approved regulated agent a unique alphanumeric identifier.

(4) The certificate issued under this regulation is an aviation document for the purposes of the Act.

(5) The certificate is, unless otherwise specified by the Executive Director in any case, valid for a period of 12 months from the date of issue.

Duties of certificate holder

108.05.3 The regulated agent must at all times operate in accordance with the approved security programme or an approved amendment thereto.

Renewal of regulated agent's certificate

108.05.4 (1) The holder of a certificate must apply to the Executive Director for the renewal of such certificate not later 60 days before the date on which the certificate expires.

(2) In considering an application for renewal of a certificate, the Executive Director may conduct an investigation that he or she considers necessary to ascertain whether the applicant continues to comply with the requirements of the Act, this Part and with any disclosed elements of the NCASP.

(3) The process of renewal must include an on-site verification in order to assess whether the regulated agent still complies with the requirements of this Part and with any disclosed elements of the NCASP.

(4) An application for renewal must be granted and the certificate issued, if the Executive Director is satisfied that the applicant will comply with the provisions of this Part, and with any disclosed elements of the NCASP, and that the grant of such application will not be contrary to the interests of civil aviation safety and security.

(5) If the Executive Director is not satisfied, he or she must notify the regulated agent, stating the reasons in the notification, and grant the regulated agent the opportunity to rectify or supplement any defect within the period determined by the Executive Director, after which period the Executive Director must grant or refuse the application concerned.

(6) The application for the renewal of a certificate must be made on the form referred to in regulation 108.05.1(1)(a) and must be accompanied by the appropriate fee as prescribed in Part 187.

(7) The provisions of regulation 108.05.01 apply, with necessary changes required by the context, to an application for renewal of a regulated agent's certificate.

Amendments

108.05.5 (1) The regulated agent must submit any amendments to an approved security programme to the Executive Director for approval before implementing any substantial change in any security procedure.

(2) If the Executive Director is satisfied that the amendments will not contravene the provisions of this Part and the NCASP, the Executive Director must certify in writing on both copies of the amendment to the approved security programme that such amendment has been approved, and must return one copy of the approved amendment to the regulated agent.

Application for certification as known consignor

108.05.6 (1) An application for a known consignor's certificate and renewal of such a certificate must -

- (a) be made to the Executive Director in the appropriate form as contained in Appendix Q of the NCASP;

- (b) specify every site or sites in respect of which certification is sought;
- (c) include duplicate copies of the known consignor's security programme;
- (d) include a duly authorised and signed "Declaration of Commitments - Known Consignor" as contained in Appendix Q to the NCASP;
- (e) be accompanied by the appropriate fee or fees as prescribed in Part 187; and
- (f) designate at least one person at each site who has successfully completed a background check in accordance with the provisions of Part 114 and the NCASP, and who is responsible for the implementation of the submitted security programme for each site.

(2) A designated inspector, authorised officer or authorised person acting on behalf of the Executive Director, must examine the security programme and then make an on-site verification of every specified site in order to assess whether the applicant complies with the requirement of this Part and with any disclosed elements of the NCASP for the purposes of certification as a known consignor.

(3) If the Executive Director is not satisfied with the information provided under subregulation (1), then the reason for the dissatisfaction must promptly be notified to the entity seeking certification as a known consignor.

(4) The Executive Director may conduct an inspection on the operation of an applicant wishing to be certificated as a known consignor, to ascertain whether the applicant is able to comply with the provisions of this Part.

Designation of inspectors, authorised officers and authorised persons for certification of known consignors

108.05.7 (1) Despite the provisions of section 37 of the Act, the Executive Director may designate inspectors, authorised officer or authorised persons to conduct inspections on known consignors for the purpose of granting known consignor certificates.

(2) The privileges referred to in subregulation (1) must be exercised and performed according to the conditions, requirements, rules, procedures and standards as prescribed in this Part and the Act.

Known consignor certificate

- 108.05.8** (1) If the Executive Director is satisfied that the -
- (a) security measures and handling, transportation and storage of known cargo of the applicant for certification as a known consignor comply with the requirements of this Part;
 - (b) senior accountable manager of the applicant is a fit and proper person for the purposes of the Act; and
 - (c) grant of such application will not be contrary to the interests of civil aviation safety and security,

the Executive Director must grant the application made in terms of regulation 108.05.6.

(2) A known consignor certificate is valid for a period of 24 months from the date of issue, unless the Executive Director specifies a longer term, and in specific cases for good cause, a shorter term.

(3) The known consignor must submit all amendments to an approved security programme to the Executive Director for approval before implementing any substantial change in any security procedure of the known consignor.

Renewal of known consignor certificate

108.05.9 (1) The holder of a known consignor certificate must apply to the Executive Director for the renewal of such certificate not later than 60 days before the date on which the certificate expires.

(2) In considering an application for renewal of a known consignor certificate, the Executive Director may conduct an investigation that he or she considers necessary to ascertain whether the applicant continues to comply with the requirements of the Act, this Part and any disclosed elements of the NCASP.

(3) The application for the renewal of a certificate must be made on the form referred to in regulation 108.05.6(1)(a) and must be accompanied by the appropriate fee as prescribed in Part 187.

(4) The provisions of regulation 108.05.06 apply with necessary changes required by the context to the application for the renewal of a known consignor certificate.

Certification of regulated suppliers of in-flight supplies and airport supplies

108.05.10 (1) A person may not act as a regulated supplier of -

- (a) in-flight supplies to provide a consignment of in-flight supplies to an air operator for carriage by air; or
- (b) airport supplies to any airport,

except under the authority of a regulated supplier's certificate granted by the Executive Director in accordance with this Part.

(2) An entity, with the exception of an air carrier or aircraft operator that applies the security controls under regulation 108.04.2 itself and delivers supplies only to its own aircraft, must ensure that the security controls referred to in regulation 108.04.2 will apply at all times to the delivery of in-flight supplies directly to an aircraft as a condition of certification as a regulated supplier of in-flight supplies.

(3) An application for a regulated supplier's certificate and renewal of such a certificate must -

- (a) be made to the Executive Director in the form and manner determined by the Executive Director;
- (b) specify every site or sites in respect of which certification is sought, and provide details of the location and characteristics of the site including a site map or plan;

- (c) include duplicate copies of the regulated supplier air cargo security programme of procedures referred to in regulation 108.01.3(9);
- (d) include a duly authorised and signed “Declaration of Commitments-Regulated Suppliers of In-flight Supplies or Airport Supplies” as contained in Appendix 2;
- (e) be accompanied by the appropriate fee or fees as prescribed in Part 187;
- (f) designate at least one person at each site who has successfully completed a security background check in accordance with the provisions of Part 114 and the NCASP, and who is responsible for the implementation of the submitted security programme for each site.

(4) A designated inspector, authorised officer or authorised person acting on behalf of the Executive Director, must examine the security programme and then make an on-site verification of every specified site in order to assess whether the applicant complies with the requirement of this Part.

(6) If the Executive Director is not satisfied with the information provided under subregulation (3), then the reason for the dissatisfaction must promptly be notified to the entity seeking certification as a regulated supplier.

Regulated supplier’s certificate

108.05.11 (1) The Executive Director must grant the application if he or she is satisfied that the -

- (a) applicant complies with the requirements of this Part;
- (b) senior accountable manager of the applicant is a fit and proper person for the purposes of the Act; and
- (c) grant of such application will not be contrary to the interests of civil aviation safety and security.

(2) Where the application is granted, the Executive Director must issue the regulated suppliers certificate and must ensure that the necessary details of the regulated supplier are entered into the civil aviation registry of regulated agents, known consignors and regulated suppliers not later than the close of business on the next working day.

(3) When making the database entry in terms of subregulation (2), the Executive Director must give each approved site a unique alphanumeric identifier in the standard format.

(4) The certificate issued under this regulation is an aviation document for the purposes of the Act and, unless otherwise specified by the Executive Director in any case, is valid for a period of 24 months from the date of issue.

(5) The applicant must submit a security programme to the Executive Director which must describe the methods and procedures which are to be followed by the supplier in order to comply with the requirements of this Part, and with any disclosed elements of the NCASP.

(6) The security programme must describe how compliance with these methods and procedures is to be monitored by the regulated supplier itself.

(7) The applicant must also submit to the Executive Director a 'Declaration of Commitment - Regulated Supplier of In-flight Supplies or Airport Supplies' as contained in Appendix 2.

(8) The senior accountable manager of the applicant must sign the declaration referred to in subregulation (7), and the Executive Director must retain the signed declaration.

(9) The Executive Director or designated inspector, authorised officer or person acting on behalf of the Executive Director, must examine the security programme and then make an on-site verification of the sites specified in order to assess whether the applicant complies with the requirements of this Part.

(10) If the Executive Director is not satisfied, the reasons for the dissatisfaction must promptly be notified to the entity seeking approval as a regulated supplier.

Renewal of regulated supplier's certificate

108.05.12 (1) The holder of a regulated supplier's certificate must apply to the Executive Director for the renewal of such certificate not later 60 days before the date on which the certificate expires.

(2) In considering an application for renewal of a certificate, the Executive Director may conduct an investigation that he or she considers necessary to ascertain whether the applicant continues to comply with the requirements of the Act and this Part.

(3) The process of renewal must include an on-site verification in order to assess whether the regulated supplier still complies with the requirements of this Part.

(4) An inspection at the premises of the regulated supplier by the Executive Director in accordance with the NCASQCP may be considered as an on-site verification, provided that it covers all the requirements of this Part.

(5) An application for renewal must be granted and the certificate issued if the Executive Director is satisfied that the applicant still complies with the provisions of this Part, and that the grant of such application will not be contrary to the interests of civil aviation safety and security.

(6) If the Executive Director is not satisfied, he or she must notify the regulated supplier, stating the reasons in the notification, and grant the regulated supplier the opportunity to rectify or supplement any defect within the period determined by the Executive Director, after which period the Executive Director must grant or refuse the application concerned.

(7) An application for the renewal of a certificate must be made to the Executive Director in the form and manner determined by the Executive Director and must be accompanied by the appropriate fee as prescribed in Part 187.

(8) The provisions of regulations 108.05.10 apply with necessary changes required by the context to an application for renewal of a regulated supplier's certificate.

Inspection or investigation fees, expenses and fines

108.05.13 Whenever an alleged violation of these regulations necessitating further inspection or investigation is identified, the decision by the Executive Director following on such an inspection or investigation may, in addition to payment of the prescribed fees set out in Part 187 or administrative fine as set out in Part 185, as the case maybe, in appropriate cases require additionally the reimbursement of the expenses incurred by the Authority.

Duplicate certificate

108.05.14 (1) The holder of a certificate issued or validated by the Executive Director which has been lost destroyed or defaced to such an extent that the particulars thereon are illegible, must apply to the Executive Director for the issuing of a duplicate certificate.

- (2) An application for the issuing of a duplicate certificate must be -
 - (a) made in the form and manner determined by the Executive Director; and
 - (b) accompanied by the appropriate fee as prescribed in Part 187.
- (3) The Executive Director must -
 - (a) issue a duplicate certificate, if the applicant complies with the requirements referred to in subregulation (2); and
 - (b) endorse the duplicate certificate with the word “DUPLICATE” thereon.

(4) If, after the issuing of a duplicate certificate, the original certificate is found, the holder of the duplicate certificate must take all reasonable steps to obtain such original certificate and surrender it forthwith to the Executive Director.

Cancellation, suspension and imposition of conditions

108.05.15 (1) Without prejudice to the general powers of the Executive Director under the Act regarding aviation documents, the Executive Director may cancel, suspend or impose conditions on a regulated agent’s certificate, a known consignor certificate or a regulated supplier’s certificate where -

- (a) the Executive Director is no longer satisfied that the holder of the certificate complies with the requirements of this Part;
- (b) the holder of the certificate prevents the Executive Director from carrying out a safety inspection or audit in accordance with these regulations; or
- (c) the holder of the certificate is under receivership, liquidation or insolvency proceedings.

(2) The holder of a certificate which has been cancelled, suspended or subjected to conditions may appeal against such decision to the High Court in terms of section 225 of the Act.

Register of certificates

108.05.16 (1) The Executive Director must maintain a register of all certificates issued in terms of this Part.

- (2) The register of certificates must contain the following particulars:
 - (a) the full name and, if any, the trade name of the holder of the certificate;
 - (b) the postal and physical address of the holder of the certificate; and
 - (c) the date on which the certificate was issued.

(3) The register kept under this regulation must comply with the CAR requirements as set out in section 52 of the Act.

(4) The Executive Director must, on payment of the appropriate fee prescribed in Part 187, furnish an extract from the register to any person who can show good and sufficient reason why he or she should be furnished with such extract.

SUBPART 6 MAIL

General provisions

108.06.1 (1) Any postal and courier entity, may apply for a certification as a regulated agent in terms of this Part and any disclosed elements of the NCASP.

(2) Mail received by the registered postal and courier entity that are to be tendered for carriage by air, must be -

- (a) subjected to screening and sealed; and
- (b) accompanied by a valid postal manifest listing the numbers of secured bags.

(3) The registered postal or courier entity is responsible for the screening and sealing of mail before submitting the mail for carriage by air.

(4) For the purpose of excluding the introduction of explosives, incendiary devices or other prohibited or harmful articles and dangerous goods on board an air carrier's or aircraft operator's aircraft, the postal or courier entity must, subject to the powers on searches contemplated by sections 149, 152 and 156 of the Act, apply the following measures:

- (a) the postal or courier entity must ensure that mail is kept in locked or closed containers and protected against unlawful interference prior to being placed in mail bags; and
- (b) prior to loading on-board a commercial air transport aircraft, the air carrier or aircraft operator or his or her or its ground handling agent must ensure that all mail bags are visually inspected to ensure that they have not been tampered with.

(5) At times of high security alert or an emergency situation, the following additional measures must be implemented:

- (a) the postal or courier entity must declare that mail has been inspected and searched for explosives, incendiary and other prohibited or harmful articles or dangerous goods, which may be used to commit acts of unlawful interference;
- (b) should the security of mail be in doubt, the postal or courier entity is under an obligation not to tender or accept mail for carriage by air; and
- (c) in the event of paragraph (a) or (b) being invoked, a declaration to that effect must be submitted to the Executive Director in the manner as required by the Executive Director.

Express cargo and mail

108.06.2 Any regulated agent or postal or courier entity, tendering express cargo and mail for carriage on commercial air transport operators must ensure that such express cargo and mail has been screened in terms of this Part.

Transshipment cargo and mail

108.06.3 (1) Transshipment cargo and mail arriving by air, for onward carriage by air, need not be screened or searched provided that it can be proved that it was subjected to the security controls required in terms of this Part at the point of departure and is protected against unlawful interference en route and at the transit point.

(2) Transshipment cargo or mail arriving by air, road, rail or sea for onward carriage by air that has not been subjected to security controls in the manner required by subregulation (1), must be treated as “unknown cargo” and be screened or searched in the manner prescribed for unknown cargo or mail in this Part.

SUBPART 7**STAFF RECRUITMENT AND TRAINING, HANDLING OF AVIATION CARGO, MAIL AND IN-FLIGHT SUPPLIES****General provisions**

108.07.1 (1) The Executive Director must oversee compliance with responsibilities, requisite standards and related measures set out in this Part and in the NCASP, by the operator of a security designated aerodrome, air carrier or aircraft operator or entity deploying persons implementing or responsible for requisite elements.

(2) Persons must have successfully completed the training set out under regulations 108.07.3 and 108.07.4, and where prescribed, other training, before being authorised to implement security controls.

(3) Unsupervised deployment of staff without requisite training constitutes a violation of these regulations.

Recruitment: background checks

108.07.02 (1) Persons being recruited to implement or to be responsible for the implementation of, screening, access control or other security controls in a security restricted area must have successfully completed a background check carried out by the entity deploying the persons.

(2) Any security background check required in terms of this Part is subject to the determinations of the Executive Director as contemplated by sections 133 to 135 of the Act.

(3) In accordance with the NCASP, a background check must at the minimum -

- (a) establish the person’s identity on the basis of documentary evidence;
- (b) cover criminal records in all countries of residence during at least the preceding five years; and
- (c) cover employment, education and any gaps during at least the preceding five years.

(3) Background, including pre-employment checks, must be satisfactorily completed before the person undergoes any security training involving access to information which is not publicly available.

(4) The recruitment process for all persons being recruited under subregulation (1) must include at a minimum, a written application and an interview stage designed to provide an initial assessment of the applicant's abilities and aptitudes.

(5) Recruitment records, including results of any assessment tests, must be kept for all persons recruited under subregulation (1) for at least the duration of their contract of employment.

Air cargo security familiarisation training

108.07.3 (1) Any -

- (a) air carrier or aircraft operator involved in the transportation of cargo;
- (b) person who performs the act of accepting, handling, loading, unloading, transferring, guarding or other processing of cargo, on behalf of an air carrier or aircraft operator;
- (c) regulated agent approved by the Executive Director in terms of this Part;
- (d) known consignor accredited by the Executive Director in terms of this Part,

must ensure that the following categories of personnel in his, her or its employ or personnel provided by a service provider, successfully complete air cargo security familiarisation training and refresher training every 24 months thereafter:

- (i) personnel involved in acceptance, handling, storage, loading and unloading of cargo and shipping documentation to be transported by air; and
- (ii) drivers involved in transporting known cargo to be transported by air.

(2) The subject matter of initial air cargo security familiarisation training and refresher air cargo security familiarisation training must be as specified in the syllabi contained in the security training programme as provided for in the NCASTP.

(3) Any person referred to in subregulation (1) must complete refresher air cargo security familiarisation training every 24 months, calculated from the date of the successful completion of the air cargo security familiarisation training or the preceding air cargo security familiarisation training, as the case may be.

(4) Records of such training must be maintained as stipulated in the NCASTP.

Standard air cargo security training

108.07.4 (1) Any -

- (a) air carrier or aircraft operator involved in the transportation of cargo;

- (b) person who performs the act of accepting, handling, loading, unloading, transferring or other processing of cargo, on behalf of an air carrier or aircraft operator;
- (c) regulated agent approved by the Executive Director in terms of this Part;
- (d) known consignor accredited by the Executive Director in terms of this Part,

must ensure that the following categories of personnel in his, her or its employ or personnel provided by a service provider, have successfully completed standard air cargo security training and refresher training every 24 months thereafter:

- (i) screeners; and
- (ii) officials designated by that air carrier or aircraft operator, person, regulated agent or known consignor.

(2) Any level of standard cargo security training, referred to in subregulation (1) must be conducted by an aviation security training organisation certified in terms of Part 109.

(3) The subject matter of the level of aviation security training must be as provided for in the NCASTP.

(4) Any person referred to in subregulation (1) must complete refresher standard cargo security training every 24 months.

(5) Upon the successful completion of the initial aviation security training or the refresher aviation security training referred to in subregulation (2), the aviation security training organisation concerned must issue to the candidate a certificate of competence in standard cargo security training detailing the level of course completed.

Validation of foreign certificates issued for air cargo security training

108.07.5 (1) The Executive Director may upon application in writing by any person, validate any foreign certificate issued for air cargo security training, if the holder of the certificate submits documentary proof that -

- (a) such certificate has been obtained from an approved foreign training organisation; and
- (b) the holder of the certificate has successfully completed the refresher security training referred to in the NCASTP.

(2) The application referred to in subregulation (1) must be made in the form and manner determined by the Executive Director, and must be accompanied by the appropriate fee as prescribed in Part 187.

(3) The provisions of regulations 108.07.3 and 108.07.4 apply with necessary changes required by the context to the holder of a certificate referred to in subregulation (1).

SUBPART 8**SECURITY SCREENING: EQUIPMENT AND EXPLOSIVES DETECTION DOG TEAMS****General provisions**

108.08.1 The operator or entity using equipment for the implementation of measures for which it is responsible in accordance with the national civil aviation security programme must take reasonable steps to ensure that the equipment meets the standards as provided for in the disclosed elements of the NCASP.

Requirements for security screening equipment

108.08.2 (1) Any equipment operated by an air carrier or aircraft operator or a regulated agent to screen cargo, must meet the minimum technical specifications set out in the NCASP.

(2) The equipment referred to in subregulation (1), must be maintained in accordance with the technical specifications set out in the NCASP and must comply with any other requirement that is prescribed by law.

(3) An air carrier or aircraft operator or a regulated agent must keep records of the regular routine testing of each piece of security equipment by the air carrier or aircraft operator or entity responsible for its use.

(4) Any explosive detection dog team utilised by an air carrier or aircraft operator or a regulated agent to screen cargo must meet the minimum competency requirements set out in the NCASTP.

(5) Any assessor wishing to conduct competency assessments of explosive detection dog teams must apply to the Executive Director for approval and be affiliated to an approved aviation security training organisation certified under Part 109 or a recognised State entity.

(6) The certification referred to in subregulation (5) must be renewed every 12 months.

(7) Any assessor wishing to conduct competency assessments of explosive detection dog teams must meet the minimum competency requirements set out in the NCASTP.

(8) Any explosive detection dog team utilised by an air carrier or aircraft operator or a regulated agent to screen cargo must meet the minimum deployment standards set out in the NCASTP.

APPENDICES

APPENDIX 1

TRUCKING/TRANSPORTER SECURITY DECLARATION
(Regulation 108.03.8(1)(c))

In accordance with the Namibian Civil Aviation Regulations, regulation 108.03.8

I, ID No. do hereby declare that:

1) The following security procedures must be adhered to:

- (a) all staff who transport this air cargo/mail have received the security awareness training;
- (b) the integrity of all staff being recruited with access to this air cargo/mail has been verified. This verification must include at least a check of the identity (if possible by photographic identity card, driving licence or passport) and a check of the curriculum vitae and/or provided references;
- (c) load compartments in vehicles must be sealed or locked. The load areas of flat bed trucks must be kept under observation when air cargo is being transported;
- (d) immediately prior to loading, the load compartment must be searched and the integrity of this search maintained until loading is completed;
- (e) each driver must carry an identity card, passport, driving licence or other document, containing a photograph of the person, which has been issued or recognised by the national authorities;
- (f) drivers may not make unscheduled stops between collection and delivery. Where this is unavoidable, the driver must check the security of the load and the integrity of locks and/or seals on his return. If the driver discovers any evidence of interference, he/she must notify his/her supervisor and the air cargo/mail must not be delivered without notification at delivery;
- (g) transport may not be sub-contracted to a third party, unless the third party also has a transporter agreement with [same name as above of regulated agent/known consignor, or Executive Director of Civil Aviation has approved or certified the transporter]; and
- (h) no other services (e.g. storage) shall be sub-contracted to any other party other than a regulated agent or an entity that has been certified or approved and listed for the provision of these services by the Executive Director.

2) The **[name of company]** will take all practicable steps to at all times control and keep secure and confidential all elements of the NCASP as may have been disclosed to authorised personnel for the purposes of compliance with the Act. It will immediately report to the Authority any loss of documentation disclosing elements of the NCASP.

I accept full responsibility for this declaration.

Name: Position in company:

Date: Signature:

APPENDIX 2

DECLARATION OF COMMITMENTS BY REGULATED SUPPLIER OF IN-FLIGHT SUPPLIES/AIRPORT SUPPLIES (Regulations 108.05.10(3)(d) and 108.05.11(7))

In accordance with Namibian Civil Aviation Regulations, regulation 108.05.10 or 108.05.11.

I,, ID No. the countable manager of [company], declare that:

1) To the best of my knowledge, the information contained in the company's security programme is true and accurate;

2) The practices and procedures set out in this security programme will be implemented and maintained at all sites covered by the programme;

3) This security programme will be adjusted and adapted to comply with all future relevant changes to the NCASP, unless [name of company] informs the Executive Director of Civil Aviation that it no longer wishes to deliver in-flight supplies directly to aircraft and thus no longer wishes to trade as a regulated supplier,

4) [**name of company**] will inform the Authority in writing of:

- a) minor changes to its security programme, such as company name, person responsible for security or contact details, promptly but at least within 10 working days;
- b) major planned changes, such as new screening procedures, major building works which might affect its compliance with relevant Namibian Civil Aviation legislation or change of site/address, at least 15 working days prior to their commencement/the planned change; and
- c) in order to ensure compliance with relevant Civil Aviation Act, 2016, [**name of company**] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors.

5) [**name of company**] will take all practicable steps to at all times control and keep secure and confidential all elements of the NCASP as may have been disclosed to authorised personnel for the purposes of compliance with Civil Aviation Act, 2016. It will immediately report to the Authority any loss of documentation disclosing elements of the NCASP.

6) [**name of company**] will ensure that all relevant staff receive appropriate training and are aware of their security responsibilities under the company's security programme, and [**name of company**] will inform the Executive Directorate of Civil Aviation if:

- a) it ceases trading;
- b) it no longer delivers in-flight supplies directly to aircraft;
- c) it can no longer meet the requirements of the relevant NCASP.

I must accept full responsibility for this declaration.

Name:

Position in company:

Date: Signature:

APPENDIX 3**DECLARATION OF COMMITMENTS: KNOWN SUPPLIER OF IN-FLIGHT SUPPLIES**
(Regulation 108.04.4(2))

In accordance with Namibian Civil Aviation Regulations, regulation 108.04.4.

I, ID No. declare that:

- 1) [**name of company**] complies with the requirements of applicable Civil Aviation Act, 2016;
- 2) in order to ensure compliance with relevant requirements of the NCASP as disclosed to me by the Authority, [**name of company**] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors;
- 3) [**name of company**] will take all practicable steps to at all times control and keep secure and confidential all elements of the NCASP as may have been disclosed to [**name of company**] or its authorised personnel for the purposes of compliance with the Civil Aviation Act, 2016. It will immediately report to the Authority any loss of documentation which discloses elements of the NCASP;
- 4) [**name of company**] will immediately inform [the air carrier or regulated supplier to whom it delivers in-flight supplies] of any serious security breaches and of any suspicious circumstances which may be relevant to in-flight supplies, in particular any attempt to conceal prohibited articles in supplies; and
- 5) [**the company**] will ensure that all relevant staff receive appropriate training and are aware of their security responsibilities, and [**name of company**] will inform [the air carrier or regulated supplier to whom it delivers in-flight supplies] if:
 - a) it ceases trading;
 - b) it can no longer meet the requirements of the relevant NCASP.

I must accept full responsibility for this declaration.

Name:

Position in company:

Date: Signature:

DECLARATION OF COMMITMENTS: KNOWN SUPPLIER OF AIRPORT SUPPLIES
(Regulation 108.04.9(2))

In accordance with Namibian Civil Aviation Regulations, regulation 108.04.9

I, ID No. declare that:

- 1) [**name of company**] complies with the requirements of the Civil Aviation Act, 2016;
- 2) in order to ensure compliance with relevant legislation, [**name of company**] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors;
- 3) [**name of company**] will immediately inform the Executive Director and operator of security designated aerodrome of any serious security breaches and of any suspicious circumstances which may be relevant to airport supplies, in particular any attempt to conceal prohibited articles in supplies; and
- 4) [**the company**] will ensure that all relevant staff receive appropriate training and are aware of their security responsibilities, and [**name of company**] will inform [the operator of security designated aerodrome] if:
 - a) it ceases trading;
 - b) it can no longer meet the requirements of the NCASP.
- 5) [**name of company**] will take all practicable steps to at all times control and keep secure and confidential all elements of the NCASP as may have been disclosed to authorised personnel for the purposes of compliance with Namibian Civil Aviation legislation. It will immediately report to the Authority any loss of documentation which discloses elements of the NCASP.

I must accept full responsibility for this declaration.

Name: Position in company:

Date: Signature:

PART 109
AVIATION SECURITY TRAINING ORGANISATIONS

LIST OF REGULATIONS

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SUBPART 1
GENERAL

Applicability

109.01.1 (1) This Part applies to the certification and operation of organisations conducting aviation security training, including aviation security awareness training.

(2) For the purpose of this Part, aviation security training means the training referred to in the NCASTP.

Certification of body or institution

109.01.2 (1) The Executive Director may issue a certificate to an organisation or institution in order that it may -

- (a) exercise control over the aviation security training provided for in the NCASTP, and over the persons conducting such training;

- (b) develop materials for the aviation security training and for the training of such persons in accordance with training standards provided for in the NCASTP; and
- (c) advise the Executive Director on any matter connected with the delivery of aviation security training or aviation participants.

(2) The powers and duties referred to in subregulation (1) must be exercised and performed according to the conditions, rules, requirements, procedures or standards as prescribed in this Part, and provided for in the NCASTP.

(3) Any certificate issued by the Executive Director pursuant to subregulation (1) is an aviation document.

Display of aviation security training organisation certificate

109.01.3 The holder of an aviation security training organisation certificate must display the certificate in a prominent place, generally accessible to the public at that holder's principal place of business and, if a copy of the certificate is displayed, must produce the original certificate upon request by a designated inspector, authorised officer or authorised person.

Advertisements

109.01.4 Any advertisement by an organisation indicating that it is an aviation security training organisation must -

- (a) display the number of the aviation security training organisation certificate issued by the Executive Director; and
- (b) contain a reference to the type of aviation security training for which such certificate was issued.

Security inspections and audits

109.01.5 (1) An applicant for the issuing of an aviation security training organisation certificate must permit a designated inspector, authorised officer or authorised person to carry out such inspections and audits which may be necessary to verify the validity of any application made in terms of regulation 109.02.6.

(2) The holder of an aviation security training organisation certificate must permit a designated inspector, authorised officer or authorised person to carry out such inspections and audits which may from time to time be necessary to determine compliance with the appropriate requirements prescribed in this Part and provided for in the NCASTP.

Register of certificates

109.01.6 (1) The Executive Director must maintain a register of all aviation security training organisation certificates issued in terms of this Part.

- (2) The register must contain the following particulars:
 - (a) full names of the holder of the certificate;
 - (b) the postal address and electronic mail address of the holder of the certificate;

- (c) the date on which the certificate was issued or renewed;
- (d) particulars of the scope of the certificate issued to the holder thereof;
- (e) the nationality of the holder of the certificate;
- (f) the principal place of business of the holder of certificate;
- (g) the telephone and telefax numbers of the holder of the certificate;
- (h) the number of the certificate issued; and
- (i) the date on which the certificate was cancelled, if applicable.

(3) The particulars referred to in subregulation (2) must be recorded in the register within seven days from the date on which the certificate is issued, renewed or cancelled, as the case may be.

(4) The register is kept at the office of the Executive Director as part of the Civil Aviation Registry established under section 52 of the Act and is accessible to the public in terms of section 52(3) of the Act.

Cancellation, suspension and imposition of conditions

109.01.7 (1) Without prejudice to the powers of the Executive Director under Part 5 of the Act to cancel, suspend or impose conditions upon aviation documents, the Executive Director may suspend for a period not exceeding 30 days, an aviation security training organisation certificate issued under this Part, if -

- (a) after an inspection and audit carried out in terms of regulation 109.01.5, it is evident that the holder of the certificate does not comply with the requirements provided for in the NCASTP and such holder has failed to remedy the non-compliance after receiving notice in writing to do so within the period specified in the notice;
- (b) the designated inspector, authorised officer or authorised person is prevented by the holder of the certificate to carry out a security inspection and audit in terms of regulation 109.01.5; or
- (c) the suspension is necessary in the interests of aviation security.

(2) The designated inspector, authorised officer or authorised person who has carried out security inspections and audit in terms of regulation 109.01.5, must deliver a report in writing to the Executive Director, stating the reasons why, in the inspector's, authorised officer's or authorised person's opinion, an aviation security training organisation certificate should be suspended.

(3) The Executive Director must submit a copy of the report referred to in subregulation (2), to the holder of the certificate which has been suspended.

(4) The holder of a certificate which has been suspended may appeal against such suspension to the High Court in terms of section 225 of the Act.

SUBPART 2
CERTIFICATION OF ORGANISATIONS (AVIATION SECURITY TRAINING)

Requirement for certificate

109.02.1 A person or an organisation may not conduct aviation security training except under the authority of, and in accordance with the provisions of, an aviation security training organisation certificate issued under this Subpart.

Manual of procedure

109.02.2 An applicant for the issuing of an aviation security training organisation certificate must provide the Executive Director with its manual of procedure which -

- (a) complies with the requirements prescribed in this Subpart; and
- (b) contains the information as provided for in the NCASTP.

Quality assurance system

109.02.3 (1) An applicant for an aviation security training organisation certificate must establish a quality assurance system, to be included in its manual of procedure, for the control and supervision of the aviation security training covered by the application.

(2) The minimum standards for a quality assurance system are as provided for in the NCASTP.

Personnel requirements

109.02.4 (1) The applicant for an aviation security training organisation certificate must employ, contract or otherwise engage -

- (a) a senior person to whom contractual authority has been granted to ensure that all activities undertaken by the organisation are carried out in accordance with the applicable requirements provided for in the NCASTP, and who must in addition, be vested with the following powers and duties in respect of the compliance with such requirements:
 - (i) unrestricted access to work performed or activities undertaken by all other persons as employees of, and other persons rendering service under contract with, the organisation;
 - (ii) full rights of consultation with any such person in respect of compliance by that person;
 - (iii) powers to order cessation of any activity where there is not effective compliance with the requirements;
 - (iv) a duty to establish liaison mechanisms with the Executive Director with a view to ascertain correct manners of compliance with the said requirements and interpretations of such requirements by the Executive Director, and to facilitate liaison between the Executive Director and the organisation concerned; and

- (v) powers to report directly to the management of the organisation on his or her investigations and consultations generally, and in cases contemplated in subparagraph (iii), and with regard to the results of the liaison contemplated in subparagraph (iv);
 - (b) a competent person who is responsible for quality control, and who has direct access to the senior person referred to in paragraph (a) on matters affecting aviation security; and
 - (c) adequate personnel to plan, conduct and supervise the aviation security training covered by the application.
- (2) The applicant for an aviation security training organisation certificate must establish a procedure for initially assessing and a procedure for maintaining, the competence of those personnel involved in planning, conducting or supervising the aviation security training covered by the application.
- (3) The applicant for an aviation security training organisation certificate must have personnel responsible for training or assessing students, who have competence and experience adequate for the level of competence required for such training or assessment.

Facilities and equipment

109.02.5 The applicant for an aviation security training organisation certificate must provide adequate facilities and equipment to enable the personnel to conduct the aviation security training covered by the application.

Application for certificate or amendment thereof

109.02.6 An application for the issuing of an aviation security training organisation certificate or an amendment thereof, must be -

- (a) made to the Executive Director in the form and manner determined by the Executive Director; and
- (b) accompanied by -
 - (i) the appropriate fee as prescribed in Part 187;
 - (ii) the manual of procedure referred to in regulation 109.02.2; and
 - (iii) copies of training material to be used in such training.

Issuing of certificate

109.02.7 (1) The Executive Director must issue an aviation security training organisation certificate and number the certificate accordingly, if he or she is satisfied that -

- (a) the applicant complies with the requirements prescribed in regulations 109.02.2 to 109.02.6 and provided for in the NCASTP;
- (b) the applicant and any senior personnel required by regulation 109.02.4 are fit and proper persons; and

(c) the granting of the certificate is not contrary to the interests of aviation safety or security.

(2) The Executive Director must issue the certificate in the form determined by him or her.

Scope of certificate

109.02.8 An aviation security training organisation certificate must specify the aviation security training which the holder of the certificate is entitled to conduct as provided for in the NCASTP.

Period of validity

109.02.9 (1) An aviation security training organisation certificate is valid for the period determined by the Executive Director, which period may not exceed 24 months, calculated from the date of issuing or renewal thereof.

(2) The certificate remains in force until it expires or is suspended or cancelled by the Executive Director.

(3) The holder of a certificate which has expired or has been cancelled, must, within five working days of the expiry or cancellation, surrender the certificate to the Executive Director.

(4) The holder of a certificate which is suspended must, within 48 hours of the suspension, produce the certificate upon suspension thereof, to the inspector, authorised officer or authorised person concerned for the appropriate endorsement.

Transferability

109.02.10 An aviation security training organisation certificate is not transferable.

Changes in quality assurance system

109.02.11 (1) If the holder of an aviation security training organisation certificate desires to make a material change in the quality assurance system referred to in regulation 109.02.6, such holder must apply to the Executive Director for the approval of such change.

(2) The provisions of regulation 109.02.6 apply with the necessary changes required by the context to an application for the approval of a change in the quality assurance system.

(3) An application for the approval of a change in the quality assurance system must be granted if the Executive Director is satisfied, upon submission of appropriate proposed changes to its manual of procedure that the applicant will continue to comply with the provisions of regulation 109.02.2, after the implementation of such approved change.

Renewal of certificate

109.02.12 (1) An application for the renewal of an aviation security training organisation certificate must be -

(a) made to the Executive Director in the form and manner determined by the Executive Director; and

- (b) accompanied by -
 - (i) the appropriate fee as prescribed in Part 187;
 - (ii) the manual of procedure referred to in regulation 109.02.2; and
 - (iii) copies of training material to be used in such training.

(2) The holder of the certificate must at least 30 days immediately preceding the date on which such certificate expires, apply for the renewal of such certificate.

Duties of holder of certificate

109.02.13 The holder of an aviation security training organisation certificate must -

- (a) hold at least one complete and current copy of its manual of procedure referred to in regulation 109.02.2, at each training facility specified in the manual of procedure;
- (b) comply with all procedures detailed in the manual of procedure;
- (c) make each applicable part of the manual of procedure available to the personnel who require those parts to carry out their duties; and
- (d) continue to comply with the appropriate requirements provided for in the NCASTP.

Documents and records

109.02.14 (1) The holder of an aviation security training organisation certificate must -

- (a) keep copies of all relevant documents which may be necessary -
 - (i) for the specified aviation security training conducted by such holder; and
 - (ii) to determine compliance with the appropriate requirements prescribed in this Subpart;
- (b) establish procedures to control the documents referred to in paragraph (a) to ensure that -
 - (i) all documents are reviewed and authorised by the appropriate personnel before the issuing thereof;
 - (ii) current issues of all relevant documents are available to those personnel involved in planning, conducting or supervising the specified aviation security training undertaken by the holder of the certificate;
 - (iii) all obsolete documents are promptly removed from all points of issue or use; and

- (iv) changes to documents are reviewed and authorised by the appropriate personnel.

(2) The holder of the certificate must establish procedures to identify, collect, index, store and maintain all records which may be necessary for the specified aviation security training conducted by that holder and to determine compliance with the appropriate requirements prescribed in this Subpart, and to ensure that -

- (a) a record is kept of each quality control review of the holder of the certificate;
- (b) a record is kept of each person who conducts the specified aviation security training, including particulars of the competence assessments and experience of each such person;
- (c) a record is kept of each student being trained or assessed by the holder of the certificate, including particulars of enrolment, attendance, modules, instructor comments and practical sessions and assessments of each such student;
- (d) all records are legible; and
- (e) all records are kept for a period of at least five years calculated from the date of the last entry made in such records.

Validation or accreditation of foreign certificate

109.02.15 (1) Any organisation that has been approved as an aviation security training organisation by any other recognised foreign civil aviation authority may apply to the Executive Director in the form and manner determined by the Executive Director, for a validation or accreditation of such certificate, in accordance with the procedures and requirements prescribed in this Part.

- (2) The application for a validation referred to in subregulation (1) -
 - (a) must be accompanied by -
 - (i) a certified copy of the certificate to which the validation refers;
 - (ii) the appropriate fee as prescribed in Part 187;
 - (iii) the manual of procedure referred to in regulation 109.02.2;
 - (iv) copies of training material to be used in such training; and
 - (v) credentials of the aviation security instructor; and
 - (b) is subject to the inspection of the facility where the aviation security training will be conducted.
- (3) The validation issued by the Executive Director is -
 - (a) valid for 24 months calculated from the date of issue of such a validation and

(b) may be renewed for a further period or periods upon application to the Executive Director.

(4) The holder of certificate validated by the Executive Director, may apply to the Executive Director for the renewal of the certificate within 30 days before the date of expiry of such certificate or validation.

(5) The holder of a certificate validated by the Executive Director must comply with the requirements prescribed in this regulation.

(6) The provisions of regulation 109.02.9 do, with necessary changes required by the context, apply in relation to suspension and cancellation of the validation of a certificate validated by the Executive Director.

Duplicate certificate

109.02.16 (1) The holder of a certificate issued or validated by the Executive Director which has been lost destroyed or defaced to such an extent that the particulars thereon are illegible, must apply to the Executive Director for the issuing of a duplicate certificate.

(2) An application for the issuing of a duplicate certificate must be -

(a) made in the form and manner determined by the Executive Director; and

(b) accompanied by the appropriate fee as prescribed in Part 187.

(3) The Executive Director must -

(a) issue a duplicate certificate, if the applicant complies with the requirements referred to in subregulation (2); and

(b) endorse the duplicate certificate with the word “DUPLICATE” thereon.

(4) If, after the issuing of a duplicate certificate, the original certificate is found, the holder of the duplicate certificate must take all reasonable steps to obtain such original certificate and surrender it forthwith to the Executive Director.

PART 110

AVIATION SECURITY SCREENERS AND INSTRUCTORS CERTIFICATION

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**SUBPART 1
GENERAL****Applicability**

110.01.1 This Part applies to the certification of screeners and aviation security instructors, the functions and limitations of such certification and related matters.

Authority to act

110.01.2 (1) A person may not act as a screener at a security designated aerodrome within Namibia, unless such person has been certified or validated in terms of this Part.

(2) A screener may not perform functions other than the functions authorised by such certification.

(3) A screener certificate issued by the Executive Director and the validation of a foreign screener certificate by the Executive Director are both aviation documents for the purposes of the Act.

Competency

110.01.3 (1) A screener may not exercise the privileges granted by a screener certificate unless such screener maintains and demonstrates fitness and competency through compliance with the requirements provided for in the NCASTP.

(2) The holder of a screener certificate must submit copies of all documentation demonstrating continued maintenance of competency to the Executive Director within seven days of receiving a request for such documentation from the Executive Director.

Documentation

110.01.4 The Executive Director must ensure that any screener certificate issued contains information sufficient to enable the currency and validity of the certificate to readily be determined by any appropriate authority.

Logbooks

110.01.5 (1) A screener certified to operate technical screening equipment at any security designated airport must maintain and have available for inspection in the workplace, a logbook recording therein all the time spent on duty as a screener.

(2) The form of, and information to be contained in, a logbook referred to in subregulation (1) and the manner in which such logbook must be maintained must be as provided for in the NCASTP.

Register of certificates

110.01.6 (1) The Executive Director must maintain a register of all screener certificates issued or validated in terms of this Part.

(2) The register must be identified as the “Register of Certificated Screeners” and must contain the following particulars:

- (a) full names of the holder of the certificate;
- (b) the physical, electronic mail and postal address of the holder of the certificate;
- (c) the date on which the certificate was issued or validated;
- (d) the nationality of the holder of the certificate; and
- (e) the organisation in which the holder thereof is employed.

(3) The particulars referred to in subregulation (2) must be recorded in the register within seven days from the date on which the certificate is issued or validated, as the case may be, by the Executive Director.

(4) The register is to be kept at the office of the Executive Director as part of the Civil Aviation Registry established under section 52 of the Act and must be accessible by the public in terms of section 52(3) of the Act.

Language

110.01.7 The holder of a screener certificate issued or validated in terms of this Part must be able to demonstrate sufficient ability in reading, speaking and understanding the English language to enable the holder to adequately carry out his or her responsibilities as a certified screener.

Cancellation of certificate

110.01.8 (1) Without prejudice to the powers of the Executive Director to suspend, revoke or impose conditions on any aviation document under the Act, the Executive Director may cancel a screener certificate issued under this Part if -

- (a) the holder of the certification does not comply with the requirements prescribed in this Part, and provided for in the NCASTP; or
- (b) the privileges or duties for which the document was granted are not being carried out by the holder or are not able to be carried out by the holder; and

- (c) the cancellation is necessary in the interests of civil aviation safety and security.

(2) Unless there is a compelling safety or security reason, before taking any action under subregulation (1), the Executive Director must notify the holder in writing of the proposed action and give the holder a reasonable opportunity to comment or make submissions on the proposed action.

SUBPART 2 SCREENER CERTIFICATION

Requirements for screener certification

110.02.1 The requirements for the issuing of a screener certification are as follows:

- (a) the applicant must be 18 years of age or older;
- (b) the applicant must hold a valid medical certificate issued as provided for in the NCASTP;
- (c) the applicant must have successfully completed the training referred to in regulation 110.02.2; and
- (d) the applicant must have a minimum qualification as provided for in the NCASTP.

Training

110.02.2 (1) An applicant for the issuing of a screener certificate must have successfully completed the appropriate training as provided for in the NCASTP.

(2) The training contemplated in subregulation (1) must be conducted by a certificate holder of an aviation security training organisation certificate issued under Part 109.

Application for screener certification

110.02.3 An application for the issuing of a screener certificate must be -

- (a) made to the Executive Director in the appropriate form as provided for in the Namibia Civil Aviation Screener Certification Programme (NCASCP) or otherwise provided for by the Executive Director; and
- (b) accompanied by -
 - (i) a certified copy of the identity document of the applicant;
 - (ii) certified evidence that the applicant has successfully completed the required training provided for in the NCASTP and the NCASCP;
 - (iii) the appropriate fee as provided for in Part 187; and
 - (iv) one passport size photograph of the applicant certified as having been taken within the last six months of the date of the application.

Issuing of screener certificate

110.02.4 (1) The Executive Director must issue a screener certificate if -

- (a) the applicant complies with the requirements referred to in regulation 110.02.1, and is a fit and proper person; and
- (b) the issue of the certificate is not contrary to the interests of civil aviation safety and security.

(2) The screener certificate must be completed and issued in the format as determined by the Executive Director.

Validation of certificate not issued by Authority

110.02.5 (1) The holder of a screener certificate issued by a foreign appropriate authority who desires to act as a screener at a Namibian security designated aerodrome or for an air carrier or aircraft operator or a regulated agent, may apply to the Executive Director, in the appropriate form as provided for in the NCASCP for the validation of such certification.

(2) The application for the validation referred to in subregulation (1) must be accompanied by -

- (a) a certified copy of the certificate; and
- (b) the appropriate fee as provided for in Part 187.

(3) The Executive Director may validate a certificate issued by a foreign appropriate authority -

- (a) subject to the same restrictions which apply to such certificate; and
- (b) in accordance with and subject to the requirements and conditions as provided for in the NCASTP.

(4) The holder of a validation issued by the Executive Director, may apply to the Executive Director for revalidation of the certificate at least 21 days before the date of expiry of such validation.

(5) The holder of a validation issued by the Executive Director must comply with the provisions provided for in this Part and the requirements and conditions as provided for in the NCASTP.

Period of validity

110.02.6 A screener certification is valid for a period stipulated in the certificate, subject to recertification or revalidation as provided for in the NCASCP and provided that the holder of the certificate -

- (a) complies with the requirements of a screener as prescribed in this Part, and provided for in the NCASTP and NCASCP; and
- (b) is still employed to perform the functions of a screener.

Functions

110.02.7 (1) The holder of a valid screener certification is entitled to perform screening duties for which the holder received his or her training referred to in the NCASTP and the NCASCP and which is specified on the certificate.

(2) The functions afforded to the holder of screener certification may not be exercised by such holder unless he or she -

- (a) is the holder of a valid medical certificate issued as provided for in the NCASCP; and
- (b) undergoes the refresher or recurrent training every 12 months.

Duplicate screener certificate

110.02.8 (1) The holder of screener certificate which has been lost, destroyed or defaced to such an extent that the particulars thereon are ineligible, must apply to the Executive Director for the issuing of a duplicate screener certificate.

(2) An application for the issuing of a duplicate screener certificate must be -

- (a) made in the appropriate form as provided for in the NCASCP; and
- (b) accompanied by the appropriate fee as provided for in Part 187.

(3) The Executive Director must -

- (a) issue a duplicate screener certification if the applicant complies with the requirements referred to in subregulation (2); and
- (b) endorse the duplicate screener certification with the word “DUPLICATE” on the certificate.

(4) If, after the issuing of a duplicate screener certificate, the original screener certificate is found, the holder of the duplicate screener certificate must take all reasonable steps to provide such original screener certificate and surrender it forthwith to the Executive Director.

SUBPART 3

AVIATION SECURITY INSTRUCTOR CERTIFICATION

Application for certification as aviation security instructor

110.03.1 (1) A person may not conduct aviation security training in Namibia unless that person is certified or validated in terms of this Part.

(2) Any person who wishes to be certified as an aviation security instructor must complete and submit an application for aviation security instructor certification in terms of this Part.

(3) The application referred to in subregulation (2) must be -

- (a) made to the Executive Director in the appropriate form provided for in the NCASTP; and

(b) accompanied by -

- (i) a certified copy of the identity document of the applicant;
- (ii) a certified copy of the certificate issued for successful completion of the required training in terms of the NCASTP;

- (iii) the appropriate fee as provided for in Part 187;
- (iv) training material or syllabus of the aviation security instructor's course attended; and
- (v) a copy of a detailed curriculum vitae and certified copies of relevant qualifications.

Requirements for certification

110.03.2 The applicant for aviation security instructor certification must meet the requirements provided for in the NCASTP.

Issuing of aviation security instructor certificate

110.03.3 (1) The Executive Director must issue an aviation security instructor certificate if the -

- (a) applicant complies with the requirements of the NCASTP;
- (b) applicant is a fit and proper person to exercise the privileges of the certificate; and
- (c) issue of the certificate is not contrary to the interests of civil aviation safety and security.

(2) An aviation security instructor certificate is an aviation document and is valid for a period of 24 months, as long as the holder complies with the requirements as prescribed in this Part and provided for in the NCASTP.

Validation of certificate not issued by Authority

110.03.4 (1) Any person who has been certified as an aviation security instructor by a recognised foreign institution or body other than the Authority, may apply to the Executive Director in the form and manner determined by the Executive Director for a validation of such certification in accordance with the procedures and requirements prescribed in this Part.

(2) The application for validation referred to in subregulation (1) must be accompanied by -

- (a) a certified true copy of the certification to which the validation refers;
- (b) training material for the aviation security instructor course so attended;
- (c) the appropriate fee as provided for in Part 187.

(3) The validation issued by the Executive Director is an aviation document and, subject to the provisions of the Act, is valid for such period as is stipulated in the NCASTP.

(4) The holder of a validation issued by the Executive Director may apply to the Executive Director for the revalidation at least 21 days before the date of expiry of such validation.

(5) The holder of a validation issued by the Executive Director must comply with the provisions and the requirements and conditions as provided for in the NCASTP.

Duplicate instructor certificate

110.03.5 (1) The holder of instructor certificate issued by the Executive Director, which has been lost destroyed or defaced to such an extent that the particulars thereon are ineligible must apply to the Executive Director for the issuing of a duplicate instructor certificate.

(2) An application for the issuing of a duplicate instructor certificate must be -

(a) made in the appropriate form as provided for in the NCASTP; and

(b) accompanied by the appropriate fee as provided for in Part 187.

(3) The Executive Director must -

(a) issue a duplicate instructor certificate, if the applicant complies with the requirements referred to in subregulation (2); and

(b) endorse the duplicate instructor certification with the word “DUPLICATE” on the certificate.

(4) If, after the issuing of a duplicate certificate, the original certificate is found the holder of the duplicate certificate must take all reasonable steps to obtain such original certificate and surrender it forthwith to the Executive Director.

PART 111**AVIATION SECURITY PROGRAMMES AND SECURITY MEASURES****LIST OF REGULATIONS****SUBPART 1: GENERAL PROVISIONS ON AVIATION SECURITY**

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SUBPART 1 GENERAL PROVISIONS ON AVIATION SECURITY

General

111.01.1 (1) This Part must be read in accordance with the provisions of the Act regarding the aviation security functions of the Authority, and in particular Part 12 of the Act regarding the execution of functions on civil aviation security.

(2) The Executive Director may issue orders, circulars or directives regarding any aviation security matter.

(3) The security measures provided for in the NCASP apply equally to both international and domestic operations at security designated aerodromes.

(4) Despite subregulation (3), any aircraft, passenger, baggage, cargo mail and express parcel arriving at a security designated aerodrome from a non-security designated aerodrome must be subjected to the same security controls applicable at the destination airport upon arrival, whether or not the said destination airport is engaged in international or domestic operations.

National Civil Aviation Security Programme

111.01.2 (1) Pursuant to section 118(1)(a) of the Act, the Authority must draw up the National Civil Aviation Security Programme (NCASP), providing for -

- (a) the specific civil aviation security responsibilities of the Authority in accordance with the Act, this Part and any other relevant law;
- (b) the functions to be exercised by the aerodrome management of a security designated aerodrome and security designated navigation installation in respect of the establishment and implementation of security measures to prevent the occurrence of acts of unlawful interference;
- (c) the functions to be exercised by the Air Navigation Services contemplated in section 49 of the Act, in respect of the establishment and implementation of security measures to prevent the occurrence of acts of unlawful interference;

- (d) the responsibility regarding the control of access of airport tenants at security designated aerodromes whose concession or facility forms part of the landside or airside boundary or through which access can be gained from landside to airside;
- (e) the specific responsibilities, in the context of aviation security, of the policing authority at security designated aerodromes;
- (f) the establishment of an airport security committee for the co-ordination of the development and implementation of security measures and procedures at security designated aerodromes;
- (g) the co-operation and communication between States in the development and implementation of aviation security practices and procedures;
- (h) steps to ensure the co-ordination of aviation security measures among stakeholders responsible for implementation of the NCASP;
- (i) the protection of airports, aircraft and air navigation facilities with specific reference to the designation and protection of security restricted areas, access control and the listing of both on and off-airport navigational and aviation-related facilities which are vital to the continued safe operation of civil aviation;
- (j) the security control of persons boarding an aircraft and items being placed on board aircraft, including -
 - (i) screening and searching of the passengers and carry-on baggage;
 - (ii) the control of transit and transfer passengers;
 - (iii) the screening of aircraft crew, airport staff, permit holders, and other non-passengers;
 - (iv) the provision of special screening procedures;
 - (v) the procedure for authorised carriage of weapons;
 - (vi) procedures for the proper control and screening of checked baggage;
 - (vii) control of cargo, courier and express parcels and mail;
 - (vii) procedures to prevent the introduction of weapons, explosives and other dangerous devices into in-flight supplies intended for carriage on aircraft;
 - (ix) the procurement, calibration, operation, details, including minimum criteria, and maintenance of security equipment;
 - (x) the selection, security background check and recruitment criteria for persons charged with the execution of aviation security-related duties;
 - (xi) the background check of persons who, in the execution of their duties, are required to gain access to restricted areas;

- (xii) the management of response to acts of unlawful interference;
- (xiii) measures for the evaluation of the programme;
- (k) the NCASQCP, to determine compliance with and validate the effectiveness of the NCASP;
- (l) the NCASTP in order to determine that persons applying and monitoring the NCASP are in a position to comply with the laid-down requirements;
- (m) the development of measures in order to protect critical information and communications technology systems;
- (n) the establishment of a centralised security reporting system for analysing security information which must focus on the following types of reports:
 - (i) mandatory incident reports: incident reports that are required to be made as a result of the NCASP with the exception of an accident or serious incident that is reported to the Directorate of Aircraft Accident and Incident Investigations;
 - (ii) voluntary reports: reporting of a hazard or incident without any legal or administrative requirement to do so at the reporter's own will and initiative;
 - (iii) confidential reports: voluntary incident or hazard reports where the reporter's identity is protected by providing a means by which individuals are able to raise issues of concern without being identified to their peer group, management or respective organisations;
- (n) development, review and approval of contingency plans; and
- (o) any other matter or international standards that are deemed necessary in the interests of civil aviation safety and security.

(2) The Authority may incorporate into the NCASP any international Standard and Recommended Practice contained in Annex 17 to the Chicago Convention and any other international aviation standard in the manner described in section 227 of the Act.

Security programme for security designated aerodrome

111.01.3 (1) A person may not operate a security designated aerodrome unless that person has in place a security programme approved by the Executive Director.

(2) Pursuant to section 126(1)(a) of the Act, every operator of a security designated aerodrome serving civil aviation in Namibia must establish and implement a written security programme (also referred to as "airport security programme") that meets the requirements of this Part and the NCASP, for the security designated aerodrome concerned.

(3) The operator must review the security programme on an annual basis and submit the programme to the Executive Director for approval.

(4) Where the Executive Director approves a security programme, the Executive Director must issue the security designated aerodrome operator with a certificate of approval of the security programme on Form AVSEC 1 set out in the Appendix.

(5) Every operator of a security designated aerodrome in Namibia must establish an airport security committee (ASC).

(6) The functions of the ASC must be as provided for in the NCASP and the airport security programme.

(7) The airport security committee must refer any matter relating to aviation security and which is within its functions but which cannot be resolved at the airport level to the National Aviation Security Committee (NASC).

(8) The manager of the security designated aerodrome or the person in charge must be the chairperson of the airport security committee.

(9) The chairperson must appoint other members of the airport security committee.

(10) The composition of the airport security committee must be as provided for in the NCASP.

(11) The airport security committee may invite any person to attend and take part in the proceedings of the committee and that person may participate in any discussion at the meeting but does not have a right to vote at that meeting.

(12) The chairperson must convene every meeting of the airport security committee, and the committee must meet once every month to ensure that the security programme is up to date and effective and that its provisions are being properly applied.

Air carrier security programme

111.01.4 (1) A person may not operate an aircraft serving civil aviation for commercial purposes from or within Namibia unless that person has in place an air carrier security programme (also known as the aircraft operator security programme) approved by the Executive Director.

(2) Pursuant to section 126(1)(c) of the Act, an air carrier or aircraft operator engaged in commercial air transport must establish and implement an aircraft operator security programme that meets the requirements of this Part and the NCASP, for flights undertaken as a scheduled public air transport service or undertaken as a scheduled international public air transport service by that air carrier or aircraft operator.

(3) The an air carrier or aircraft operator must review the air carrier or aircraft operator security programme on an annual basis and submit the programme to the Executive Director for approval.

(4) Where the Executive Director approves an aircraft operator security programme, the Executive Director must issue the aircraft operator with a certificate of approval of the aircraft operator security programme on Form AVSEC 2 set out in the Appendix.

Air Navigation Services security programme

111.01.5 (1) The Air Navigation Services (ANS) must establish and implement a security programme that meets the requirements of this Part and the NCASP.

(2) The ANS must review the ANS security programme on an annual basis and submit the programme to the Executive Director for approval.

(3) Where the Executive Director approves an ANS security programme, the Executive Director must issue the air navigation service provider with a certificate of approval of the air navigation services security programme on Form AVSEC 4 set out in the Appendix.

General security programme pertaining to other aviation participants

111.01.6 (1) Any other aviation participant as designated by the Minister by notice in the *Gazette* or designated in the NCASP or this Part must establish a security programme providing for -

- (a) the compliance with the requirements contained in the NCASP; and
- (b) compliance with the provisions of the security designated aerodrome, air carrier or aircraft operator and the Air Navigation Services security programmes.

(2) An aviation participant referred to in subregulation (1) must review the said security programme on an annual basis and submit it to the Executive Director for approval.

(3) The following aviation participants are required to have a security programme -

- (a) private or contracted security companies providing aviation security services;
- (b) catering companies;
- (c) aircraft cleaning companies; and
- (d) regulated agents and known consignors referred to in Part 108.

Application for approval of security programme

111.01.7 (1) Where a security programme is required to be approved by the Executive Director under this Part, the applicant must -

- (a) submit the programme to the Executive Director, ensuring that it meets the requirements of the NCASP, this Part and any other relevant law and security programmes; and
- (b) be accompanied by the appropriate fee or fees as prescribed in Part 187.

(2) A security programme submitted to the Executive Director under this Part must be in duplicate and signed by the applicant or on behalf of the applicant by a duly authorised person.

Approval of security programme

111.01.8 (1) Where the Executive Director is satisfied that the security programme submitted under regulation 111.01.7 meets the requirements of the Act, this Part, the NCASP and any other relevant law and other security programmes referred to in this Part, the Executive Director must within 30 days after receipt of the programme, approve the security programme.

(2) Where the Executive Director determines that a security programme submitted under regulations 111.01.7 or 111.01.10(5) does not meet the requirements of this Part,

and the NCASP, the Executive Director must within 14 days after receipt of the programme, direct the applicant to modify and re-submit the security programme within 14 days after receipt of the programme by the applicant.

(3) Where the Executive Director is satisfied that a security programme re-submitted meets the requirements of this Part, and the NCASP, the Executive Director must, within 14 days after receipt of the programme, approve the security programme, and the Executive Director must issue the applicant with a certificate of approval of the airport security programme on Form AVSEC 1 or air carrier or aircraft operator security programme on Form AVSEC 2 set out in the Appendix.

(4) Upon a proposed security programme submitted under regulation 111.01.7 being approved by the Executive Director under this Part, the applicant must within 30 days of such approval ensure that such approved security programme is implemented and in full operation.

(5) Any non-compliance with the requirement on a security programme in this Part by a participant is subject to the application of the enforcement procedures set out in Part 13 read with Part 185.

Power of Executive Director to require amendment of security programme or training programme

111.01.9 (1) Where the Executive Director is of the opinion that the operator of a security designated aerodrome's, air carrier's or aircraft operator's or any other aviation participant's security or training programme requires amendment, the Executive Director may direct the respective entity to amend the security programme and submit it to the Executive Director for approval.

(2) The Executive Director must, where an amended security or training programme is submitted to him or her under subregulation (1), approve the security or security training programme in accordance with the procedure prescribed by regulation 111.01.8.

National civil aviation security training programme

111.01.10 (1) The Authority must develop a National civil aviation security training programme (NCASTP) for personnel of all entities involved in, or responsible for, the implementation of various aspects of the NCASP which must be submitted to the Executive Director for approval.

(2) The entities referred to in subregulation (1) must comply with the training requirements stipulated in the NCASTP.

(3) The Executive Director must ensure the development of training and certification procedures for screeners, supervisors, instructors and inspectors is in accordance with this Part, the NCASTP and the NCASCP.

(4) Every operator of security designated aerodrome, air carrier or aircraft operator, air traffic service provider or organisation responsible for the implementation of various aspects of the NCASP must develop and implement an aviation security training programme and the training programme must conform to the requirements of the NCASTP.

(5) A training programme referred to in subregulation (4) must be submitted to the Executive Director for approval in accordance with the procedure prescribed in regulation 111.01.8.

(6) The Executive Director must issue the applicant with a certificate of approval of a security training programme on Form AVSEC 3 set out in the Appendix.

(7) The operator of a security designated aerodrome, air carrier or aircraft operator, air traffic service provider or organisation responsible for the implementation of various aspects of the NCASP must review the security training programme referred to in subregulation (4) on an annual basis and submit the programme to the Executive Director for approval.

Changed conditions affecting security

111.01.11 (1) Where a security or training programme has been approved, the operator of a security designated aerodrome, air carrier or aircraft operator or any person or his or her agent, where applicable, must comply with the procedure provided for under subregulation (2) whenever the person concerned determines that -

- (a) any description of the area set out in the security or training programme is no longer accurate; or
- (b) any description of the operations set out in the security or training programme is no longer accurate or that the procedures included and the facilities and equipment described in the security programme are no longer adequate.

(2) Whenever a situation described in subregulation (1) occurs, the person concerned, where applicable must -

- (a) immediately notify the Executive Director of the changed conditions and identify each interim measure being taken to maintain adequate security until approval is granted for an appropriate amendment of the security or training programme; and
- (b) within 30 days after notifying the Executive Director in accordance with paragraph (a), submit for approval in accordance with the procedure set out under regulation 111.01.7, an amendment to the security programme to bring it into compliance with this Part and the NCASP or the NCASTP.

(3) The Executive Director must, where an amendment to a security or training programme is submitted to it under subregulation (2)(b), approve the amendment in accordance with the procedure set out under regulation 111.01.8.

National Civil Aviation Security Quality Control Programme

111.01.12 (1) Pursuant to section 118(o) of the Act, the Authority must develop, implement and maintain a National Civil Aviation Security Quality Control Programme (NCASQCP), which meets the requirements provided for in the NCASP and submit it to the Executive Director for approval.

(2) The Authority must ensure that the implementation of security measures is regularly subjected to verification of compliance with the NCASP.

(3) The Authority must -

- (a) ensure that personnel carrying out security audits, test, surveys and inspections are trained to appropriate standards;

- (b) ensure that personnel carrying out security audits, test, surveys and inspections are afforded the necessary authority to obtain information to carry out these tasks and to enforce corrective actions;
- (c) supplement the NCASQCP by establishing a confidential reporting system for analysing security information provided by sources such as passengers, crew members and ground personnel; and
- (d) establish a process to record and analyse the results of the NCASQCP, to contribute to the effective development and implementation of the national civil aviation security programme, including identifying the causes and patterns of non-compliance and verifying that corrective actions have been implemented and sustained.

(4) Every operator of a security designated aerodrome, air carrier or aircraft operator or organisation responsible for the implementation of various aspects of the NCASP must develop internal quality control measures that conform to the NCASP and the NCASQCP.

(5) Every entity that is responsible for the implementation of various aspects of the NCASP, which requests internal quality control activities to be conducted by any person or entity other than the Authority, must notify the Executive Director within 21 days before such internal quality control activity is conducted.

(6) The entity being monitored must specify the areas to be covered in the internal quality control process as provided for in the NCASP

(7) The entity concerned must submit proof of certification or accreditation of the person or entity that conducts quality control to the Executive Director.

(8) The person or entity that is conducting quality control must consult with the Executive Director before the quality control process begins.

(9) A schedule must be provided to the Executive Director, to allow the Authority to participate in the quality control process, if the Authority considers it necessary.

(10) The person or entity conducting quality control must consult with the Executive Director at the conclusion of the quality control process and provide the Authority with a copy of the preliminary report and final report.

Failure to implement security programmes

111.01.13 A person who fails to comply with a security programme referred to in section 126 of the Act and this Part commits an offence and is liable to a fine or to imprisonment specified in that section or to any administrative penalty prescribed in Part 185.

Security aspects of facilitation

111.01.14 (1) An air carrier or aircraft operator must take necessary precautions at the point of embarkation to ensure that passengers are in possession of valid documents issued by the relevant authorities in Namibia or in a State other than Namibia for control purposes.

(2) The Authority must establish a National Air Transport Facilitation Programme (NATFP) based on the facilitation requirements of the Act, these regulations, and Annex 9 to the Chicago Convention and the facilitation provisions of Annex 17 to the Chicago Convention.

- (3) The NATFP referred to in subregulation (9) must contain the following:
 - (a) the allocation of responsibilities;
 - (b) the facilitation of aircraft;
 - (c) the facilitation of passports and immigration;
 - (d) the facilitation relating to customs;
 - (e) the facilitation of international airports;
 - (f) the facilitation of aircraft;
 - (g) the facilitation of security; and
 - (h) the facilitation of public health and veterinary and agricultural quarantine.
- (4) The Executive Director must establish the National Aviation Facilitation Committee (NAFC) consisting of representatives from the following institutions:
 - (a) the Authority;
 - (b) the Permanent Secretary of the Ministry or a person designated by him or her;
 - (c) the Namibia Revenue Agency established by the Namibia Revenue Agency Act, 2017 (Act No. 12 of 2017);
 - (d) the Ministry responsible for home affairs and immigration;
 - (e) the Ministry responsible for health;
 - (f) the Ministry responsible for agriculture, water and forestry;
 - (g) an association representing aircraft operators; and
 - (h) Namibia Airports Company established by the Airports Company Act, 1998 (Act No. 25 of 1998).
- (5) The NAFC is responsible for the following:
 - (a) coordinating facilitation activities between departments, agencies and other organisations of Namibia concerned with, or responsible for various the aspects of international civil aviation; and
 - (b) implementation of the NATFP.
- (6) Every operator of a security designated aerodrome must establish an airport facilitation programme that meets the requirements provided for in the NATFP.
- (7) The airport facilitation programme referred in subregulation (6) must be implemented by an airport facilitation committee established in terms of the requirements provided for in the NATFP.

Aircraft passenger identification

- 111.01.5** (1) Any person, including a minor, who is either -
- (a) departing as a passenger from a security designated aerodrome in Namibia on a scheduled public air transport flight to a destination either within Namibia or outside the territory of Namibia;
 - (b) arriving as a passenger at a security designated aerodrome in Namibia on a scheduled public air transport flight to a destination within Namibia or to a destination outside the territory of Namibia,

must be required to produce a valid identification document in accordance with the Departure from Namibia Regulation Act, 1955 (Act No. 34 of 1955) and the Immigration Control Act, 1993 (Act No. 7 of 1993), satisfactory to the boarding officer of a relevant air carrier or aircraft operator, at the boarding gates, before boarding the aircraft concerned.

(2) The details on the personal identification document, including the name, date of birth and gender of the person concerned, must correspond to the details in the air carrier's or aircraft operator's possession in respect of the intended passenger.

(3) The name of the person appearing on the identification document or passport must correspond to the name of the person appearing on the issued boarding pass.

(4) The air carrier must, through its boarding officers, confirm that any person checking in baggage at the baggage check-in-point in the airport is the same as the person who intends to be a passenger on the flight and who has been issued with a boarding pass or is to be issued with a boarding pass.

(5) A person whose identity cannot be verified in terms of subregulation (2), (3) or (4) must be refused carriage, without recourse to the air carrier or aircraft operator concerned, unless some other form of personal identification that is acceptable to the air carrier or aircraft operator concerned is provided.

(6) A person whose form of personal identification as referred to in subregulation (2) is not acceptable to the air carrier or aircraft operator concerned, may be required to undergo additional security screening.

(7) A designated inspector, authorised officer or authorised person appointed in terms of section 37(1) of the Act, is authorised to request a person referred to in subregulation (2) for his or her personal identification documentation for verification purposes.

SUBPART 2
PREVENTATIVE SECURITY MEASURES

Airport security: access control

111.02.1 (1) Every operator of a security designated aerodrome or navigation installation, must control access to airside areas at an airport serving civil aviation in order to prevent unauthorised entry.

(2) Every operator of a security designated aerodrome or navigation installation or a person employed or contracted by such to provide aviation security services must ensure that the access to airside areas at an airport serving civil aviation in Namibia is controlled in order to prevent unauthorised entry as provided for in the NCASP.

(3) Every operator of a security designated aerodrome or navigation installation or a person employed or contracted by such to provide aviation security services must establish identity verification systems in respect of persons and vehicles in order to prevent unauthorised access to airside areas and security areas or security restricted areas as provided for in the NCASP.

(4) Every operator of a security designated aerodrome or navigation installation or a person employed or contracted by that operator to provide aviation security services must verify identity at designated checkpoints before access is allowed to airside areas and security areas or security restricted areas.

(5) Every operator of a security designated aerodrome in Namibia must conduct security background checks, in accordance with Part 114, on persons, other than passengers, granted unescorted access to security restricted areas of the airport prior to granting access to security restricted areas.

(6) Every operator of a security designated aerodrome or a security designated navigation installation must supervise the movement of persons and vehicles to and from the aircraft in security areas or security restricted areas in order to prevent unauthorised access to aircraft in accordance with the procedures, requirements provided for in the NCASP.

(7) Every operator of a security designated aerodrome or a security designated navigation installation must apply screening or other appropriate security controls, in accordance with procedures provided for in the NCASP, to persons other than passengers, together with items carried, prior to entry into security restricted areas at security designated aerodromes serving international civil aviation operations.

(8) Every operator of a security designated aerodrome must apply screening or other appropriate security controls to vehicles being granted access to security areas or security restricted areas, together with items contained within them, in accordance with a risk assessment carried out by the Authority.

(9) The Authority must ensure that identity documents issued to aircraft crew members provide a harmonised and reliable international basis for recognition and validation of documentation to permit authorised access to airside and security restricted areas.

(10) Every operator of a security designated aerodrome must re-apply checks specified in subregulation (5) on a regular basis to all persons granted unescorted access into security restricted areas.

(11) Every operator of a non-security designated aerodrome or navigation installation, must comply with specific security measures applicable to non-security designated aerodromes or navigation installation provided for in the NCASP.

Security restricted areas

111.02.2 (1) Pursuant to section 131(1) of the Act, the Executive Director must declare security restricted areas at each security designated aerodrome, in accordance with the procedure, requirements provided for in the NCASP.

(2) Security restricted areas must be protected through the measures provided for in the NCASP.

Carriage and use of weapons, firearms, ammunition and other explosives onto aircraft or into security restricted areas

111.02.3 Pursuant to sections 157 and 204 of the Act, the carriage and use of weapons, firearms, ammunition and other explosives into aircraft or into security restricted areas must be in accordance with the requirements and conditions prescribed in the Act and the NCASP.

Passengers and their cabin baggage

111.02.4 (1) Every operator of a security designated aerodrome or a person employed or contracted by that operator to provide aviation security services must establish measures, in accordance with the Act and the NCASP, to ensure that originating passengers and their cabin baggage are screened prior to boarding an aircraft departing from a security restricted area.

(2) Every operator of a security designated aerodrome must screen transfer passengers of commercial air transport operations and their cabin baggage prior to boarding an aircraft in accordance with measures provided for in the NCASP.

(3) Every operator of security designated aerodrome must protect passengers and their cabin baggage which have been screened from unauthorised interference from the point of screening until they board the aircraft.

(4) Where mixing of screened and unscreened passengers takes place, the passengers concerned and their cabin baggage must be re-screened before boarding an aircraft.

(5) An operator of a security designated aerodrome must establish measures for transit operations to protect transit passengers' cabin baggage from unauthorised interference and protect the integrity of the security of the airport of transit.

(6) An operator of a non-security designated aerodromes must comply with the measures provided for in the NCASP in respect of the application of security controls for passengers and their cabin baggage originating from non-security designated aerodromes.

Hold baggage

111.02.5 (1) Every operator of a security designated aerodrome or a person employed or contracted by that operator to provide aviation security services must establish measures to ensure that originating hold baggage is screened prior to being loaded onto an aircraft engaged in commercial air transport operations departing from a security restricted area, in accordance with procedure provided for in the NCASP.

(2) Every operator of a security designated aerodrome or a person employed or contracted by that operator to provide aviation security services must protect, in accordance with procedure provided for in the NCASP, all hold baggage to be carried on a commercial aircraft from unauthorised interference from the point it is screened or accepted into the care of the air carrier or aircraft operator.

(3) If the integrity of hold baggage is jeopardised, the hold baggage must be re-screened before being placed on board an aircraft.

(4) Every operator of a security designated aerodrome or a person employed or contracted by that operator to provide aviation security services must ensure that commercial air transport operators do not transport the baggage of persons who are not on board the aircraft unless that baggage is identified as unaccompanied and subjected to appropriate screening.

(5) Every operator of a security designated aerodrome or contracted aviation security service provider must apply screening or other security controls as provided for in the NCASP, to transfer hold baggage prior to being loaded into an aircraft engaged in commercial air transport operations, unless it has established a validation process and continuously implements procedures, in collaboration with the other airport operator from another contracting State to the Chicago Convention where appropriate, to ensure that such hold baggage has been screened at the point of origin and subsequently protected from unauthorised interference from the originating airport to the departing aircraft at the transfer airport.

(6) Every operator of a security designated aerodrome or a person employed or contracted by that operator to provide aviation security services must ensure that commercial air transport operators transport only items of hold baggage which have been individually identified as accompanied or unaccompanied, screened to the appropriate standard and accepted for carriage on that flight by the air carrier or aircraft operator.

(7) Baggage referred to in subregulation (6) must be recorded as meeting these criteria and authorised for carriage on the flight concerned.

(8) Every operator of a security designated aerodrome must establish procedures to deal with unidentified baggage in accordance with a security risk assessment carried out in accordance with the NCASP.

(9) Every operator of a security designated aerodrome serving civil aviation in Namibia must establish storage areas where mishandled baggage may be held after screening until forwarded, claimed or disposed of.

(10) Every operator of a security designated aerodrome must establish bomb disposal areas where detected explosives may be disposed of.

(11) Every operator of a security designated aerodrome must identify or establish an isolated parking area for aircraft that has been subjected to an act of unlawful interference or a bomb threat.

(12) Specific security measures applicable to hold baggage originating from non-security designated aerodromes must be provided for in the NCASP.

Landside

111.02.6 (1) Every operator of a security designated aerodrome must establish security measures in landside areas to mitigate the risk and to prevent possible acts of unlawful interference in accordance with national and local risk assessments carried out.

(2) The operator of a security designated aerodrome must coordinate landside security measures between the relevant departments, agencies and other entities, and identify appropriate responsibilities in the NCASP.

Security responsibilities of air carrier or aircraft operator

111.02.7 (1) Every air carrier or aircraft operator must take security measures, as provided for in the NCASP.

(2) Every air carrier or aircraft operator must ensure that during flight unauthorised persons are prevented from entering the flight crew compartment.

(3) Every air carrier or aircraft operator must establish security controls, in accordance with the NCASP and the applicable air carrier or aircraft operator security programme, to prevent acts of unlawful interference on aircraft when they are not in security restricted areas.

(4) An air carrier or aircraft operator must ensure that aircraft security checks of originating aircraft engaged in commercial air transport movements are performed or an aircraft security search is carried out.

(5) The determination of whether it is an aircraft security check or a search that is appropriate must be based upon a security risk assessment carried out by the Authority.

(6) An air carrier or aircraft operator must ensure that measures are taken to ensure that any items left behind by passengers disembarking from transit flights are removed from the aircraft or otherwise dealt with appropriately before departure of an aircraft engaged in commercial flights.

(7) An air carrier or aircraft operator must ensure that an aircraft is protected from unauthorised interference from the time the aircraft search or check has commenced until the aircraft departs.

(8) An air carrier or aircraft operator, in consultation with operators of security designated aerodromes, must ensure that appropriate measures on the ground or operational procedures are established to mitigate possible attacks against aircraft using Man-Portable Air Defence Systems (MANPADS) and other weapons representing a similar threat to aircraft at or near an airport, in accordance with the risk assessment carried out by competent authorities.

Special categories of passengers

111.02.8 Every air carrier or aircraft operator must ensure that the carriage of potentially disruptive passengers is in accordance with the requirements provided for in the NCASP.

Cargo, mail and other goods

111.02.9 The provisions of Part 108 apply, with changes required by the context, in relation to the security controls applied to cargo and mail, prior to their being loaded into an aircraft engaged in commercial air transport operations.

Cyber security in civil aviation

111.02.10 (1) The Authority must, in accordance with the risk assessment carried out by the Namibian intelligence services, and levels of threat identified by the Namibian police, develop measures, in accordance with the NCASP, in order to protect critical information and communications technology systems used for civil aviation purposes from interference that may jeopardise the safety and security of civil aviation.

(2) Every entity involved in, or responsible for, the implementation of the various aspects of the NCASP must identify its critical information and communications technology systems, including threats and vulnerabilities thereto, and develop protective measures as provided for in the NCASP.

SUBPART 3
MANAGEMENT AND RESPONSE TO ACTS OF UNLAWFUL INTERFERENCE

Prevention of acts of unlawful interference

111.03.1 (1) The Authority must take adequate measures, in accordance with the NCASP, when reliable information exists that an aircraft may be subjected to an act of unlawful interference -

- (a) to safeguard the aircraft if it is still on the ground; or
- (b) if the aircraft is in flight, to provide as much prior notification as possible of the arrival of such aircraft to relevant airport authorities and air traffic services of the States concerned, if the aircraft has already departed.

(2) The Namibian police in consultation with the operator of a security designated aerodrome must investigate, render safe and dispose of, if necessary, suspected dangerous devices or other potential hazards at an airport in accordance with the procedure provided for in the NCASP or the relevant security programme.

(3) The operator of a security designated aerodrome must develop contingency plans and make resources available to safeguard civil aviation against acts of unlawful interference.

(4) The operator of a security designated aerodrome, in consultation with the Namibian police, must ensure that authorised and suitably trained personnel are readily available for deployment at its airports serving civil aviation to assist in dealing with suspected or actual cases of unlawful interference with civil aviation.

(5) The Namibian police must search an aircraft for concealed weapons, explosives or other dangerous devices, articles or substances when reliable information exists that an aircraft may be subjected to an act of unlawful interference, but prior notification of the search must be provided to the operator concerned.

Response to acts of unlawful interference

111.03.2 The Authority must -

- (a) take appropriate measures, in accordance with the NCASP, for the safety of passengers and crew members of an aircraft, which is subjected to an act of unlawful interference, while on the ground in Namibia, until their journey can be continued;
- (b) collect all pertinent information on the flight of that aircraft through the air navigation services provider and transmit that information to all other States responsible for the air traffic services units concerned, including those at the airport of known or presumed destination, so that timely and appropriate safeguarding action may be taken en route and at the aircraft's known, likely or possible destination;
- (c) provide assistance to an aircraft subjected to an act of unlawful seizure, including the provision of navigation aids, air traffic services and permission to land as may be necessitated by the circumstances;
- (d) ensure that an aircraft subjected to an act of unlawful seizure which has landed in the territory of Namibia is detained on the ground, unless its

departure is necessitated by the overriding duty to protect human life, in consultation with the Namibian police;

- (e) notify by the most expeditious means the State of registry of the aircraft, and the State of the air carrier or aircraft operator, of the landing and must similarly transmit by the most expeditious means all other relevant information to -
 - (i) the two States concerned;
 - (ii) each State whose citizens suffered fatalities or injuries;
 - (iii) each State whose citizens were detained as hostages;
 - (iv) each State whose citizens are known to be on board the aircraft; and
 - (v) the International Civil Aviation Organisation.

Exchange of information and reporting

111.03.3 (1) The exchange of information and reporting must be done in accordance with the procedure provided for in the NCASP.

(2) Every aircraft carrier or aircraft operator must, where an act of unlawful interference occurs, immediately notify the Authority.

(3) Every pilot-in-command and air navigation service provider must submit to the Authority -

- (a) a preliminary written report, within 15 days after the occurrence of an act of unlawful interference, including sabotage, threats, hijacks, incidents and disruptive passengers; and
- (b) a final written report, upon completion of investigations, but within 30 days after the occurrence of an act of unlawful interference, including sabotage, threats, hijacks, incidents and disruptive passengers.

(4) The Authority must, where an act of unlawful interference has occurred, provide the International Civil Aviation Organisation with a report on each incident, whether successful or unsuccessful as follows:

- (a) a preliminary report, within 30 days after the occurrence of the act, containing all pertinent information concerning the security aspects of the occurrence; and
- (b) a final report, within 60 days after resolution of the incident.

(5) The Authority must provide copies of reports submitted to the International Civil Aviation Organisation under this regulation and to -

- (a) the State of registry of the aircraft and the State of the operator;
- (b) each State whose citizens suffered fatalities or injuries;
- (c) each State whose citizens are, or were, detained as hostages; and

- (d) each State whose citizens are, or were, known to be on board the aircraft.

SUBPART 4
AVIATION SECURITY ENFORCEMENT MEASURES

Enforcement powers of aviation security inspectors

111.04.1 Without limiting the powers of designated inspectors, authorised officers and authorised persons and under the Act or any Part of these regulations, an aviation security inspector may -

- (a) carry out quality control activities, such as periodic and random inspections, audits and testing of the effectiveness of security measures and procedures;
- (b) inspect any part of any airport in Namibia or any land or area outside the airport used by businesses that operate at the airport or that is in a security restricted area;
- (c) inspect any aircraft registered or operating in Namibia for the purpose of evaluating any security procedure;
- (d) inspect and test the effectiveness of security measures and procedures and performance of security equipment;
- (e) take into an airport, airside area or any designated security restricted area, and use any equipment necessary to carry out his or her duties, including radios, cameras, recording devices (both audio and video) and specially authorised restricted or prohibited articles, such as replica weapons or simulated explosive devices;
- (f) issue notices of deficiencies or recommendations, as appropriate;
- (g) enforce corrective actions, including immediate rectification of any deficiencies or apply enforcement measures; and
- (h) enforce all relevant national aviation security requirements.

APPENDIX



NAMIBIA CIVIL AVIATION AUTHORITY

FORM AVSEC 1	
CERTIFICATE OF APPROVAL OF AIRPORT SECURITY PROGRAMME (Regulations 111.01.3(4) and 111.01.8(3))	
1. Certificate Number:	
2. Expiry date:	
3. Name of aerodrome operator:	
4. Physical address of aerodrome operator:	5. Postal address:
6. Conditions and restrictions:	
I, hereby certify that the holder of this certificate has been duly approved in accordance with Part 111 of the Namibia Civil Aviation Regulations.	
Name:	
Designation: Date:	
Executive Director/On behalf of Executive Director	



NAMIBIA CIVIL AVIATION AUTHORITY

FORM AVSEC 2

CERTIFICATE OF APPROVAL OF AIRCRAFT OPERATOR SECURITY PROGRAMME
(Regulations 111.01.4(4) and 111.01.8(3))

1. Certificate Number:

2. Expiry date:

3. Name of air carrier operator:

5. Physical address:

6. Postal address:

7. Conditions and restrictions:

I, hereby certify that the holder of this certificate has been duly approved in accordance with Part 111 of the Namibia Civil Aviation Regulations.

Name:

Designation:

Date:

Executive Director/On behalf of Executive Director



NAMIBIA CIVIL AVIATION AUTHORITY

FORM AVSEC 3	
<p>CERTIFICATE OF APPROVAL OF SECURITY TRAINING PROGRAMME (Regulation 111.01.10(6))</p>	
1. Certificate Number:	
2. Expiry date:	
3. Name of operator:	
4. Physical address of operator:	
5. Postal address:	
6. Conditions and restrictions	
<p>I, hereby certify that the holder of this certificate has been duly approved in accordance with Part 111 of the Namibia Civil Aviation Regulations.</p> <p>Name:</p> <p>Designation:</p> <p>Date:</p>	
Executive Director/On behalf of Executive Director	

**FORM AVSEC 4**

CERTIFICATE OF APPROVAL OF AIR NAVIGATION SERVICES SECURITY PROGRAMME
(Regulation 111.01.5(3))

1. Certificate Number:

2. Expiry date:

3. Name of air navigation operator:

5. Physical address operator:

6. Postal address:

7. Conditions and restrictions

I, hereby certify that the holder of this certificate has been duly approved in accordance with Part 111 of the Namibia Civil Aviation Regulations.

Name:

Designation:

Date:

Executive Director/On behalf of Executive Director

PART 113
AVIATION SECURITY SERVICE PROVIDERS: CERTIFICATION

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SUBPART 1
GENERAL

Applicability

113.01.1 This Part prescribes procedures governing the certification of an operator of an aerodrome or navigation installation or a person employed or contracted by that operator to provide civil aviation security services in accordance with the Act at a security designated aerodrome or security designated navigation installation.

Authority to provide aviation security services

113.01.2 A person may not provide civil aviation security services at a security designated aerodrome or security designated navigation installation, except under the authority of, and in accordance with the provisions of, a civil aviation security service certificate issued under this Part.

Application for certificate

113.01.3 An application for the issuing of an aviation security service certificate or an amendment thereof, must be -

- (a) made to the Executive Director in the form and manner determined by the Executive Director; and
- (b) accompanied by -

- (i) the security programme required under regulation 113.02.6; and
- (ii) payment of the appropriate application fee prescribed in Part 187.

Issue of certificate

113.01.4 The Executive Director must issue a civil aviation security service certificate if -

- (a) the applicant's senior personnel required under regulation 113.02.1 are fit and proper persons;
- (b) the Executive Director is satisfied that the applicant is an operator of a security designated aerodrome or security designated navigation installation or a person employed or contracted by that operator to provide civil aviation security services at that aerodrome or navigation installation;
- (c) the applicant's civil aviation security programme meets the requirements of Subpart 2; and
- (d) the granting of the certificate is not contrary to the interests of civil aviation safety and security.

Functions and duties of certificate holder

113.01.5 Each holder of a civil aviation security service certificate has, at each location specified in its security programme, the following functions and duties:

- (a) where the certificate holder is the operator of a security designated aerodrome, to carry out -
 - (i) passenger, crew and baggage screening of all international aircraft passenger services and of any domestic aircraft passenger service or other service required to be screened by the Minister or the Executive Director;
 - (ii) where necessary, searches of aircraft;
 - (iii) aerodrome security patrols; and
 - (iv) screening and searching of any person, item, substance or vehicle that is present in, or about to enter, a security restricted area as required by the Minister or Executive Director, subject to the requirement that the specific manner or methodology in which screening will be applied must be approved by the Executive Director;
- (b) where the certificate holder is the operator of a security designated navigation installation, to carry out -
 - (i) patrols of that designated navigation installation; and
 - (ii) reviews, inquiries and keep itself informed on security techniques, systems, devices, practices and procedures related to the protection of civil aviation and persons employed in or using it; and

- (c) to co-operate with the police, Government departments or entities, airport authorities, operators and authorities administering the airport security services of other countries and with any appropriate international organisation.

Duration of certificate

113.01.6 (1) A civil aviation security service certificate may be granted for a period of up to five years.

(2) A civil aviation security service certificate remains in force until it expires or is suspended or cancelled.

(3) The holder of a civil aviation security service certificate that has expired or has been cancelled must within five working days surrender the certificate to the Executive Director.

(4) The holder of a certificate which is suspended must, within 48 hours of the suspension, produce the certificate upon suspension thereof, to a designated inspector, authorised officer or authorised person concerned for the appropriate endorsement.

Renewal of certificate

113.01.7 (1) An application for the renewal of a civil aviation security service certificate must be made to the Executive Director in the form and manner determined by the Executive Director.

(2) The application for the renewal must be made before the application renewal date specified on the certificate or, if no such renewal date is specified, not less than 30 days before the certificate expires.

SUBPART 2 CERTIFICATION REQUIREMENTS

Personnel requirements

113.02.1 (1) Each applicant for a civil aviation security service certificate must employ -

- (a) a senior person identified as the senior accountable manager who has the authority within the applicant's organisation to ensure that all activities undertaken by the organisation can be financed and carried out in accordance with the requirements prescribed by this Part; and
- (b) a senior person or group of senior persons -
 - (i) responsible for ensuring that the applicant's organisation complies with the requirements of this Part, and reporting directly to the senior accountable manager; and
 - (ii) sufficient personnel to plan, inspect, supervise and carry out the aviation security services detailed under regulation 113.02.6(1)(g).

(2) An applicant must establish a procedure to assess the ability of each employee or prospective employee to perform the duties and requirements of the position of a civil aviation security officer, taking into account the employee's -

- (a) education;
- (b) communication skills;
- (c) character;
- (d) experience; and
- (e) health.

(3) After the assessment an applicant must then designate aviation security officers and establish a procedure similar in the manner set out under Part 109 to train and maintain the competence of its aviation security officers.

(4) An applicant must provide personnel who are authorised to plan, inspect, supervise and carry out the civil aviation security services prescribed under regulation 113.02.6(1) (g) with written evidence of the scope of their authorisation.

Establishment of operations procedures

113.02.2 (1) Where the applicant for a civil aviation security service certificate is the operator of a security designated aerodrome, it must establish procedures necessary to enable the requirements in the NCASP and any other aviation security regulations, to be complied with in a manner not inconsistent with the NCASP.

(2) Where the applicant for a civil aviation security service certificate is the operator of a security designated navigation installation, it must establish procedures necessary to enable the requirements in the NCASP to be complied with.

Documentation

113.02.3 (1) Each applicant for a civil aviation security service certificate must establish a procedure to ensure all documentation that is necessary to support the aviation security services that it provides is available to all personnel who need access to the documentation to carry out their duties.

- (2) The documentation referred to in subregulation (1) must include -
- (a) all relevant legislation;
 - (b) all relevant international standards and technical standards released by the ICAO;
 - (c) all relevant international technical manuals and notices on aviation security;
 - (d) documentation issued to the certificate holder by the Executive Director; and
 - (e) the applicants 's security programme.

(3) The applicant must establish a procedure to control all documents referred to in subregulation (2) to ensure that -

- (a) the documents are reviewed and approved by appropriate personnel prior to issue;

- (b) outdated documents are promptly removed from all points of issue or use;
- (c) changes to documents are reviewed and approved by appropriate personnel;
- (d) the current issue of each document can be identified; and
- (e) the applicant's operations and security programme is amended so as to remain a current description of the service provider, its services, procedures and facilities.

(4) The applicant must establish a procedure to provide and maintain a copy of its civil aviation security programme at each location stipulated in regulation 113.02.6(1)(e).

Records

113.02.4 (1) Each applicant for a civil aviation security service certificate must establish a procedure to identify, collect, index, store and maintain the records that are necessary to ensure compliance with this Part.

- (2) The applicant must establish a procedure to -
 - (a) maintain a register of its civil aviation security officers, including details of their experience, qualifications, competence, training, medical assessment, and current authorisations; and
 - (b) ensure that -
 - (i) all records are of a legible and permanent nature;
 - (ii) the records required by paragraph (a) are retained for 24 months from the date the person ceases to be employed or contracted by the certificate holder; and
 - (iii) the records required other than by paragraph (a) are retained for 24 months.

Internal quality assurance

113.02.5 (1) Each applicant for a civil aviation security service certificate must establish an internal quality assurance system to ensure compliance with, and the adequacy of, the procedures required by this Part.

- (2) The internal quality assurance system must include -
 - (a) a civil aviation security policy and security policy procedures that are relevant to the applicant's organisational goals and the expectations and needs of its customers;
 - (b) a procedure to ensure quality indicators, including defect and incident reports and personnel and customer feedback, are monitored to identify existing problems or potential causes of problems within the system;
 - (c) a procedure for corrective action to ensure existing problems that have been identified within the civil aviation system are corrected;

- (d) a procedure for preventive action to ensure that potential causes of problems that have been identified within the system are remedied;
 - (e) an internal quality audit programme to audit the applicant's organisation for conformity with the procedures in its civil aviation security programme and achievement of the goals set in its security policy;
 - (f) management review procedures that may, where appropriate, include the use of statistical analysis, to ensure the continuing suitability and effectiveness of the internal quality assurance system in satisfying the requirements of this Part; and
 - (g) a procedure to ensure that the senior person who has the responsibility for internal quality assurance has direct access to the chief executive officer or senior accountable manager of the applicant on matters affecting civil aviation security.
- (3) The security policy procedure must ensure that the civil aviation security policy is understood, implemented, and maintained at all levels of the organisation.
- (4) The procedure for corrective action must specify how -
 - (a) to correct an existing problem;
 - (b) to follow up a corrective action to ensure the action is effective; and
 - (c) management must measure the effectiveness of any corrective action taken.
 - (5) The procedure for preventive action must specify how -
 - (a) to correct a potential problem;
 - (b) to follow up a preventive action to ensure the action is effective;
 - (c) to amend any procedure required by this Part as a result of a preventive action; and
 - (d) management must measure the effectiveness of any preventive action taken.
 - (6) The internal quality audit programme must -
 - (a) specify the frequency and location of the audits taking into account the nature of the activity to be audited;
 - (b) ensure audits are carried out by trained auditing personnel who are independent of those having direct responsibility for the activity being audited;
 - (c) ensure the results of audits are reported to the personnel responsible for the activity being audited and the manager responsible for internal audits;
 - (d) require preventive or corrective action to be taken by the personnel responsible for the activity being audited, if problems are found by the audit; and

- (e) ensure follow up audits to review the effectiveness of any preventive or corrective action taken.
- (7) The procedure for management review must -
 - (a) specify the frequency of management reviews of the quality assurance system taking into account the need for the continuing effectiveness of the system;
 - (b) identify the responsible manager who must review the quality assurance system; and
 - (c) ensure the results of the review are evaluated and recorded.

Organisation security programme

113.02.6 (1) An applicant for the grant of a civil aviation security service certificate must provide the Executive Director together with the security programme -

- (a) a statement signed by the senior accountable manager, on behalf of the organisation, confirming that the civil aviation security programme -
 - (i) defines the organisation and demonstrates its means and methods for ensuring ongoing compliance with this Part; and
 - (ii) is to be complied with by its personnel at all times;
- (b) the titles and names of the persons required under regulation 113.02.1(1) and (2);
- (c) the duties and responsibilities of the persons specified in paragraph (b), including matters in respect of which they deal directly with the Executive Director on behalf of the organisation;
- (d) an organisation chart showing associated lines of responsibility of the persons and supervisory persons specified in paragraph (b);
- (e) details of each location where the organisation intends to provide aviation security services and the facilities at each location;
- (f) a summary of the organisation's staffing structure to be used at each location listed under paragraph (e);
- (g) details of the civil aviation security services to be provided at each location;
- (h) details of the scope of the medical examination report and the method of assessment of fitness required;
- (i) details of the applicant's procedures required under -
 - (i) regulation 113.02.2 regarding the operating procedures;
 - (ii) regulation 113.02.3 regarding control and distribution of civil aviation security documentation;

- (iii) regulation 113.02.4 regarding the identification, collection, indexing, storage and maintenance of records; and
 - (iv) regulation 113.02.5 regarding internal quality assurance of the applicant's organisation;
 - (j) procedures for controlling, amending and distributing the civil aviation security programme;
 - (k) procedures for notifying, investigating and reporting any security incident to the Executive Director in accordance with the Act or these regulations; and
 - (l) procedures for reporting the detection of dangerous goods to the Executive Director.
- (2) An applicant's civil aviation security programme must be acceptable to the Executive Director.

SUBPART 3 OPERATING REQUIREMENTS

Continued compliance

- 113.03.7** Every holder of a civil aviation security service certificate must continue to -
- (a) hold at least one complete and current copy of its civil aviation security programme at each location specified in its security programme;
 - (b) comply with all the procedures and systems detailed in its civil aviation security programme;
 - (c) make each applicable part of its civil aviation security programme available to personnel who are required to comply with those parts in the performance of their duties; and
 - (d) meet the standards and comply with the requirements of Subpart 2.

Changes to aviation security programme

- 113.03.8** (1) Every holder of a civil aviation security service certificate must -
- (a) ensure that its civil security programme is amended so as to remain as the current description of its organisation;
 - (b) ensure any amendment to its civil aviation security programme manual meets the applicable requirements of this Part;
 - (c) comply with the amendment procedure contained in its civil aviation security programme;
 - (d) provide the Executive Director with a copy of each amendment to its civil aviation security programme as soon as practicable after the amendment is incorporated into its civil aviation security programme; and

- (e) make such amendments to its civil aviation security programme as the Executive Director may consider necessary in the interests of aviation security.

(2) Where the civil aviation certificate holder proposes to make a change to any of the following, prior application to, and approval by, the Executive Director is required:

- (a) the chief executive or senior accountable manager;
- (b) the listed senior persons or key post holders;
- (c) the location at which aviation security services may be provided;
- (d) the scope for which the certificate is granted; or
- (e) the organisation's internal quality assurance system.

(3) An application to make any of the changes specified in subregulation (2) must be made to the Executive Director in the form and manner determined by the Executive Director.

(4) The Executive Director may impose conditions during or following any of the changes specified in subregulation (2).

(5) The civil aviation certificate holder must comply with any conditions imposed under subregulation (4).

(6) Where any of the changes specified in subregulation (2) requires an amendment to the certificate, the civil aviation certificate holder must forward the certificate to the Executive Director as soon as practicable.

PART 114 AVIATION SECURITY BACKGROUND CHECKS

LIST OF REGULATIONS

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114.01.1 Applicability

SUBPART 2: PROCEDURE FOR SECURITY BACKGROUND CHECKS FOR PURPOSES OF CIVIL AVIATION

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114.02.2 Authority to act as participant or holder

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APPENDIX: Convictions disqualifying a person from participating in the Namibian civil aviation system

SUBPART 1 GENERAL

Applicability

- 114.01.1** (1) Subject to the provisions of sections 134 and 135 of the Act, this Part applies to -
- (a) persons employed at an airport, including persons who are responsible for -
 - (i) implementing security controls with regard to cargo and aircraft in-flight supplies, whether at an airport or any other location;
 - (ii) implementing screening of baggage and cargo at the airport or any other location;
 - (iii) access controls at an aviation installation; and
 - (iv) transportation of air cargo and mail;
 - (b) pilots and cabin crew attendants;
 - (c) aircraft maintenance engineers;
 - (d) regulated agents, approved known consignors and suppliers of in-flight supplies;
 - (e) at the discretion of the Executive Director, staff members and authorised persons of the Authority; and
 - (f) any other person or category of persons who may be required by the Executive Director to undergo security background checks pursuant to section 134 of the Act.
- (2) In order to carry a security background check the Executive Director may seek assistance from competent authorities in Namibia and, where necessary, in other States.
- (3) A security background check is carried out for purposes of establishing whether a person is a threat to civil aviation security.

SUBPART 2
PROCEDURES FOR SECURITY BACKGROUND CHECKS FOR PURPOSES OF CIVIL AVIATION

Procedure for security background check

114.02.1 (1) A security background check must be conducted in a reasonable manner to protect the privacy and integrity of all persons.

(2) A person in respect of whom a security background check is conducted will be informed of such action verbally and in writing, and his or her consent must be obtained and recorded and counter-signed by that person.

(3) A person in respect of whom a security background check is to be conducted must be informed of the consequences of refusing to consent to the background check.

Authority to act as participant or holder

114.02.2 (1) A person referred to in regulation 114.01.1 may not act as a participant or holder unless a security background check has been performed on such person or entity and granted approval, to be a participant or holder by the Executive Director.

(2) Without prejudice to section 134 of the Act, employers of participants referred to in regulation 114.01.1 must cause a security background check to be conducted by competent authorities in Namibia.

(3) The Executive Director must make known, in an Aeronautical Information Circular, to potential civil aviation participants referred to in regulation 114.01.1 the competent authorities of the State or other entities which may be authorised to conduct security background checks for the purposes of this Part.

Recording of security background checks

114.02.3 (1) Employers of participants referred to in regulation 114.01.1 must maintain a register including written proof that a security background check was conducted on its employees or entities.

(2) A register referred to in subregulation (1) must be kept in a safe place by the employer and, where so required, be provided to the Authority for inspection.

Period of validity of security background checks

114.02.4 (1) A security background check for the purposes of this Part is valid for a period not exceeding 24 months.

(2) Security background checks must be conducted after every 24 months.

Proof of identity of persons

114.02.5 Subject to regulation 114.02.6, a person's identity must, for the purposes of a civil aviation security background check, be established on production of one of the following original documents:

(a) in the case of Namibian citizens or permanent residents, either a Namibian identification card, a valid passport or a valid Namibian driver's licence; and

- (b) in the case of non-Namibian citizens or non-permanent residents, a valid passport together with an original immigration office document confirming the individual's right to work, study or reside in Namibia.

Alternative method of identification

114.02.6 (1) Where a person conducting a security background check is satisfied that the person whose identity is to be established cannot reasonably provide the documentation required under regulation 114.02.5, that person is required to provide the following original documents:

- (a) a birth or adoption certificate;
- (b) a registration or naturalisation document;
- (c) proof of residence in Namibia;
- (d) a passport-sized photograph endorsed on its back with the signature of a commissioner of oaths; and
- (f) the testimony of two persons aged 18 years or above who have known the person, either personally or professionally, for a minimum period of three years and a signed statement under oath or affirmation confirming that the signatory knows the person identified.

(2) The statement referred to in subregulation (1)(f) must contain the signatory's full name, identification number or passport number, occupation, residential address and telephone number.

Criminal records

114.02.7 (1) Criminal records must be produced in the form of an official police criminal record certificate (CRC), known as a "certificate of conduct", and in the case of non-Namibian citizens or non-permanent residents, a document equivalent to the certificate of conduct.

(2) A certificate of conduct remains valid for a period of six months from the date of issue.

Unfavourable certificate of determination

114.02.8 (1) Where it has been determined in the course of security background check that an applicant or employee has been convicted of a criminal offence listed in the Appendix, that applicant or employee cannot be allowed to become or continue to be a participant or holder, unless the Executive Director has issued a certificate of favourable determination relating to such conviction.

(2) Despite subregulation (1), where a period of 20 years has lapsed from the date of conviction for the offences referred to in the Appendix, that convicted person may be allowed to become a participant or holder.

Procedure for issuing certificate of favourable determination

114.02.9 (1) Before issuing a certificate of favourable determination the Executive Director must cause the person who was convicted of an offence in the Appendix to undergo a fit and proper person test in the manner contemplated by section 69 of the Act, and the following additional information, if not already provided for the purposes of this Part, must be considered:

- (a) whether the person so convicted showed any remorse for the crime committed;
 - (b) whether there is a likelihood that the person will repeat the same offence;
 - (c) the aviation document applied for;
 - (d) the person's propensity to committing crimes; and
 - (e) any other relevant factor.
- (2) A person who was convicted of an offence listed in the Appendix may apply in writing to the Executive Director for a certificate of favourable determination, and -
- (a) the Executive Director must, within 14 days of receipt of the application, inform the applicant of the date, time and place where a fit and proper person test may be conducted; and
 - (b) the applicant must pay the fee prescribed under Part 187.

Verification of education or employment

114.02.10 A person who is conducting a security background on another person must obtain written confirmation from employers, educational establishments or other sources capable of verifying the information provided by the person for the purpose of the security background check.

Self-employment

114.02.11 Where a security background check reveals that the person was self-employed, either wholly or in part, during any of the period covered by the check, written confirmation of the dates of the periods of self-employment must be obtained from any relevant third parties.

Security background check features

114.02.12 The minimum security background checks must include the following features:

- (a) establish the person's identity on the basis of documentary evidence;
- (b) cover criminal records, where relevant, of at least the preceding five years from the date of enquiry;
- (c) cover employment, education and any gaps in records during at least the preceding five years; and
- (d) establish that relevant institutions provided credible information on the person's profile regarding his or her involvement with terrorist activities.

Security background check on prospective employees

114.02.13 A security background check must be completed before any prospective employee referred to in regulation 114.01.1 undergoes any security training involving access to information which is not publicly available.

Filing of recruitment records

114.02.14 Recruitment records, including results of any assessment tests, must be kept for all persons recruited for at least the duration of their employment.

Foreign criminal record checks

114.02.15 (1) Where a person has been resident outside the territory of Namibia, criminal record certificates are required for each country that the person has been continuously resident in for six months or more, preceding a period of five years from the date of enquiry.

(2) Where a person has served abroad in the service of the State for a period of five years preceding the enquiry, he or she must provide an extract from his or her service records.

(3) The extract referred to in subregulation (1) must expressly disclose any convictions the person may have, and must cover periods spent overseas of six months or more.

Applicants who cannot obtain foreign criminal record check

114.02.16 In exceptional cases including, but not limited to a situation where official sources do not exist or officials are unable to supply the individual with a certificate, the individual must provide -

- (a) a statement under oath or affirmation;
- (b) a character reference from a referee; and
- (c) reasons as to why it is not possible to obtain the criminal record certificate.

Suitable referees

114.02.17 A person conducting a security background check of an employee or a prospective employee and considering references provided by the applicant must in addition to any other relevant factors take into account the following factors:

- (a) whether the referee has known the applicant for a period of three years or more;
- (b) whether the referee is resident in Namibia;
- (c) whether the referee holds a Namibian passport or a Namibian identity document;
- (d) whether the applicant and the referee are related to each other by birth, adoption, marriage or other conjugal relationship akin to that of husband and wife;
- (e) whether the applicant and the referee live at the same address; and
- (f) whether there is any specific reason why the referee offered to testify to the character of the individual.

APPENDIX

Convictions disqualifying a person from participating in the Namibian civil aviation system

Any person convicted of offences and acts below is disqualified from becoming an aviation participant or holder, unless a period of 20 years has lapsed from the date of conviction or the Executive Director has issued a certificate of favourable consideration.

- (a) terrorism;
- (b) unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;
- (c) interference with air navigation installation;
- (d) espionage or cybercrime;
- (e) commission of certain crimes aboard aircraft in-flight;
- (f) treason;
- (g) carrying a weapon or explosive aboard aircraft;
- (h) kidnapping or hostage taking;
- (i) human trafficking;
- (j) crimes involving dishonesty;
- (k) aircraft piracy and any other piracy;
- (l) unlawful entry into an aircraft or airport area;
- (m) any offence connected with bomb threats and or hoaxes, to the detriment of airport security;
- (n) armed robbery;
- (o) destruction of an aircraft or aircraft facility;
- (p) smuggling of specially protected game products and drugs or dependence producing substance; and
- (q) conspiracy or attempt to commit any of the aforementioned criminal acts.

Substitution of Part 139 of Regulations

10. The Regulations are amended by the substitution for Part 139 of the following Part:

“PART 139 AERODROMES

LIST OF REGULATIONS

SUBPART 1: GENERAL REQUIREMENTS

- 139.01.1 Applicability
- 139.01.2 Definitions for this Part
- 139.01.3 Applicable technical standards
- 139.01.4 Use of common reference systems
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- 139.01.9 Deviations
- 139.01.10 Publication of restrictions, deviations, exemptions and status of aerodromes
- 139.01.11 Storage of inflammable goods
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- 139.01.13 Lights which endanger safety of aircraft
- 139.01.14 Use of runways and taxiways
- 139.01.15 Points of entry into or exit from restricted areas of aerodrome
- 139.01.16 Movement of aircraft or vehicles in restricted area on direction of aerodrome operator
- 139.01.17 Access to apron

- 139.01.18 Points of access to or egress from apron
- 139.01.19 Movement of aircraft or vehicles on apron
- 139.01.20 Movement of aircraft on apron under direction of aerodrome operator
- 139.01.21 Movement of vehicles on apron under direction of aerodrome operator
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- 139.01.23 Securing of parked aircraft
- 139.01.24 Embarkation or disembarkation of persons into, or from, aircraft
- 139.01.25 Loading or unloading cargo and dangerous goods into, or from, aircraft
- 139.01.26 Supply of fuel to aircraft
- 139.01.27 Boarding or tampering with aircraft
- 139.01.28 Test-running of aircraft engines
- 139.01.29 Regulation of vehicular or other traffic at aerodrome
- 139.01.30 Entering or leaving aerodrome
- 139.01.31 Animals in restricted area of aerodrome
- 139.01.32 Acts prohibited on aerodromes and in terminal buildings
- 139.01.33 Lead-in lights
- 139.01.34 Land use in vicinity of aerodrome
- 139.01.35 Aeronautical studies
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SUBPART 1 GENERAL REQUIREMENTS

Applicability

139.01.1 (1) This Part applies to aerodromes and includes applicable requirements and standards relating to -

- (a) certification of aerodromes and operation of certified aerodromes;
- (b) licensing of aerodromes and operation of licensed aerodromes;
- (c) issuance of permits to, and operation of, category E aerodromes;
- (d) approval of non-licensed helicopter sites and their operation;
- (e) design and construction of aerodromes;

- (f) maintenance of aerodromes and associated facilities;
- (g) obligations of aerodrome operators; and
- (h) other matters relating to safety of aerodromes.

(2) This Part also sets out certain -

- (a) administrative requirements applying to the Executive Director; and
- (b) aviation security requirements applicable to aerodromes.

(3) A person may not use any place in Namibia as a place for the landing or departure of an aircraft unless that place has been -

- (a) certified in accordance with Subpart 3;
- (b) licensed in accordance with Subpart 4;
- (c) issued with a permit in accordance with Subpart 5; or
- (d) approved in accordance with Subpart 6,

and operated in accordance with this Part.

(4) A person may not use any area on any land, water or building for the landing or take-off of aircraft, if the air traffic in such area will in any way interfere with existing established procedures regarding controlled airspace.

Definitions for this Part

139.01.2 (1) In this Part, unless the context indicates otherwise -

“aerodrome operator” means a person who is -

- (a) certified to operate an aerodrome;
- (b) licensed to operate an aerodrome;
- (c) permitted to operate an aerodrome; or
- (d) approved to operate a non-licensed helicopter site;

“critical aeroplane” means the most demanding type of aeroplane for which the aerodrome is intended as defined in Document NAM-CATS-AH;

“Environmental Management Act” means the Environmental Management Act, 2007 (Act No. 7 of 2007); and

“local authority council” means the entity that administers the affairs of a municipality, town or village referred to in section 1 of the Local Authority Act, 1992 (Act No. 23 of 1992), and includes a regional council that administers the affairs of a settlement area referred to in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992).

(2) In this Part, the term aerodrome whenever used includes aerodromes and heliports in terms of Annex 14 to the Chicago Convention, Volumes I and II.

Applicable technical standards

139.01.3 (1) The technical standards for this Part are contained in Document NAM-CATS-AH which provides for the following matters:

- (a) standards, including procedures, systems and documents used for the operation of an aerodrome;
- (b) standards for facilities and equipment used in the operation of an aerodrome;
- (c) standards for the training and checking of aerodrome personnel; and
- (d) any other standards as may be included in the technical standards by the Executive Director.

(2) Where a particular regulation in this Part makes reference to a standard in Document NAM-CATS-AH, that standard is construed to form part of the regulation.

(3) The Executive Director may approve a variation in the standards contained in Document NAM-CATS-AH where the aerodrome operator can demonstrate an equivalent level of aviation safety.

Use of common reference systems

139.01.4 (1) At any aerodromes -

- (a) the World Geodetic System — 1984 (WGS-84) must be used as the horizontal (geodetic) reference system;
- (b) the Mean Sea Level (MSL) datum must be used as the vertical reference system (elevation) at aerodromes; and
- (c) except where notified in the Aeronautical Information Publication (AIP) or the Aeronautical Information Circular (AIC) of Namibia, the Gregorian calendar and Coordinated Universal Time must be used as the temporal reference system.

(2) The use of common reference systems must be in accordance with the standards prescribed in Document NAM-CATS-AH.

Categories of aerodromes

139.01.5 Aerodromes must be categorised as follows:

- (a) Category A: comprising aerodromes available for use by both international and domestic air traffic, including traffic of maximum certified take off mass of more than 60 000 kilogrammes;
- (b) Category B: comprising aerodromes available for use by both commercial and non-commercial domestic air traffic including air traffic with maximum certified take-off mass of more than 60 000 kilogrammes;

- (c) Category C: comprising aerodromes available for use by both commercial and non-commercial domestic air traffic with maximum certified take-off mass of not more than 60 000 kilogrammes;
- (d) Category D: comprising aerodromes available for use by both commercial and non-commercial domestic air traffic of maximum certified take-off mass of not more than 20 000 kilogrammes; and
- (e) Category E: comprising aerodromes available for use only by non-commercial domestic air traffic of maximum certified take-off mass of not more than 5 700 kilogrammes.

Aerodrome reference code

139.01.6 (1) An aerodrome reference code consisting of a code number and letter must be used for aerodrome planning purposes.

(2) The aerodrome reference code must be determined in accordance with the characteristics of the critical aeroplane for which the aerodrome facility is intended.

(3) The aerodrome reference code numbers and code letters required under subregulation (1) must be determined in accordance with the standards prescribed in Document NAM-CATS-AH.

Notifying and reporting of aerodrome data and information

139.01.7 (1) An aerodrome operator must notify and report to the Executive Director, air traffic service units concerned and the aeronautical information services any information which may affect the operation of aircraft.

(2) The information to be notified as required by subregulation (1) must be in accordance with standards prescribed in Document NAM-CATS-AH.

Restrictions and prohibitions on use of aerodromes

139.01.8 (1) The Executive Director may impose restrictions as to the use of an aerodrome and may limit or totally prohibit the operation of any aircraft -

- (a) not equipped with radio equipment; or
- (b) the radio equipment of which is not complementary to the radio equipment installed for the control of air traffic at such aerodrome, if the Executive Director is satisfied that such restriction, limitation or prohibition is necessary in the interests of aviation safety.

(2) An operator of a certified or licensed aerodrome may not allow the use of the aerodrome at night where such aerodrome lacks adequate facilities for night flights or where the terrain or other objects in the vicinity of the aerodrome are such that they endanger operation of aircraft used in night flights.

(3) Without prejudice to the obligations of the pilot-in-command to determine the suitability of conditions for the landing and take-off of an aircraft at any time and place, the Executive Director may prohibit flights by night to, or from, any aerodrome that in the opinion of the Executive Director lacks adequate facilities for night flights or where the terrain or other objects in

the vicinity of the aerodrome are such that they endanger operators of aircraft using such aerodromes for night flights.

Deviations

139.01.9 (1) An aerodrome operator must publish in the aerodrome manual, any deviation from the requirements stipulated in this Part or from any standards and procedures published for the design and operation of an aerodrome.

(2) Any deviations in terms of subregulation (1) must be approved by the Executive Director where the results of an aeronautical study conducted in accordance with regulation 139.01.35, indicates that an alternative level of compliance may be established without compromising safety.

Publication of restrictions, deviations and exemptions and status of aerodromes

139.01.10 The Executive Director must, upon the -

- (a) imposition of any restriction, limitation or prohibition;
- (b) endorsement of deviations in the aerodrome operations manual;
- (c) approval of exemptions;
- (d) issuing or renewal of an aerodrome certificate in terms of Subpart 3;
- (e) issuing or renewal of an aerodrome licence in terms of Subpart 4;
- (f) issuing of an aerodrome registration in terms of Subpart 5; or
- (g) approval of a non-licensed helicopter site in terms of Subpart 6,

publish in the AIP, according to the provisions of Part 175 -

- (i) particulars of the restriction, exemption, limitation or prohibition;
- (ii) the category for which the aerodrome is certified, licensed or permitted;
- (iii) the restrictions, if any, relating to non-compliance with, or deviations from -
 - (aa) the appropriate aerodrome design, operation or equipment standards prescribed in this Part; or
 - (bb) the appropriate airspace classification requirements prescribed in Parts 71 and 172;
- (iv) limitations on size of aircraft commensurate with the level of aerodrome rescue and firefighting services provided.

Storage of inflammable goods

139.01.11 (1) Fuel, pyrotechnic stores and all highly inflammable matter at an aerodrome must be stored only in buildings or receptacles which comply with the appropriate

standards provided for in any applicable law that regulates the storage of inflammable goods in Namibia.

(2) Fuel storage facility in and around aircraft hangars or any building must comply with the -

- (a) applicable technical standards set out in subregulation (1);
- (b) applicable local authority council regulations or by-laws, if any; and
- (c) requirements of any other law that regulates the storage of inflammable goods in Namibia.

Safety measures against fire

139.01.12 (1) A person may not -

- (a) smoke in or bring an open flame into -
 - (i) any place where such an act is prohibited by a notice displayed;
 - (ii) any place within 30 metres of an aircraft or any aircraft fuelling or fuel delivery vehicle, storage area, or dump for liquid fuel or explosives;
- (b) wilfully give a false fire alarm;
- (c) tamper or interfere with any fire hose reel, hydrant or any other item or equipment provided for fire-fighting purposes;
- (d) keep, store, discard or discharge any inflammable liquid, gas, signal flares or other like material in an aircraft except in the receptacle appropriate for the purpose or in a place on the aerodrome specifically approved by the aerodrome operator for the purpose; or
- (e) store, stack or use any material or equipment in a manner which constitutes or is likely to constitute a fire hazard.

(2) An aerodrome operator must -

- (a) display in conspicuous places appropriate signage in respect of the acts prohibited under subregulation (1);
- (b) establish preventive measures against possible fires on the aerodrome and identify a person or group of persons to maintain a fire prevention programme for the aerodrome and aerodrome buildings; and
- (c) ensure that no unsafe practice is performed on the aerodrome or within its vicinity.

(3) If unsafe practices have to be performed during any day-to-day maintenance of, or on, the aerodrome, the aerodrome operator must alert the rescue and fire fighting service concerned to be on standby for the duration of such practices.

Lights which endanger safety of aircraft

139.01.13 (1) The operator of an aerodrome must extinguish, screen or otherwise modify so as to eliminate the source of danger or cause to be extinguished, screened or otherwise modified any non-aeronautical ground light near an aerodrome which might endanger the safety of aircraft.

- (2) Whenever any light or pattern of lights is exhibited -
 - (a) in the vicinity of an aeronautical light or system of aeronautical lights which by reason of the possibility of it being mistaken for such aeronautical light or lights, is likely to endanger the safety of aircraft; or
 - (b) which, being in the vicinity of a certified or licensed aerodromes, is liable by its glare to endanger the safety of aircraft arriving at or departing from such aerodrome,

the Executive Director may serve a notice on the owner of the place where the light is exhibited or on the person having charge of the light or on the person owning or having charge of the pattern of lights or any portion of such pattern, directing such owner or person within the period specified in such notice to extinguish or screen effectively the light or lights under his, her or its control and in the future to prevent the exhibition of any light or particular type of light either at all or when ineffectively screened.

Use of runways and taxiways

139.01.14 Except in an emergency or on the direction of the aerodrome operator a person may not -

- (a) move an aircraft in the restricted area except on a runway or taxiway;
- (b) move or operate an aircraft or vehicle onto a runway or a taxiway -
 - (i) without the permission or instruction of the air traffic service unit operating at the aerodrome, whether or not the air traffic service unit is manned at the time;
 - (ii) except in accordance with written instructions issued by the air traffic service unit operating at such aerodrome, if the air traffic service unit is not manned at the time;
 - (iii) where no written instructions have been issued by such air traffic service unit as contemplated in subparagraph (ii), and the air traffic service unit is not manned at the time, except -
 - (aa) in a manner that will not endanger aircraft; or
 - (bb) with the approval of the aerodrome operator;
- (c) use a portion of an aerodrome other than a runway for landing an aircraft or for taking off; and
- (d) land, take-off or operate on a runway, an aircraft fitted with a tailskid.

Points of entry into or exit from restricted areas of aerodrome

139.01.15 (1) A person, other than a person carried in an aircraft or in or on a vehicle, may not enter or leave a restricted area of an aerodrome except at points of entry or exit established by the aerodrome operator for that purpose.

(2) A person may not cause or allow an aircraft or a vehicle travelling on the surface of an aerodrome to enter or leave a restricted area of an aerodrome, except at points of entry or exit established by the aerodrome operator for that purpose.

(3) Except in an emergency, a person -

(a) other than a person carried in an aircraft or in or on a vehicle, may not enter or leave a restricted area of an aerodrome; or

(b) may not move an aircraft or a vehicle travelling on the surface of an aerodrome into or from the restricted area,

except at an appropriate point of entry or exit stipulated in terms of subregulation (1) or (2).

Movement of aircraft or vehicles in restricted area on direction of aerodrome operator

139.01.16 (1) An operator of an aircraft or a vehicle operating within the restricted area of an aerodrome but outside the runway or taxiway must adhere to any direction given by the aerodrome operator.

(2) Where an operator or a person refuses or fails to comply with any direction given in accordance with subregulation (1), the aerodrome operator may relocate or remove the said aircraft or vehicle and may recover from such operator or person the costs incurred in having that aircraft or vehicle so moved and any such action by the aerodrome operator does not exempt that operator or person from a prosecution in respect of such refusal or failure.

(3) Any direction given by the aerodrome operator in terms of subregulation (1) does not authorise any person to move the aircraft or a vehicle onto a runway or a taxiway -

(a) without the permission of the air traffic service unit operating at the aerodrome, if the air traffic service unit is manned at the time;

(b) except in accordance with instructions issued by the air traffic service unit operating at that aerodrome, if the air traffic service unit is not manned at the time; or

(c) except in a manner that does not endanger other aircraft, if the air traffic service unit is not manned at the time and no instructions have been issued by such air traffic service unit.

Access to apron

139.01.17 (1) Except with the approval of the aerodrome operator and in accordance with approved procedures, a person may not have access to the apron of a certified or licensed aerodrome, unless -

(a) that person is being carried in an aircraft or in or on a vehicle travelling on the surface of an aerodrome;

- (b) that person is about to embark in an aircraft parked on the apron and is proceeding under the supervision of the operator of that aircraft or his or her employee from the terminal building to that aircraft;
 - (c) that person has disembarked from an aircraft parked on the apron and is proceeding under the supervision of the operator of that aircraft or his or her employee from that aircraft to the terminal building;
 - (d) that person is the operator of an aircraft parked on or moving on the surface of the apron or the operator's employee only during the performance of that employee's duties or the course of his or her employment requires his or her presence on the apron; or
 - (e) that person is the holder of the aerodrome certificate or licence or an employee of the holder in the performance of their duties.
- (2) Except with the approval of the aerodrome operator, a person may not move an aircraft or a vehicle travelling on the surface of a certified or licensed aerodrome onto the apron.
- (3) The aerodrome operator must determine procedures according to which permission to have access to the apron may be granted.

Points of access to or egress from apron

139.01.18 Except in an emergency, a person, other than a person carried in an aircraft or in or on a vehicle travelling on the surface of a certified or licensed aerodrome, may not access or depart the apron or move a vehicle or aircraft onto or from an apron, except at appropriate points of access or egress established by the operator for such purpose.

Movement of aircraft or vehicles on apron

- 139.01.19** (1) A person may not move an aircraft or any vehicle on the apron of an aerodrome -
- (a) if there is any reasonably foreseeable danger of a collision with a person or object on the aerodrome; and
 - (b) unless a speed is maintained which is safe and reasonable under the circumstances, but which does not in any case exceed 25 km per hour, but -
 - (i) any signals given by hand or otherwise by an official on duty at the aerodrome by instruction of the aerodrome operator to a pilot in control of an aircraft which is being moved on the aerodrome or to a driver or other person in control of any vehicle which is being moved on the apron; or
 - (ii) any mark or light on the aerodrome having the purpose of serving as an aid to a pilot-in-command of an aircraft or driver or person in control of any vehicle to indicate a specific route or parking bay on the aerodrome,

may not, in any circumstances, excuse or exempt that pilot, driver or other person from his, her or its obligation to stop such aircraft or vehicle or to take any other steps which might under the specific circumstances be imperative in order to avoid such collision or damage to property or loss of life.

(2) A person may not move an aircraft travelling under its own power on the surface of an aerodrome on the apron, unless that person is the holder of an appropriate licence which entitles that person to pilot that aircraft, except that a student pilot who holds a student pilot licence may move an aircraft on the apron while undergoing training, if the student is accompanied in the aircraft by the holder of a flight instructor rating.

Movement of aircraft on apron under direction of aerodrome operator

139.01.20 The operator of an aircraft which is on the apron must, on being directed to do so by the aerodrome operator, move that aircraft -

- (a) from the position in which it was placed to another position in the same parking place;
- (b) from the parking place in which it was parked to any other parking place on the apron; or
- (c) the apron,

and if the operator of such aircraft refuses or fails or is not present to comply forthwith with the direction, the aerodrome operator may have the aircraft moved to comply with the direction and may recover the costs incurred in having the aircraft so moved from the operator of the aircraft and any such action by the aerodrome operator does not exempt that operator from a prosecution in respect of the refusal or failure.

Movement of vehicles on apron under direction of aerodrome operator

139.01.21 The person in lawful charge of a vehicle on the apron must, on being directed to do so by the aerodrome operator, move that vehicle -

- (a) to another place on the apron indicated by the aerodrome operator; or
- (b) from the apron,

and if that person refuses or fails or is not present to comply forthwith with the direction, the aerodrome operator may have the vehicle moved to comply with the direction and may recover from that person the costs incurred in having the vehicle so moved and any such action by the aerodrome operator does not exempt that person from prosecution in respect of the refusal or failure.

Parking of aircraft on apron

139.01.22 (1) An operator of a certified or licensed aerodrome must -

- (a) provide suitable parking stands based on the size and types of aircraft operating at the aerodrome; and
- (b) provide procedures to safely guide aircraft in to the parking bay where the docking system is not in place or is unserviceable.

(2) The operator of an aircraft must ensure that an aircraft is parked in the place on the apron allocated to it by the aerodrome operator and in the position required by the aerodrome operator.

(3) Where the aircraft operator refuses or fails to comply with the requirement of subregulation (2), the aerodrome operator may have that aircraft parked or positioned so as to comply with the terms of such allocation or positioning.

(4) An aerodrome operator may pursuant to subregulation (3), recover the costs incurred in so parking or positioning of that aircraft, from the operator of that aircraft and any such action by the aerodrome operator may not exempt that operator from prosecution in respect of the refusal or failure.

(5) Save in an emergency, a person may not move an aircraft from the parking place allocated to it or from the position in which it was placed in terms of these regulations except with the approval of the aerodrome operator.

Securing of parked aircraft

139.01.23 (1) The operator of an aircraft must properly secure an aircraft parked on the apron and unattended.

(2) An aircraft operator must ensure that appropriate chocks or mooring equipment are used to secure the aircraft.

(3) An aerodrome operator must -

(a) make available facilities to enable aircraft operators to safely secure their aircraft.

(b) ensure that the operator of an aircraft complies with the requirements of subregulations (1) and (2).

Embarkation or disembarkation of persons into, or from, aircraft

139.01.24 (1) An operator of an aircraft in which persons are to be embarked or from which persons are to be disembarked on the apron must -

(a) supervise the embarking or disembarking of persons from such aircraft; and

(b) where the aircraft requires the use of passenger stairs for embarking or disembarking persons in or from such aircraft, ensure that such stairs are correctly and securely placed at each aircraft door in accordance with operator's instructions prior to use.

(2) Except in the case of an emergency or with the approval of the aerodrome operator, a person may not embark in or disembark from an aircraft except on the apron.

(3) An operator of an aircraft must ensure that authorised aircraft operator personnel are on standby with appropriate fire extinguishers during the loading or unloading of passengers, and when aircraft fuelling operations are taking place.

(4) The pilot-in-command of an aircraft that is being refuelled with passengers on board must ensure that the 'no smoking sign' is activated within the cabin and that passengers are advised of extra safety information.

(5) If required by the aerodrome operator or aerodrome rescue and firefighting services (ARFFS), personnel must be placed on standby when refuelling of an aircraft is being performed with passengers on board.

Loading or unloading cargo and dangerous goods into, or from, aircraft

139.01.25 (1) A designated inspector, authorised officer or authorised person authorised to supervise loading or unloading cargo in or from aircraft on the apron must ensure that -

- (a) all working aircraft holds and doors are open to permit the efficient loading or unloading;
- (b) all proper labels are affixed to all items of cargo to be carried in such aircraft;
- (c) each item of cargo is placed in its appropriate place and without damage to the aircraft; and
- (d) any damage during loading or unloading of cargo is reported to the operator of the aircraft prior to the departure of the aircraft.

(2) Except in the case of an emergency or with the approval of the aerodrome operator, a person may not load or unload cargo from an aircraft, unless the loading or unloading takes place on the apron.

(3) The operator of an aircraft in which dangerous goods are to be loaded or from which dangerous goods are to be unloaded, as the case may be, on the apron must, before loading or unloading such dangerous goods, inform the aerodrome operator of the nature of the dangerous goods and the proposed time and method of the loading or unloading.

(4) If the operator of an aircraft has in terms of subregulation (3), informed the aerodrome operator of the proposed loading or unloading and the aerodrome operator considers that persons or property on the aerodrome will be endangered by the proposed loading or unloading, the aerodrome operator may -

- (a) permit such loading or unloading subject to such conditions which the aerodrome operator may consider necessary to impose with a view to safeguarding persons or property on the aerodrome;
- (b) prohibit such loading or unloading; or
- (c) direct that such loading or unloading be undertaken at another time or by another method or both at another time and by another method, and the aerodrome operator may, in addition, impose any condition which the aerodrome operator may consider necessary for the purpose of safeguarding persons or property on the aerodrome.

(5) If dangerous goods have been loaded in or unloaded from an aircraft without the knowledge of the aerodrome operator, the aerodrome operator may direct that such dangerous goods be unloaded from or reloaded in such aircraft or give such other directions or impose such conditions which the aerodrome operator may consider necessary with a view to safeguarding persons or property at the aerodrome.

(6) The operator of an aircraft which is conveying dangerous goods on an aerodrome must, if directed to do so by the aerodrome operator, move such aircraft to another place on the aerodrome and keep that aircraft in that place until the aerodrome operator grants permission for that aircraft to be moved.

- (7) If the operator of an aircraft in which dangerous goods are conveyed -

- (a) refuses or fails or is not present to comply forthwith with -
 - (i) any prohibitions made by the aerodrome operator in terms of subregulation (4); or
 - (ii) any direction given by the aerodrome operator in terms of subregulations (4), (5) or (6); or
- (b) refuses or fails or is not present to comply forthwith with a condition imposed by the aerodrome operator in terms of subregulation (4) or (5),

the aerodrome operator may take all steps necessary to ensure that any such prohibition, direction or condition is complied with as expeditiously and as safely as possible and may recover from the operator of such aircraft the cost incurred in ensuring compliance with such prohibition, direction or condition and any such action by the aerodrome operator does not exempt that operator from a prosecution in respect of such refusal or failure.

Supply of fuel to aircraft

139.01.26 (1) A person may not supply any fuel to an aircraft except at a place and in a manner approved by the aerodrome operator.

(2) The aerodrome operator may require a person approved to supply fuel at an aerodrome in terms of subregulation (1) to comply with such conditions as the aerodrome operator may consider necessary for the purpose of safety.

- (3) The aerodrome operator must -
 - (a) develop procedures to be used for refuelling of aircraft at the aerodrome;
 - (b) institute measures to periodically monitor the refuelling processes to ensure compliance with the procedures developed in terms of paragraph (a) are maintained;
 - (c) institute measures to record, address and resolve any identified non-conformance with procedures for the supply of fuel to an aircraft;
 - (d) ensure that arrangements are in place to summon and facilitate emergency services as may be required during refuelling of aircraft.

(4) The operator of an aerodrome must ensure that fixed installation refuelling facilities are provided with emergency cut-off switches that are clearly marked and situated in an accessible place without causing danger to persons or property in the event of an emergency.

Boarding or tampering with aircraft

139.01.27 Except with the permission of the aircraft operator or the person in lawful charge of an aircraft, a person may not on an aerodrome -

- (a) board the aircraft other than doing so under the direction of the aircraft operator; or
- (b) tamper or interfere in any way whatsoever with the aircraft or its associated equipment or anything used in connection with the aircraft.

Test-running of aircraft engines

139.01.28 A person may not test-run an aircraft engine at an aerodrome except at the approved aircraft maintenance facility of the aerodrome or a place designated for that purpose by the aerodrome operator.

Regulation of vehicular or other traffic at aerodrome

139.01.29 All vehicular traffic or other traffic when operated on an aerodrome must, where applicable, at all times comply with the Road Traffic and Transport, 1999 (Act No. 22 of 1999), and the related regulations or any other applicable laws.

Entering or leaving aerodrome

139.01.30 (1) A person, other than a person entering or leaving an aerodrome by means of an aircraft landing at, or taking off from, that aerodrome, may not enter or leave that aerodrome otherwise than through a gate or entrance provided by the aerodrome operator for the entry and exit of persons and vehicles.

(2) A person who is directed by an authorised person to leave the aerodrome or any part thereof, must do so forthwith and refusal or failure to comply with such direction constitutes the commission of an offence.

Animals in restricted area of aerodrome

139.01.31 (1) A person may not cause or permit any animal to graze or feed in the restricted area of an aerodrome unless such animal is in that area for the purpose of transportation on a flight.

(2) A person who brings an animal into the restricted area of an aerodrome or who receives an animal in the restricted area of an aerodrome must ensure that such animal is at all times under proper control while it remains in the restricted area of the aerodrome.

Acts prohibited on aerodromes and in terminal buildings

- 139.01.32** (1) A person may not -
- (a) obstruct or interfere with the use of an aerodrome;
 - (b) obstruct any person in the employment of the aerodrome operator acting in the execution of that person's duty in relation to the aerodrome;
 - (c) remove any notice board erected by the aerodrome operator or with the permission of the aerodrome operator or any writing or document displayed on that notice board or deface any writing or document or any marking on that notice board or document;
 - (d) throw, leave or drop anything capable of causing injury to any person or animal or damage to any property;
 - (e) dump any waste matter whatsoever elsewhere than at a place approved for the purpose by the aerodrome operator;
 - (f) commit any act which amounts to nuisance or commit a disorderly or indecent act or be in a state of intoxication or behave in a violent or offensive

manner to the offence or annoyance of other persons on the aerodrome or make use of offensive language;

- (g) write, draw or affix any profane, obscene, indecent or abusive word, matter, presentation or character on the aerodrome or on property on the aerodrome;
- (h) dump or spill any substance capable of causing water pollution, whether such substance is a solid, liquid, vapour or gas or combination thereof, elsewhere than at a place approved for that purpose by the aerodrome operator;
- (i) provide false information that results or could result in the deployment of the aerodrome emergency services; or
- (j) misuse the fire crash alarm for any other purposes than for deployment of the emergency services for an actual emergency, unless a request from an authorised person is received for the purposes of determining compliance with licensing audit requirements.

not - (2) Except with the written permission of the aerodrome operator, a person may

- (a) bring a vehicle into or drive a vehicle in or into a terminal building on an aerodrome;
- (b) obstruct an entrance to, or a passage in, a terminal building in such a manner as to inconvenience other users of the entrance or passage concerned; or
- (c) walk or drive a vehicle or other conveyance machine or device across any taxiway or runway.

(3) Except with the written permission of an aerodrome operator, a person may not on an aerodrome or on any public road or parking area adjacent to that aerodrome -

- (a) damage, interfere or tamper with any part of the aerodrome, public road or parking area or any equipment associated with the operation of the aerodrome;
- (b) climb any wall, fence, barrier, railing, gate or post;
- (c) wash or otherwise clean or polish a vehicle elsewhere than at a place approved for that purpose by the aerodrome operator;
- (d) cut, dig, damage or remove any soil, grass, tree, shrub or flower;
- (e) go on to, or damage, any flower-bed or anything growing therein;
- (f) remove, pick or otherwise damage any tree, shrub, plant or flower;
- (g) go on to a lawn or on to ground which has been seeded or planted for the purpose of growing grass to form a lawn;
- (h) display or post advertisements, posters, banners or anything similar;
- (i) handle any baggage or confront passengers to carry their baggage;

- (j) tout for any services, including public transport, taxi, car valet, accommodation, parking and car-wash services; or
- (k) solicit for funds.

(4) An operator of an aerodrome reserves the right of admission to terminal buildings of the aerodrome, and signs to this effect must be erected in a conspicuous place near all entrances to those terminal buildings.

(5) The operator of an aerodrome or an authorised person may request any person on the aerodrome property to provide valid reasons for being there, and if an acceptable reason cannot be furnished, order that person to leave the aerodrome and its premises.

(6) Any person ordered by a duly authorised person to vacate or leave an aerodrome and its premises must do so forthwith and refusal or failure to comply with such order constitutes the commission of an offence.

(7) The operator of a certified or licensed aerodrome or an authorised person may carry out a search of any article, parcel or baggage in possession of, or under the control of, any person at an aerodrome.

(8) A person may not, on a certified or licensed aerodrome, carry out any trade or business unless that person is the holder of a valid permit, licence or concession, issued by or on behalf of the aerodrome operator, which entitles the holder thereof to carry out the trade or business specified on that particular aerodrome.

(9) A person may not provide false information that will or is likely to necessitate the deployment of the emergency services or might result in the sounding or activation of fire or any other safety or security alarm system.

Lead-in lights

139.01.33 Where the Executive Director so requires, an operator of a certified or licensed aerodrome must ensure that such aerodrome has a runway lead in light system which -

- (a) provides visual guidance along a specific approach path;
- (b) assists in the avoidance of hazardous terrain; and
- (c) assists in noise abatement.

Land use in vicinity of aerodrome

139.01.34 (1) A person who intends to carry out land use activities in the vicinity of aerodromes which are likely to impact on the operational safety of the aerodrome and the safety of the surrounding communities must, during the planning for such land use activities, consult with the Executive Director and operator of the aerodrome or the operator's personnel.

(2) All land use practices and activities in the vicinity of an aerodrome must conform to the standards prescribed in Document NAM-CATS-AH.

Aeronautical studies

139.01.35 (1) An operator of an aerodrome must monitor the aerodrome's operations for any significant change or changes that may affect the safety of aerodrome operations.

(2) Despite subregulation (1), the Executive Director may require an operator of an aerodrome to conduct an aeronautical study for any significant change or changes that may affect the safety of aerodrome operations.

(3) An aeronautical study pursuant to subregulation (2) must be conducted in accordance with standards prescribed in Document NAM-CATS-AH.

Safety inspections and audits

139.01.36 (1) An applicant for the issuing of an aerodrome certificate or licence must permit a person authorised by the Executive Director to carry out such safety inspections and audits which may be necessary to verify the validity of the application concerned.

(2) A holder of an aerodrome certificate or licence must permit a person authorised by the Executive Director access to carry out safety inspections and audits of such holder's aerodrome, documents, equipment, records and personnel as may be necessary to determine compliance with the appropriate requirements prescribed in this Part.

Testing of aerodrome facilities, equipment and procedures

139.01.37 (1) The operator of an aerodrome must allow a person or persons authorised by the Executive Director to conduct tests of aerodrome facilities, equipment or operating procedures at the aerodrome for the purpose of ensuring aviation safety.

(2) The operator must allow a person or persons authorised by the Executive Director access to any part of the aerodrome or any aerodrome facilities, equipment or records for the purposes of carrying out such tests.

(3) The person or persons authorised by the Executive Director must give reasonable notice of any tests to be conducted in terms of subregulation (1) or (2), to the operator and carry out the tests at a reasonable time as agreed with the operator.

Register of aerodrome certificates and licences

139.01.38 (1) The Executive Director must maintain a register of all aerodrome certificates and licences issued in terms of this Part in accordance with section 52 of the Act.

(2) The register for certified and licensed aerodromes must be identified as the "Register of Certified Aerodromes" and "Register of Licensed Aerodromes" respectively and each register must contain the following particulars:

- (a) the full name and, if any, the trade name of the holder of the certificate or licence;
- (b) the postal, electronic mail and physical address of the holder of the certificate or licence;
- (c) the telephone, cell phone and telefax numbers of the holder of the certificate or licence;
- (d) the name and the location of the aerodrome for which the certificate or licence was issued;
- (e) the category of the aerodrome;

- (f) the number of the certificate or licence issued to the holder;
- (g) the date on which the certificate or licence was issued;
- (h) the file reference numbers of initial and subsequent safety inspection records and audit reports in respect of all aerodromes certified or licensed; and
- (i) the nationality of the holder of the certificate or licence.

(3) The particulars referred to in subregulation (2) must be recorded in the register within seven days from the date on which the certificate or licence is issued or renewed, as the case may be, by the Executive Director.

(4) The register must be kept in a safe place at the office of the Executive Director as part of the Civil Aviation Registry established in terms of section 52(1) of the Act and be accessible to the public in terms of section 52(3) of the Act.

(5) The Executive Director must furnish a copy of the register to any person who requests the copy upon payment of the appropriate fees prescribed in Part 187.

Use of military aerodromes

139.01.39 (1) Subject to the approval of the Minister responsible for defence, the Executive Director may, upon application by any operator of an aircraft who desires to use a military aerodrome for civil aviation purposes, authorise the use of the military aerodrome for civil aviation purposes.

(2) An authorisation to use the military aerodrome must be granted in writing and may include such conditions as the Executive Director may determine, if the Executive Director is satisfied that the use of that military aerodrome by the operator will not jeopardise aviation safety or security.

(3) The application and the grant of an authorisation to use a military aerodrome must be in accordance with standards prescribed in Document NAM-CATS-AH.

Specific procedures for aerodrome operations

139.01.40 (1) An operator of a certified or licensed aerodrome must ensure that when the aerodrome accommodates an aircraft that exceeds the certificated characteristics of the aerodrome, the compatibility between the operation of the aeroplane and aerodrome infrastructure and operations are assessed and appropriate measures developed and implemented in order to maintain an acceptable level of safety during operations.

(2) The assessment of the compatibility of the operation of a new aeroplane with an existing aerodrome in accordance with subregulation (1) must be in accordance with the standards prescribed in Document NAM-CATS-AH.

Security measures

139.01.41 (1) An aerodrome operator must ensure that the security requirements are determined during the design and construction of an aerodrome.

(2) The security measures at an aerodrome must take into account the provisions of Part 111, and the related standards, procedures and practices.

(3) Despite the requirements of subregulation (1) and (2), the operator of any aerodrome that has been designated as a security designated aerodrome in accordance with section 130 of the Act, must ensure compliance with the relevant aviation security provisions of the Act and the applicable requirements in Part 111.

Low visibility operations

139.01.42 An operator of a certified or licensed aerodrome, must have procedures in place for operations during conditions of low visibility in accordance with standards prescribed in Document NAM-CATS-AH.

Exemptions

139.01.43 (1) The Executive Director may in accordance with section 46 of the Act grant an aerodrome operator an exemption from specific provisions of these regulations taking into account all aviation safety-related aspects of the aerodrome.

(2) The Executive Director may approve an exemption under subregulation (1) where the results of an aeronautical study conducted in accordance with regulation 139.01.35, indicates that an alternative level of compliance may be established without compromising aviation safety.

(3) Where an exemption is granted in accordance with subregulation (1), the Executive Director may determine the conditions necessary to ensure an equivalent level of safety referred to in subregulation (2), and such conditions must be set out in an endorsement on the aerodrome certificate or licence.

(4) An aerodrome operator must comply with any conditions specified by the Executive Director in the endorsement on the aerodrome certificate or licence.

(5) An aerodrome operator must publish in the aerodrome manual, any exemptions granted by the Executive Director under this regulation.

Compensation payable for spilling substances on certain areas

139.01.44 (1) Where fuel, hydraulic liquid or any other substance which causes damage to, or defaces, the apron or manoeuvring area or poses a safety hazard is spilled from or by any aircraft, vehicle or any other technical equipment on the apron or manoeuvring area of an aerodrome, the owner or operator of such aircraft, vehicle or technical equipment, as the case may be, must compensate the aerodrome operator for the cleaning of the apron or manoeuvring area as a result of such spilling.

(2) The compensation payable under subregulation (1) must be determined on a cost recovery basis.

Firing of rockets, missiles, flares or other objects in vicinity of aerodromes

139.01.45 (1) A person may not fire a rocket, missile, flares or any other object other than those used for aeronautical distress within the vicinity of an aerodrome, unless that person has been granted permission to do so by the Executive Director.

(2) Despite subregulation (1), the firing of rockets, missiles, flares or any other objects may not take place at or within 15 kilometres from the aerodrome reference point of a certified or licensed aerodrome.

SUBPART 2
AERODROME DESIGN AND CONSTRUCTION REQUIREMENTS

Applicability of Subpart

139.02.1 This Subpart applies to aerodromes categorised as A, B C and D by regulation 139.01.5.

Construction of aerodrome

139.02.2 (1) A person may not construct an aerodrome unless that person has obtained the necessary authorisation issued by the Executive Director.

(2) An application to construct an aerodrome must be submitted to the Executive Director in the form and manner determined by the Executive Director and must be accompanied by -

- (a) full particulars of the particular area demarcated for the development of the aerodrome, and the location thereof;
- (b) a detailed design of the proposed construction including related architectural requirements approved, where possible, by the relevant local authority council;
- (c) written approval from the following institutions for the intended aerodrome development:
 - (i) for private aerodromes, approval from the relevant local authority council;
 - (ii) for commercial aerodromes intended for domestic operations, approval from the relevant local authority council; and
 - (iii) for international aerodromes, approval from the relevant local authority council and the Ministry responsible for works and transport; and
- (d) aerodrome data in accordance with the characteristics of the critical aeroplane for which the aerodrome is intended;
- (e) a topographical map of the proposed aerodrome site;
- (f) an environmental clearance certificate issued under the Environmental Management Act; and
- (g) the applicable fees as prescribed under Part 187.

(3) On receipt of the application, the Executive Director must assess the suitability of the place proposed for construction taking into consideration -

- (a) the proximity of the place to other aerodromes and landing areas including military aerodromes;
- (b) the obstacles, terrain and existing airspace restrictions; and
- (c) that it is not against public interest that the place where the aerodrome is to be constructed should be used as such.

(4) The Executive Director must make arrangements for the inspection of the proposed site of the aerodrome prior to commencement of construction to ascertain compliance with the applicable technical standards.

(5) The Executive Director may grant the application, if he or she is satisfied that the requirements of subregulations (2) and (3) have been met and the results of the inspection required under subregulation (4) indicate that the construction of the aerodrome will not jeopardise aviation safety.

(6) The Executive Director must make arrangements for the inspection of the proposed aerodrome during construction to ascertain compliance with the applicable technical standards and any conditions specified in the authorisation.

(7) A person authorised to construct an aerodrome must ensure that the design and construction of the aerodromes -

- (a) is undertaken by a person registered with, or approved by, the relevant professional body; and
- (b) takes into account, as appropriate, land-use and environmental control measures.

Requirements for aerodrome design

139.02.3 (1) An applicant for the construction of an aerodrome must ensure that the aerodrome design required under regulation 139.02.2(2)(b) is appropriate to the critical aeroplane for which the aerodrome is intended.

(2) An applicant for the construction of an aerodrome must integrate architectural and infrastructure-related requirements for the optimum implementation of international civil aviation security measures referred to in regulation 139.01.41 into the design and construction of new facilities and alterations to existing facilities at an aerodrome.

- (3) An aerodrome design must -
 - (a) indicate the physical characteristics of the aerodrome appropriate to the characteristics of the critical aeroplane for which the aerodrome is intended to serve;
 - (b) indicate the obstacle limitation surfaces;
 - (c) indicate visual aids for -
 - (i) navigation;
 - (ii) denoting obstacles; and
 - (iii) restricted areas; and
 - (d) indicate aerodrome data including the appropriate equipment and installations;
 - (e) indicate an airspace classification referred to in Parts 71 and 172;

- (f) indicate an appropriate level of firefighting services appropriate to the characteristics of the critical aeroplane it intends to serve in accordance with regulation 139.16.3;
- (g) indicate the lowest meteorological minima for each runway;
- (h) be in accordance with the standards prescribed in Document NAM-CATS-AH.

Issuance of certificate of intent

139.02.4 (1) Where an application to construct an aerodrome has been granted by the Executive Director, a proposed holder of an aerodrome certificate or licence may submit an application to the Executive Director for the grant of a certificate of intent.

(2) An application for the issuing of a certificate of intent must be made to the Executive Director in the form and manner determined by the Executive Director.

(3) The application for a certificate of intent must be accompanied by -

- (a) the documents listed under 139.02.2(2); and
- (b) written comments from the air navigation service provider regarding the impact on the existing airspace structure and the feasibility of accommodating the intended aerodrome development in the airspace structure.

(4) The Executive Director must, as soon as practicable after the receipt of an application for certificate of intent, publish a notice in the *Gazette* the following particulars in respect of the application concerned:

- (a) the full name of the applicant;
- (b) full particulars of the location of the aerodrome; and
- (c) reference to the date by which the representations referred to in subregulation (5) must be submitted to the Executive Director.

(5) Any person may, after the publication of the notice referred to in subregulation (4), submit in writing representations to the Executive Director against or in favour of the application concerned.

(6) The Executive Director may grant the application if he or she is satisfied that the application complies with the requirements prescribed in these regulations.

(7) A certificate of intent must be issued on the form as determined by the Executive Director.

(8) The certificate of intent must specify the conditions and the restrictions which the Executive Director considers necessary in the interests of aviation safety.

- (9) A certificate of intent -
 - (a) is not transferable; and

- (b) must remain valid for the period determined by the Executive Director, which period must not exceed five years, calculated from the date on which the certificate is issued.

SUBPART 3 CERTIFICATION OF AERODROMES

Applicability of Subpart

139.03.1 (1) This Subpart applies to category A aerodromes.

(2) This Subpart also applies to aerodromes in category B that have to be certified as considered necessary by the Executive Director.

(3) Despite subregulations (1) and (2), an aerodrome operator may apply for certification of that operator's aerodrome in accordance with the provisions of this Subpart.

Requirement for aerodrome certificate

139.03.2 (1) A person may not operate an aerodrome used for international operations unless that person holds a certificate issued by the Executive Director in accordance with this Subpart.

(2) The issuance and renewal of an aerodrome certificate is subject to the aerodrome complying with these regulations and the standards prescribed in Document NAM-CATS-AH.

(3) The Authority must, by means of audit procedures and inspections at various times as determined by the Executive Director, during the preceding certificate period or before the issuing of a new certificate, determine compliance with these regulations and standards for the purposes of issuing or renewal of a certificate.

(4) The Authority must charge fees on the aerodrome certificate holder, upon issuance or renewal of an aerodrome certificate, in accordance with fees as prescribed in Part 187.

Application for aerodrome certificate

139.03.3 (1) An applicant for the issuing of an aerodrome certificate must -

- (a) submit an application to the Executive Director in the form and manner determined by the Executive Director; and
 - (b) pay the appropriate application fee as prescribed in Part 187.
- (2) An application under subregulation (1) must include -
- (a) a completed application form;
 - (b) the aerodrome manual prepared in accordance with Subpart 7;
 - (c) the plan of the aerodrome and its facilities approved by the appropriate local authority council;
 - (d) evidence of lawful entitlement to use the place as an aerodrome;

- (e) an aerodrome environmental management programme referred to in regulation 139.08.15;
 - (f) the procedures for the notification and reporting of aerodrome data and information referred to in Subpart 9;
 - (g) written approval from the local authority, regional or traditional authority council in whose area of jurisdiction the proposed aerodrome is situated, and from all relevant governmental offices, ministries, agencies and entities whose approval is required;
 - (h) proof that the applicant is financially capable of operating the aerodrome, including the provision of firefighting service required under Subpart 16;
 - (i) particulars of non-compliance with or deviations from -
 - (i) the appropriate aerodrome design, operation or equipment standards;
 - (ii) the appropriate airspace classification in terms of Parts 71 and 172;
 - (j) the appropriate fee as prescribed in Part 187.
- (3) The application must be submitted to the Executive Director not less than 90 days before the date that the certificate is required.
- (4) The Executive Director must, as soon as practicable after the receipt of an application for an aerodrome certificate or for an amendment thereof, publish by notice in the *Gazette* the following particulars in respect of the application concerned:
- (a) the full name of the applicant;
 - (b) full particulars of the location of the aerodrome; and
 - (c) reference to the date by which the representations referred to in subregulation (5) must be submitted to the Executive Director.
- (5) Any person may, after the publication of the notice referred to in subregulation (4), in writing submit representations to the Executive Director against or in favour of the application concerned.

Issuance of aerodrome certificate

139.03.4 (1) The Executive Director must as soon as practicable consider an application referred to in regulation 139.03.3, together with all representations, information and other documents relating to such application which are received within the period specified in the notice published in terms of regulation 139.03.3(4).

(2) The Executive Director must issue a certificate in the form and manner by him or her, if the Executive Director is satisfied that -

- (a) the applicant has complied with the application requirements in regulation 139.03.3;
- (b) the applicant and the personnel of the applicant are adequate in number and have the necessary competency and experience to operate and maintain an aerodrome;

- (c) the aerodrome manual prepared for the aerodrome and submitted with the application contains all the relevant information;
- (d) the aerodrome facilities, services and equipment are established in accordance with the standards prescribed in Document NAM-CATS-AH;
- (e) the aerodrome's operating procedures make satisfactory provision for the safety of aircraft;
- (f) the safety management system in terms of regulation 139.08.6 is in place;
- (g) a quality assurance system in terms of regulation 139.08.4 is in place; and
- (h) the applicant has complied with the aerodrome security requirements specified in this Part and Parts 108 to 114, inclusive.

(3) The Executive Director may issue an aerodrome certificate subject to any conditions that the Executive Director may consider necessary for the purpose of civil aviation safety and security.

(4) If the applicant does not satisfy the requirements set out in subregulation (2) or in any provision of the Act or these regulations, the Executive Director may refuse to grant a certificate to an applicant and where the Executive Director so refuses, he or she must notify the applicant in writing of the reasons for the refusal, not later than 14 days after making that decision.

(5) After the issuance of an aerodrome certificate, the Executive Director must carry out surveillance and inspections to ensure continuing validity of the certificate and continuing capacity of the aerodrome operator to maintain safe and regular operation of the aerodrome and associated facilities and services.

(6) The Executive Director may endorse on a certificate the conditions for use of an aerodrome and any other details as may be considered necessary.

Aerodrome certificate

139.03.5 (1) An aerodrome certificate must be issued on the appropriate form as determined by the Executive Director.

- (2) The certificate must specify -
 - (a) the category of the aerodrome for which the aerodrome is certified;
 - (b) the restrictions, if any, relating to non-compliance with or deviations from the appropriate aerodrome design, operation or equipment standards;
 - (c) the period of validity of the certificate; and
 - (d) the appropriate airspace classification in accordance with Parts 71 and 172.

Validity of aerodrome certificate

139.03.6 (1) An aerodrome certificate is valid for a period of two years from the date on which the certificate is issued or renewed.

(2) The certificate remains in force until it expires or is suspended or revoked by the Executive Director pursuant to sections 42 and 43 of the Act, as the case maybe.

(3) The holder of a certificate which has expired, must within five days after the expiry, surrender the licence to the Executive Director.

(4) Failure to surrender a certificate in accordance with this subregulation (3) is subject to enforcement action under Parts 13 and 185.

Renewal of aerodrome certificate

139.03.7 (1) An application for the renewal of an aerodrome certificate must be made to the Executive Director in the form and manner determined by the Executive Director, and must be accompanied by -

- (a) the updated copy of the aerodrome manual if significant changes have been made following the initial certification;
- (b) particulars of non-compliances with, or deviations, if any, from the appropriate design, operation or equipment standards; and
- (c) the appropriate fees as prescribed in Part 187.

(2) An application for renewal must be submitted at least 60 days before the expiry of the current certificate.

Amendment of aerodrome certificate

139.03.8 (1) An application for amendment of an aerodrome certificate pursuant to section 45 of the Act must be submitted to the Executive Director and the requirements of regulation 139.03.7, subject to necessary changes required by the context, apply to that application.

(2) An amendment must be applied for whenever there is a change in one or more of the following circumstances:

- (a) a change in the use or operation of the aerodrome;
- (b) a change in the boundaries of the aerodrome;
- (c) if the holder of the certificate requests an amendment; or
- (d) if the Executive Director considers it necessary.

Suspension and revocation of aerodrome certificate

139.03.9 (1) The Executive Director may, by written notice given to the holder of an aerodrome certificate, suspend or revoke the certificate in accordance with sections 42, 43 and 44 of the Act, and if there are reasonable grounds for believing that the aerodrome facilities, operations or maintenance are not in compliance with the requirements and standards prescribed in this Part.

(2) Despite subregulation (1), the Executive Director may suspend or revoke an aerodrome certificate if -

- (a) after a safety inspection and audit carried out in terms of regulation 139.01.36, it is evident that the holder of the certificate does not comply with the requirements prescribed in this Part and that holder fails to remedy the non-compliance within the time frame specified by the Executive Director in a written notice requiring the holder to do so; or
 - (b) a designated inspector, authorised officer or authorised person is prevented by the holder of the certificate from carrying out a safety inspection and audit in terms of regulation 139.01.36; or
 - (c) the suspension is necessary in the interest of aviation safety.
- (3) A holder of a certificate that has been suspended or revoked may appeal in accordance with section 225 of the Act.
- (4) The holder of a certificate which is suspended, must within 48 hours after the suspension, produce the certificate thereof to the Executive Director for the appropriate endorsement.
- (5) The holder of a certificate which is revoked must, within seven days from the date on which the certificate is revoked, surrender that certificate to the Executive Director.
- (6) Failure to surrender a certificate in accordance with this subregulation (4) or (5) is subject to enforcement action under Parts 13 and 185.

Surrender of aerodrome certificate

139.03.10 (1) Subject to subregulation (2), a holder of an aerodrome certificate may surrender the certificate to the Executive Director at any time.

(2) A holder of an aerodrome certificate who wishes to surrender the certificate must give the Executive Director not less than 60 days' notice in writing, before the date on which the certificate is to be surrendered.

(3) The Executive Director must revoke the aerodrome certificate on the expiry of the period of notice referred to in subregulation (2).

(4) Where, after the expiry of the period in subregulation (2), an aerodrome is abandoned or is not maintained in accordance with the conditions of the certificate, the holder of the certificate must remove, obliterate or modify the aerodrome markings required under this Part.

(5) Upon revocation of a certificate pursuant to subregulation (3), regulation 139.03.9(1) or 139.03.9(2), the Executive Director must arrange for -

- (a) the revocation to be notified through NOTAM; and
- (b) details of the certificate and any other information about the aerodrome to be removed from the AIP.

Transferability of aerodrome certificate

139.03.11 (1) An aerodrome certificate issued under these regulations is not transferable.

(2) A change in ownership of the holder of a certificate is deemed to be a change

of significance and the written approval of the Executive Director must be obtained where a change of ownership does or may give rise to alterations to approved elements or criteria upon which the certificate was originally issued.

Breach of conditions for issuance of aerodrome certificate and non-conformance with certificate requirements

139.03.12 (1) The breach of any conditions subject to which a certificate is issued including any approval, permission or exemption may lead to the suspension or revocation of the certificate.

(2) The Executive Director may in accordance with section 38(6) of the Act, impose operating restrictions or prohibitions at a certified aerodrome in the event of non-conformance with the certification requirements or any unresolved safety concerns.

Charges at certified aerodromes

139.03.13 (1) A holder of an aerodrome certificate may impose charges for the use of the aerodrome or of any facilities provided at the aerodrome for the safety, security, efficiency or regularity of air navigation.

(2) Without prejudice to any other law on aerodrome charges, the Executive Director, may require a holder of a certificate to furnish the particulars of the charges for the use of an aerodrome or the performance of services at the aerodrome.

Changes to certificate holder's manual and organisation

139.03.14 (1) A holder of an aerodrome certificate must ensure that the aerodrome manual required under this Part is amended so that it remains a current description of the aerodrome and its associated plans, programmes, services, systems, procedures and facilities.

(2) The certificate holder must ensure that any amendment made to its aerodrome manual meets the applicable requirements of this Part and complies with the amendment requirements in Subpart 7.

(3) The certificate holder must forward to the Executive Director for retention, a copy of each amendment to its aerodrome manual as soon as practicable after the amendment is incorporated into the manual.

(4) Before a certificate holder changes any of the following, prior approval by the Executive Director is required:

- (a) the senior accountable manager;
- (b) the key safety personnel; or
- (c) the system for safety management, if the change is a material change.

(5) The Executive Director may impose conditions under which a certificate holder must operate during or following any of the changes specified in subregulation (4).

(6) The certificate holder must comply with any conditions imposed by the Executive Director under subregulation (5).

(7) If any change referred to in these regulations requires an amendment to the

aerodrome operator certificate, the certificate holder must, within five days after the change, forward the certificate to the Executive Director for endorsement of the change.

(8) The certificate holder must make such amendments to the holder's aerodrome manual as the Executive Director may direct in the interests of aviation safety.

Notification of availability of certified aerodrome

139.03.15 An aerodrome operator must -

- (a) in the case of a certificate to operate an aerodrome for public use, notify, the times during which the aerodrome is to be available for take-off and landing of aircraft for public transport or instruction in flying; and
- (b) upon request, furnish to a designated inspector, authorised officer or authorised person, information concerning the terms of the certificate.

Issuance of interim aerodrome certificate

139.03.16 (1) The Executive Director may, under section 67(3) of the Act, issue an interim aerodrome certificate to an applicant authorising the applicant to operate an aerodrome if the Executive Director is satisfied that -

- (a) an aerodrome certificate in respect of the aerodrome will be issued to the applicant as soon as the application procedure for the grant of an aerodrome certificate has been completed; and
- (b) the grant of the interim certificate is in the public interest and is not detrimental to aviation safety.

(2) An interim aerodrome certificate issued pursuant to subregulation (1) expires on -

- (a) the date on which the aerodrome certificate is issued; or
- (b) the expiry date specified by the Executive Director in the interim aerodrome certificate,

whichever is the earlier.

(3) The requirements of this Part and the associated standards in as far as they apply to an aerodrome certificate apply, subject to necessary changes required by the context, to an interim aerodrome certificate issued by the Executive Director.

SUBPART 4

LICENSING OF AERODROMES IN CATEGORIES B, C AND D

Applicability of Subpart

139.04.1 (1) This Subpart applies to aerodromes in categories B, C and D.

(2) This Subpart does not apply to category B aerodromes which have been certified by the Executive Director in terms regulation 139.03.1(2) and in accordance with Subpart 3.

Requirements for aerodrome licence

139.04.2 (1) A person may not operate an aerodrome to which this Subpart applies unless that person holds a licence issued by the Executive Director in accordance with this Subpart.

(2) The issuance and renewal of an aerodrome licence is subject to the aerodrome complying with these regulations and the applicable standards prescribed in Document NAM-CATS-AH.

(3) The Authority must, by means of audit procedures and inspections at various times as determined by the Executive Director, during the preceding licence period or before the issuing of a new licence, determine compliance with these regulations and standards for the purposes of issuing or renewal of a licence.

(4) The Authority must levy fees from aerodrome licence holders, upon renewal or issuing of an aerodrome licence, in accordance with the fees as prescribed in Part 187.

Application for aerodrome licence

- 139.04.3** (1) An applicant for the issuing of an aerodrome licence must -
- (a) submit an application to the Executive Director in the form and manner determined by the Executive Director; and
 - (b) pay the appropriate application fee as prescribed in Part 187.
- (2) An application under subregulation (1) must include -
- (a) a completed application form;
 - (b) the aerodrome manual prepared in accordance with Subpart 7;
 - (c) the plan of the aerodrome and its facilities approved by the appropriate local authority council;
 - (d) evidence of lawful entitlement to use the place as an aerodrome;
 - (e) an aerodrome environmental management programme referred to in regulation 139.08.15;
 - (f) the procedures for the notification and reporting of aerodrome data and information referred to in Subpart 9;
 - (g) written approval from the local authority, regional or traditional authority council in whose area of jurisdiction the proposed aerodrome is situated, and from all relevant governmental offices, ministries, agencies and entities whose approval is required;
 - (h) proof that the applicant is financially capable of operating the aerodrome, including the provision of firefighting service required under Subpart 16;
 - (i) particulars of non-compliance with or deviations from -
 - (i) the appropriate aerodrome design, operation or equipment standards;
 - (ii) the appropriate airspace classification in terms of Parts 71 and 172;

- (j) the appropriate fee as prescribed in Part 187.
- (3) The application must be submitted to the Executive Director not less than 90 days before the date that the licence is required.
- (4) The Executive Director must, as soon as practicable after the receipt of an application for an aerodrome licence or for an amendment thereof, publish by notice in the *Gazette* the following particulars in respect of the application concerned:
 - (a) the full name of the applicant;
 - (b) full particulars of the location of the aerodrome; and
 - (c) reference to the date by which the representations referred to in subregulation (5) must be submitted to the Executive Director.
- (5) Any person may, after the publication of the notice referred to in subregulation (4), in writing submit representations to the Executive Director against or in favour of the application concerned.

Issuance of aerodrome licence

- 139.04.4** (1) The Executive Director must as soon as practicable consider an application referred to in regulation 139.04.3, together with all representations, information and other documents relating to such application which are received within the period specified in the notice published in terms of regulation 139.04.3(4).
- (2) The Executive Director must issue a licence in the form and manner by him or her, if the Executive Director is satisfied that -
- (a) the applicant has complied with the application requirements in regulation 139.04.3;
 - (b) the applicant and the personnel of the applicant are adequate in number and have the necessary competency and experience to operate and maintain an aerodrome;
 - (c) the aerodrome manual prepared for the aerodrome and submitted with the application contains all the relevant information;
 - (d) the aerodrome facilities, services and equipment are established in accordance with the standards prescribed in Document NAM-CATS-AH;
 - (e) the aerodrome's operating procedures make satisfactory provision for the safety of aircraft;
 - (f) a quality assurance system in terms of regulation 139.08.4 is in place; and
 - (g) the applicant has complied with the aerodrome security requirements specified in this Part and Parts 108 to 114, inclusive.
- (3) The Executive Director may issue an aerodrome licence subject to any conditions that the Executive Director may consider necessary for the purpose of civil aviation safety and security.
- (4) If the applicant does not satisfy the requirements set out in subregulation

(2) or in any provision of the Act or these regulations, the Executive Director may refuse to grant a licence to an applicant and where the Executive Director so refuses, he or she must notify the applicant in writing of the reasons for the refusal, not later than 14 days after making that decision.

(5) After the issuance of an aerodrome licence, the Executive Director must carry out surveillance and inspections to ensure continuing validity of the licence and continuing capacity of the aerodrome operator to maintain safe and regular operation of the aerodrome and associated facilities and services.

(6) The Executive Director may endorse on a licence the conditions for use of an aerodrome and any other details as may be considered necessary.

Aerodrome licence

139.04.5 (1) An aerodrome licence must be issued on the appropriate form as determined by the Executive Director.

- (2) The licence must specify -
- (a) the category of the aerodrome for which the aerodrome is licensed;
 - (b) the restrictions, if any, relating to non-compliance with or deviations from the appropriate aerodrome design, operation or equipment standards;
 - (c) the period of validity of the licence; and
 - (d) the appropriate airspace classification in accordance with Parts 71 and 172.

Validity of aerodrome licence

139.04.6 (1) An aerodrome licence is valid for a period of two years for aerodromes in category B, and three years for aerodromes in categories C and D, calculated from the date on which the licence is issued or renewed.

(2) The licence remains in force until it expires or is suspended or revoked by the Executive Director pursuant to sections 42 and 43 of the Act, as the case maybe.

(3) The holder of a licence which has expired, must within five days after the expiry surrender the licence to the Executive Director.

(4) Failure to surrender a licence in accordance with this Subpart is subject to enforcement action under Parts 13 and 185.

Renewal of aerodrome licence

139.04.7 (1) An application for the renewal of an aerodrome licence must be made to the Executive Director in the form and manner determined by the Executive Director, and must be accompanied by -

- (a) the updated copy of the aerodrome manual if significant changes have been made following the initial licensing;
- (b) particulars of non-compliances with, or deviations, if any, from the appropriate design, operation or equipment standards; and

(c) the appropriate fees as prescribed in Part 187.

(2) An application for renewal must be submitted at least 60 days before the expiry of the current licence.

Amendment of aerodrome licence

139.04.8 (1) An application for amendment of an aerodrome licence pursuant to section 45 of the Act must be submitted to the Executive Director and the requirements of regulation 139.04.7, subject to necessary changes required by the context, apply to that application.

(2) An amendment must be applied for whenever there is a change in one or more of the following circumstances:

- (a) a change in the use or operation of the aerodrome;
- (b) a change in the boundaries of the aerodrome;
- (c) if the holder of the licence requests an amendment; or
- (d) if the Executive Director considers it necessary.

Suspension and revocation of aerodrome licence

139.04.9 (1) The Executive Director may, by written notice given to the holder of an aerodrome licence, suspend or revoke the licence in accordance with sections 42, 43 and 44 of the Act, and if there are reasonable grounds for believing that the aerodrome facilities, operations or maintenance are not in compliance with the requirements and standards prescribed in this Part.

(2) Despite subregulation (1), the Executive Director may suspend or revoke an aerodrome licence if -

- (a) after a safety inspection and audit carried out in terms of regulation 139.01.36, it is evident that the holder of the licence does not comply with the requirements prescribed in this Part and that holder fails to remedy the non-compliance within the time frame specified by the Executive Director in a written notice requiring the holder to do so; or
- (b) a designated inspector, authorised officer or authorised person is prevented by the holder of the licence from carrying out a safety inspection and audit in terms of regulation 139.01.36; or
- (c) the suspension is necessary in the interest of aviation safety.

(3) A holder of a licence that has been suspended or revoked may appeal in accordance with section 225 of the Act.

(4) The holder of a licence which is suspended, must within 48 hours after the suspension, produce the licence thereof, to the Executive Director for the appropriate endorsement.

(5) The holder of a licence which is revoked must, within seven days from the date on which the licence is revoked, surrender that licence to the Executive Director.

(6) Failure to surrender a licence in accordance with this subregulation (4) or (5) is subject to enforcement action under Parts 13 and 185.

Surrender of aerodrome licence

139.04.10 (1) Subject to subregulation (2), a holder of an aerodrome licence may surrender the licence to the Executive Director at any time.

(2) A holder of an aerodrome licence who wishes to surrender the licence must give the Executive Director not less than 60 days' notice in writing, before the date on which the licence is to be surrendered.

(3) The Executive Director must revoke the aerodrome licence on the expiry of the period of notice referred to in subregulation (2).

(4) Where, after the expiry of the period in subregulation (2), an aerodrome is abandoned or is not maintained in accordance with the conditions of the licence, the holder of the licence must remove, obliterate or modify the aerodrome markings required under this Part.

(5) Upon revocation of a licence pursuant to subregulation (3), regulation 139.04.9(1) or 139.04.9(2), the Executive Director must arrange for -

- (a) the revocation to be notified through NOTAM; and
- (b) details of the licence and any other information about the aerodrome to be removed from the AIP.

Transferability of aerodrome licence

139.04.11 (1) An aerodrome licence issued under these regulations is not transferable.

(2) A change in ownership of the holder of a licence is deemed to be a change of significance and the written approval of the Executive Director must be obtained where a change of ownership does or may give rise to alterations to approved elements or criteria upon which the licence was originally issued.

Breach of conditions for issuance of aerodrome licence and non-conformance with licence requirements

139.04.12 (1) The breach of any conditions subject to which a licence is issued including any approval, permission or exemption may lead to the suspension or revocation of the licence.

(2) The Executive Director may in accordance with section 38(6) of the Act, impose operating restrictions or prohibitions at a licensed aerodrome in the event of non-conformance with the licensing requirements or any unresolved safety concerns.

Charges at licensed aerodromes

139.04.13 (1) A holder of an aerodrome licence may impose charges for the use of the aerodrome or of any facilities provided at the aerodrome for the safety, security, efficiency or regularity of air navigation.

(2) Without prejudice to any other law on aerodrome charges, the Executive Director, may require a holder of a licence to furnish the particulars of the charges for the use of an aerodrome or the performance of services at the aerodrome.

Changes to licence holder's manual and organisation

139.04.14 (1) A holder of an aerodrome licence must ensure that the aerodrome manual required under this Part is amended so that it remains a current description of the aerodrome and its associated plans, programmes, services, systems, procedures and facilities.

(2) The licence holder must ensure that any amendment made to its aerodrome manual meets the applicable requirements of this Part and complies with the amendment requirements in Subpart 7.

(3) The licence holder must forward to the Executive Director for retention, a copy of each amendment to its aerodrome manual as soon as practicable after the amendment is incorporated into the manual.

(4) Before a licence holder changes any of the following, prior approval by the Executive Director is required:

- (a) the senior accountable manager;
- (b) the key safety personnel; or
- (c) the system for safety management, if the change is a material change.

(5) The Executive Director may impose conditions under which a licence holder must operate during or following any of the changes specified in subregulation (4).

(6) The licence holder must comply with any conditions imposed by the Executive Director under subregulation (5).

(7) If any change referred to in these regulations requires an amendment to the aerodrome operator licence, the licence holder must, within five days after the change, forward the licence to the Executive Director for endorsement of the change.

(8) The licence holder must make such amendments to the holder's aerodrome manual as the Executive Director may direct in the interests of aviation safety.

Notification of availability of licensed aerodrome

139.04.15 An aerodrome operator must -

- (a) in the case of a licence to operate an aerodrome for public use, notify, the times during which the aerodrome is to be available for take-off and landing of aircraft for public transport or instruction in flying; and
- (b) upon request, furnish to a designated inspector, authorised officer or authorised person, information concerning the terms of the licence.

Issuance of interim aerodrome licence

139.04.16 (1) The Executive Director may, under section 67(3) of the Act, issue an interim aerodrome licence to an applicant authorising the applicant to operate an aerodrome if the Executive Director is satisfied that -

- (a) an aerodrome licence in respect of the aerodrome will be issued to the applicant as soon as the application procedure for the grant of an aerodrome licence has been completed; and

- (b) the grant of the interim licence is in the public interest and is not detrimental to aviation safety.
- (2) An interim aerodrome licence issued pursuant to subregulation (1) expires on -
 - (a) the date on which the aerodrome licence is issued; or
 - (b) the expiry date specified by the Executive Director in the interim aerodrome licence,

whichever is the earlier.

(3) The requirements of this Part and the associated standards in as far as they apply to an aerodrome licence apply, subject to necessary changes required by the context, to an interim aerodrome licence issued by the Executive Director.

SUBPART 5 CATEGORY E AERODROMES

Applicability of Subpart

139.05.1 This Subpart applies to aerodromes in category E.

Construction of category E aerodromes

139.05.2 (1) A person may not construct a category E aerodrome unless the construction has been approved by the Executive Director.

(2) The Executive Director may consider for approval an application for construction of a category E aerodrome if the applicant -

- (a) holds a valid authorisation from the relevant government authorities for use of the place as an aerodrome;
- (b) has complied with the requirements of the Environmental Management Act.

(3) The Executive Director must, prior to issuance of approval for construction of category E aerodrome, assess the suitability of the place proposed for construction taking into consideration -

- (a) the proximity of the place to other aerodromes and landing areas, including military aerodromes;
- (b) obstacles, terrain and existing airspace restrictions; and
- (c) that it is not against public interest that the place where the aerodrome is to be constructed may be used as such.

(4) An applicant for construction of a category E aerodrome must submit an application in the approved form, accompanied by -

- (a) the design of the proposed construction;
- (b) aerodrome data in accordance with the characteristics of the aircraft for which the aerodrome is intended;

- (c) a topographical map of the proposed aerodrome site;
- (d) written permission from the owner of the land or evidence of ownership of the proprietary interest in the land on which the aerodrome is to be constructed; and
- (e) fees as prescribed in Part 187.

(5) The Executive Director must issue an approval to construct a category E aerodrome in writing where the application meets the requirements specified in this Subpart and any other requirements as may be specified by any other relevant authorities.

Application for permit to operate category E aerodrome

139.05.3 (1) The operator of a category E aerodrome must apply to the Executive Director for a permit to operate the aerodrome.

(2) An application for a permit to operate a category E aerodrome must be made in the form and manner determined by the Executive Director, and must be accompanied by -

- (a) the map of the aerodrome as described in Document NAM-CATS-AH;
- (b) the information about the aerodrome as described in Document NAM-CATS-AH;
- (c) a written declaration by the applicant to the effect that the aerodrome has complied with applicable standards; and
- (d) the applicable fee as prescribed in Part 187.

Permit to operate category E aerodrome

139.05.4 (1) The Executive Director must, before issuing a permit to operate a category E aerodrome, make arrangements for the inspection of the aerodrome to ascertain compliance with standards set out in regulation 139.05.10.

- (2) The Executive Director must -
 - (a) issue a permit to operate a category E aerodrome in an approved form where the Executive Director is satisfied that the applicant has satisfied the requirements of this Subpart;
 - (b) enter the information about the issuance of a permit in the aerodrome register in accordance with subregulation 139.05.6 (2);
 - (c) direct aeronautical information service (AIS) to publish in the AIP, details of the permit and the information about the aerodrome.

Refusal to issue permit to operate category E aerodrome

139.05.5 Where the Executive Director refuses to issue a permit to operate a category E aerodrome the Executive Director must, not later than seven days after refusing to issue the permit, give the operator of the aerodrome written notice of the refusal and the reasons for the refusal.

Register of category E aerodromes permits

139.05.6 (1) The Executive Director must maintain a register of permits issued for category E aerodromes.

(2) The register referred to in subregulation (1) must be identified as “Register of Category E Aerodromes” and must contain the following particulars:

- (a) the full name and, if any, the trade name of the holder of the permit;
- (b) the postal, electronic mail and physical address of the holder of the permit;
- (c) telephone, cell phone and telefax number of the holder of the permit;
- (d) the name and the location of the aerodrome;
- (e) the category of the aerodrome;
- (f) the number of the permit;
- (g) the date on which the permit was issued; and
- (h) the nationality of the holder of the permit.

(3) The particulars referred to in subregulation (2) must be recorded in the register within seven days from the date on which the permit is issued or renewed as the case may be, by the Executive Director.

(4) The register must be kept in a safe place at the office of the Executive Director as part of the Civil Aviation Registry established under section 52 of the Act and is accessible to the public in terms of section 52(3) of the Act.

(5) The Executive Director must furnish a copy of the register to any person who requests the copy upon payment of the appropriate fees prescribed in Part 187.

Duration of permit to operate category E aerodrome

139.05.7 (1) The permit to operate a category E aerodrome remains in force for a period of five years from the date of issue, unless it is revoked by the Executive Director.

(2) The holder of the permit may apply for renewal at least 60 days before the expiry of the permit and the provisions of regulations 139.05.3 to 139.05.5 apply with necessary changes required by the context.

Revocation of permit to operate aerodrome on request of holder

139.05.8 (1) If the operator of a category E aerodrome wishes the permit to be revoked, the operator must give the Executive Director not less than 30 days’ written notice of the date on which the operator wishes the permit to be revoked.

(2) The Executive Director must revoke the permit on the date specified in the notice and arrange for -

- (a) the revocation to be notified through NOTAM; and

- (b) details of the permit and any other information about the aerodrome to be removed from the AIP.

Revocation or suspension of permit to operate aerodrome by Executive Director

139.05.9 (1) The Executive Director may, by written notice given to the operator of a category E aerodrome, suspend or revoke the permit issued to the aerodrome in accordance with sections 42, 43 and 44 of the Act if there are reasonable grounds for believing that -

- (a) the aerodrome fails to meet any of the standards applicable to the aerodrome under regulation 139.05.10; or
- (b) the operator of the aerodrome has failed to comply with these regulations regarding -
 - (i) unhindered access by the Authority's designated inspectors to the aerodrome facilities;
 - (ii) notification of changes in physical conditions of the aerodrome;
 - (iii) notification of changes in information published in the AIP;
 - (iv) requirements relating to aviation safety inspections;
 - (v) any other reason as may be considered necessary in the public interest by the Executive Director.

(2) A holder of an aerodrome permit which is suspended or revoked must surrender the permit to the Executive Director in accordance with sections 42 and 43 of the Act.

Operating standards for category E aerodromes

139.05.10 (1) The requirements and standards applicable to category E aerodromes are -

- (a) the requirements and standards applicable to certified and licensed aerodromes in relation to the following matters:
 - (i) physical characteristics of the movement area;
 - (ii) obstacle limitation surfaces;
 - (iii) aerodrome markings;
 - (iv) lighting;
 - (v) wind direction indicators;
 - (vi) signal panel and ground signals; and
- (b) any other applicable standards prescribed in Document NAM-CATS-AH.

(2) An operator of a category E aerodrome must establish procedures to ensure that aircraft movements are restricted or prohibited on parts of the aerodrome where an unsafe condition exists.

- (3) An operator of a category E aerodrome must -
 - (a) provide the Executive Director with an annual report of traffic movement data for the aerodrome; and
 - (b) whenever requested in writing by the Executive Director at any one time, collect and report traffic movement data for the aerodrome.

Reporting officer at category E aerodromes

139.05.11 The operator of a category E aerodrome must appoint in accordance with standards prescribed in Document NAM-CATS-AH, one or more reporting officers for the aerodrome, to be responsible for -

- (a) monitoring and reporting the serviceability of the aerodrome in accordance with the standards specified in 139.05.10; and
- (b) reporting to the NOTAM office and as applicable, to the relevant air traffic control service, any changes in conditions, or any other occurrences, at the aerodrome that must be notified under regulation 139.05.12.

Notice of changes in physical condition of category E aerodrome

139.05.12 (1) The operator of a category E aerodrome must give notice to the NOTAM office of -

- (a) any temporary or permanent change in the physical condition of the aerodrome that may affect the safety of aircraft; or
- (b) any other occurrence relating to the operation or maintenance of the aerodrome that may affect the safety of aircraft.

(2) If the aerodrome is controlled by an air traffic control service, the notice must also be given to that air traffic control service.

Notification of changes in information published in Aeronautical Information Publication

139.05.13 To maintain the accuracy of the information published in the Aeronautical Information Publication (AIP) in relation to a category E aerodrome, the operator of the aerodrome must inform aeronautical information services, in writing, as soon as practicable of any change required to that information, other than a change that is published in NOTAMS.

Safety inspection of category E aerodromes

139.05.14 (1) The Executive Director must arrange for a designated inspector of the Authority to conduct a safety inspection of the aerodrome at least once every three years.

(2) The inspector must give the Executive Director and the aerodrome operator, a written report that covers the following matters as described in Document NAM-CATS-AH:

- (a) details of the aerodrome;
- (b) aerodrome operating procedures;
- (c) reporting officer referred to in regulation 139.05.11; and

(d) details relating to the movement area.

(3) The written report required under subregulation (2) must specify any remedial work that is necessary for the aerodrome to comply with the applicable standards.

(4) Within 30 days after receiving the report, the operator must give to the Executive Director, a statement as to when and how the operator intends to do the remedial work, if the report specifies any remedial work as being necessary.

Charges at category E aerodromes

139.05.15 (1) A holder of a permit to operate a category E aerodrome may impose charges for the use of the aerodrome or of any facilities provided at the aerodrome for the safety, security, efficiency or regularity of air navigation.

(2) Without prejudice to any other law on aerodrome charges, the Executive Director, may require a holder of a permit to furnish the particulars of the charges for the use of an aerodrome or the performance of services at the aerodrome.

SUBPART 6

NON-LICENSED HELICOPTER AND EMERGENCY LANDING SITES

Operation of non-licensed helicopter sites

139.06.1 (1) A pilot-in-command of a helicopter may not land at, or take off from, any place unless the place is situated so as to permit the helicopter, in the event of an emergency arising during such landing or take-off, to land without undue hazard to persons or property on the surface.

(2) Except as provided for in subregulation (3), a pilot-in-command of a helicopter may not land on, or take-off from, any building, structure or place situated within 100 metres of any other building or structure, unless such building, structure or place has been approved for the purpose by the Executive Director.

(3) The provisions of subregulation (2) do not apply to a helicopter -

(a) landing on, or taking off from any place with the written permission of the Executive Director, in conjunction with the local authority council concerned;

(b) engaged in an approved air ambulance operation, a fire service or undertaking a flight for the exercising of any power in terms of any law.

(4) A local authority council may after consultation with the Executive Director, extend the scope of the provisions of subregulation (3)(a) to include other places in its area of jurisdiction.

(5) The Executive Director may, in the interest of aviation safety, impose conditions or institute restrictions as to the use of any building, structure or place for the landing or take-off of helicopters or require special flight procedures to be adopted at, or special routes to be followed to or from, such building, structure or place by helicopters, and the Executive Director may impose different conditions, institute different restrictions or require different special flight procedures to be adopted in respect of different buildings, structures or places.

(6) Nothing in this regulation is to be construed as -

- (a) conferring any right to land at any building, structure or place against the will of the owner of or any other person who has an interest in the building, structure or place; or
- (b) prejudicing the rights or remedies of any person in respect of an injury to persons or damage to property caused by the helicopter or its occupants.

Emergency landing sites

139.06.2 (1) The Executive Director may in accordance with sections 59 and 60 of the Act, designate an emergency landing site or sites to be used in case of an emergency or for alleviating or minimising the effects of an emergency.

(2) Where an emergency landing site is designated in accordance with subregulation (1), the Executive Director may impose such conditions for the operation of such site as may be necessary for the safety and security of aircraft operations.

(3) The Executive Director may, in accordance with section 59(3) Act, revoke at any time as he or she may determine, any designation of a landing site or sites made under subregulation (1).

SUBPART 7 AERODROME MANUAL

Applicability of Subpart

139.07.1 This Subpart applies to -

- (a) all aerodromes in category A;
- (b) all other aerodromes that are certified in accordance with Subpart 3;
- (c) all aerodromes that are licensed in accordance with Subpart 4.

Requirements for aerodrome manual

139.07.2 (1) The operator of a certified or licensed aerodrome (hereafter “the operator”) must have an aerodrome manual for the aerodrome, which is prepared in accordance with regulation 139.07.3 and the standards prescribed in Document NAM-CATS-AH.

(2) The operator must submit to the Executive Director, two copies of the aerodrome manual for approval.

(3) The operator must -

- (a) keep a copy of the approved aerodrome manual at the operator’s principal place of business or at the aerodrome;
- (b) make the copy of the manual kept at the operator’s principal place of business or at the aerodrome available to a designated inspector, authorised officer or authorised person during normal business hours; and
- (c) keep the copies of the aerodrome manual for the aerodrome in a printed form.

- (4) Despite subregulation (3)(c), the operator may keep copies of the manual in an electronic form.
- (5) The aerodrome manual may consist of more than one document where the operator prepares stand-alone documents to supplement the aerodrome manual.
- (6) The operator must keep the manual in a way that makes is clear to a person reading the manual -
- (a) when changes have been made to the information in the manual; and
 - (b) whether the manual is up-to-date.
- (7) The operator of a certified or licensed aerodrome must appoint a person to be responsible for the preparation and maintenance of the aerodrome manual for the aerodrome.
- (8) The functions of the person appointed under subregulation (7) are to ensure that -
- (a) a record is kept of the persons who hold copies of the whole or a part of the aerodrome manual; and
 - (b) updates of information for the manual are distributed to those persons.

Contents of aerodrome manual

139.07.3 (1) The aerodrome manual required under these regulations must include the following information as described in Document NAMCATS-AH:

- (a) general information;
- (b) particulars of the aerodrome site;
- (c) particulars of the aerodrome to be reported to AIS;
- (d) particulars of the aerodrome operating procedures;
- (e) the aerodrome administration, and safety and quality management systems; and
- (f) particulars of any condition to which the operator's aerodrome certificate or licence is subject and any direction given to the aerodrome operator by the Executive Director under regulation 139.07.4.

(2) If particular information referred to in subregulation (1) is not included in the aerodrome manual because it is not applicable to the aerodrome, the following information must be included:

- (a) a statement to the effect that the information is not applicable; and
- (b) the reasons why it is not applicable.

(3) If the Executive Director grants the operator an exemption in relation to the aerodrome, the following must be included in the manual:

- (a) any identifying number given to the exemption by the Executive Director;
- (b) the date on which the exemption came into effect; and
- (c) any condition subject to which the exemption is granted.

Amendment of aerodrome manual

139.07.4 (1) The operator of a certified or licensed aerodrome must amend the aerodrome manual for the aerodrome, whenever it is necessary to do so, to maintain the accuracy of the manual and in accordance with standards prescribed in Document NAM-CATS-AH.

(2) To maintain the accuracy of the aerodrome manual, the Executive Director may give written directions to the operator requiring the operator to amend the manual in accordance with the direction.

- (3) An operator must -
- (a) comply with a direction given by the Executive Director under subregulation (2); and
 - (b) inform the Executive Director, in writing, of any amendment that the operator makes to the aerodrome manual for the aerodrome within 30 days after the amendment is made.

SUBPART 8 OBLIGATIONS OF AERODROME OPERATORS

Applicability of Subpart

139.08.1 This Subpart applies to all aerodromes except where otherwise specified.

Aerodrome operations, maintenance and compliance with conditions

139.08.2 (1) An aerodrome operator must comply with any directives that the Executive Director may issue and conditions that may be endorsed on a certificate, licence or permit granted under these regulations.

(2) Subject to any directives that the Executive Director may issue, an operator of a certified or licensed aerodrome must operate and maintain an aerodrome in accordance with the procedures set out in the operator's aerodrome manual.

(3) An aerodrome operator must ensure proper and efficient maintenance of the aerodrome facilities and such maintenance must be in accordance with the requirements specified in Subpart 17.

(4) The aerodrome certificate or licence holder must coordinate with the air traffic service (ATS) provider in order to be satisfied that appropriate air traffic services are available to ensure the safety of aircraft in the airspace associated with the aerodrome.

(5) The coordination pursuant to subregulation (4) must cover other areas related to safety such as aeronautical information service, air traffic services, designated meteorological services and security.

Personnel requirements: accountable manager and key personnel

139.08.3 (1) The operator or owner of an aerodrome must designate a suitable natural person as an accountable manager and other suitable key personnel as may be necessary for the proper functioning and operation of the aerodrome.

(2) If the operator or owner fails to designate an accountable manager as required by subregulation (1) -

- (a) the Authority may order the operator or owner to pay the administrative fine prescribed in Part 185 for as long as the non-compliance exists; and
- (b) the certificate, licence or permit may be suspended or revoked or be endorsed by the imposition of a condition in the manner contemplated by sections 42 or 43 of the Act, respectively.

(3) Despite the provisions of subregulation (2), an operator or owner who fails to comply with a directive issued by the Executive Director, commits an offence and may be prosecuted under any one or more of the offences in Parts 13 (General offences) or 14 (Safety Offences) of the Act.

(4) Where the Executive Director or any other relevant authority requires certification of competence for the personnel of an aerodrome, the operator must employ only those persons with the required certification.

(5) The operator of an aerodrome must, in accordance with standards prescribed in Document NAM-CATS-AH, establish a procedure for initially assessing, and a procedure for maintaining the competence of those personnel involved in operating and maintaining the aerodrome and its services and facilities.

(6) An operator of an aerodrome must, in accordance with standards prescribed in Document NAM-CATS-AH, have in place a training programme for its technical staff that includes initial, currency, recurrent and specialised training for those personnel involved in operating and maintaining the aerodrome and its services and facilities.

Quality assurance system

139.08.4 (1) An operator of a certified or licensed aerodrome must establish a quality assurance system for the control and supervision of its services and facilities to ensure the aerodrome's compliance with, and the adequacy of procedures required to meet the requirements of this Part.

- (2) The quality assurance system must -
 - (a) ensure the correct operation and maintenance of the aerodrome and its facilities;
 - (b) ensure that the operator's activities are conducted in a planned and systematic manner and identifies and addresses identified deficiencies;
 - (c) be integrated with the safety management system established in terms of regulation 139.08.6 and Part 140;
 - (d) be implemented in accordance with standards prescribed in Document NAM-CATS-AH.

(3) The aerodrome operator must appoint a person who has the responsibility for internal quality assurance who has direct access to the accountable manager on matters affecting the safety of aircraft operations and the performance of the aerodrome services and facilities.

Changes in quality assurance system

139.08.5 (1) A holder of an aerodrome certificate or licence who wishes to make any change in the quality assurance system established in terms of regulation 139.08.4 which has a significant impact or effect on the holder's capacity to comply with the appropriate requirements prescribed in this Part must apply to the Executive Director in writing for the approval of that change.

(2) An application for changes to the aerodrome operator's quality system must be accompanied by a copy of the aerodrome manual and a copy of the quality assurance manual, as appropriate, indicating the proposed changes.

(3) The Executive Director may grant an approval of a change in the quality assurance system if the applicant satisfies the Executive Director, upon submission of appropriate proposed changes to the aerodrome manual that the applicant will, after the implementation of such approved change, continue to comply with the aerodrome certification requirements and any conditions under which the certificate or licence was granted.

Safety management system

139.08.6 (1) This regulation applies to -

- (a) all category A aerodromes;
- (b) category B aerodromes which are certified in accordance with Subpart 3; and
- (c) any other aerodrome that is certified in accordance with Subpart 3.

(2) An operator of a certified aerodrome must establish, implement, and maintain a system for safety management that is acceptable to the Executive Director and that, as a minimum -

- (a) identifies safety hazards;
- (b) ensures that remedial action necessary to maintain safety is implemented;
- (c) provides for continuous monitoring and regular assessment of the achieved level of safety; and
- (d) aims to make continuous improvement to the overall safety of the aerodrome.

(3) The safety management system must -

- (a) comply with the requirements of Part 140;
- (b) be implemented in accordance with the framework for implementation and maintenance of a safety management system by an aerodrome operator described in Document NAM-CATS-AH; and
- (c) be commensurate with the size and complexity of the aerodrome.

Runway safety programme

139.08.7 An operator of a certified aerodrome must establish at the aerodrome a runway safety programme for the prevention of runway incursion in accordance with the standards prescribed in Document NAM-CATS-AH.

Demarcation of restricted areas

139.08.8 (1) The holder of an aerodrome certificate or licence must, on the aerodrome, demarcate a restricted area and indicate its boundaries by means of -

- (a) markings on the surface of that aerodrome;
- (b) obstructions or notices erected along the boundaries of the restricted area or a fence; or
- (c) a combination of such markings, fences, obstructions or notices to achieve the desired level of control.

(2) Subject to the provisions of subregulation (1) relating to the manner in which a boundary must be indicated, the holder of the certificate or licence may alter any boundary or any portion of a boundary of the restricted area.

(3) Fences or obstructions or notices erected along the boundaries of a restricted area must have emergency access gates in line or as close as possible to the threshold of all available runways to ensure an acceptable response times can be met.

(4) The emergency access gates referred to in subregulation (3), may not be used for gaining access to the aerodrome but must be used solely for emergencies inside or outside the aerodrome perimeter and the control of these emergency gates is the responsibility of the fire fighting service established in terms of Subpart 16.

Control of entry into restricted areas

139.08.9 (1) The holder of an aerodrome certificate or licence must exercise control over entry into a restricted area.

(2) The control referred to in subregulation (1) must be exercised according to the procedures and criteria approved by the holder of the certificate or licence.

- (3) An aerodrome operator must make arrangements to -
 - (a) prohibit unauthorised persons from entering a restricted area; and
 - (b) order any person to leave a restricted area immediately, when it is considered necessary, whether that person has been granted permission to be within a restricted area or not.

Demarcation of routes on apron

139.08.10 (1) The holder of an aerodrome certificate or licence must by means of markings on the surface of an aerodrome or by notices or by means of both those markings and notices demarcate routes on the apron for use by -

- (a) persons other than a person carried in an aircraft or in or on a vehicle;

- (b) aircraft travelling on the surface of an aerodrome; or
- (c) vehicles and equipment.

(2) The aerodrome operator may restrict the use of routes on an apron to be used by any person or aircraft or vehicle for the purpose of movement in one direction only.

- (3) Except in case of an emergency a person -
 - (a) other than a person carried in an aircraft or in or on a vehicle, may not proceed on foot on the apron; or
 - (b) may not move, an aircraft or a vehicle travelling on the surface of an aerodrome, on the apron,

except along an appropriate route demarcated in terms of subregulation (1).

(4) An aerodrome operator must ensure that in the event of an accident on or in the vicinity of the apron, the emergency services are exempted from any restrictions on the use of demarcated routes as may be necessary for the purpose of attending to such emergency in the shortest period of time.

(5) The operator of an aerodrome must provide the minimum clearance between -

- (a) an aircraft using an aircraft stand and any adjacent building; and
- (b) an aircraft parked on an aircraft stand and any other objects on the apron.

Aerodrome inspection programme

139.08.11 (1) A holder of an aerodrome certificate or licence must -

- (a) establish and maintain an aerodrome inspection programme which includes -
 - (i) procedures to ensure that job specific competent aerodrome personnel execute the relevant programme effectively; and
 - (ii) a reporting system for ensuring prompt correction of an unsafe aerodrome condition that is noted during an aerodrome inspection;
- (b) provide appropriate equipment for use in conducting the aerodrome inspections;
- (c) establish procedures for ensuring that personnel performing aerodrome inspections are appropriately trained.

(2) The operator of a certified or licensed aerodrome must have in place an audit and inspection programme for evaluating providers of services at the aerodrome, including fixed-base operators, ground handling agencies and other organisations working at the aerodrome.

Aerodrome serviceability inspections

139.08.12 (1) An operator of an aerodrome must conduct aerodrome serviceability inspections of the movement area in accordance with standards prescribed in Document NAM-CATS-AH to ensure that the movement area is safe for aircraft operations.

(2) An aerodrome operator must conduct aerodrome serviceability inspections of the movement area at least -

- (a) twice each day for aerodromes in category A;
- (b) twice each day for aerodromes in category B which have been certified in accordance with Subpart 3;
- (c) once each day for licensed category B aerodromes;
- (d) once each day for category C aerodromes;
- (e) once a week for aerodromes in category D; and
- (f) once a month for aerodromes in category E.

Aerodrome technical inspections

139.08.13 An operator of a certified or licensed aerodrome must conduct a technical inspection of the aerodrome facilities and equipment including as applicable, an inspection of the safety management system in accordance with standards prescribed in Document NAM-CATS-AH to ensure that any deterioration that could make a facility unsafe for aircraft operations is detected.

Aerodrome special inspections

139.08.14 An aerodrome operator must conduct a special inspection of an aerodrome -

- (a) as soon as practicable after any accident or incident;
- (b) during any period of construction or repair of the aerodrome facilities or equipment that is critical to the safety of aircraft operation; and
- (c) at any other time when there are conditions at the aerodrome that may affect aviation safety.

Aerodrome environmental management programme

139.08.15 (1) A holder of an aerodrome certificate or licence must establish an aerodrome environment management programme to minimise the effects of hazards or potential hazards caused by -

- (a) foreign object debris;
- (b) oil and fuel spillages; or
- (c) birds and animals.

(2) The environment management programme must be established in accordance with standards prescribed in Document NAM-CATS-AH.

Aerodromes works safety

139.08.16 (1) The operator of a certified or licensed aerodrome must -

- (a) establish procedures for ensuring that any works carried out on the aerodrome, do not endanger aircraft operations; and
- (b) take precautions to ensure that any aerodrome works at the aerodrome are carried out in a way that does not create a hazard to aircraft or confusion to pilots.

(2) The aerodrome operator must comply with the standards prescribed in Document NAM-CATS-AH in relation to the works safety plan and notice requirements that must be satisfied before aerodrome works may be carried out.

(3) A person may not perform hot work or work with an open flame on the airside of the aerodrome before notifying the fire-fighting services and all other affected parties of -

- (a) the type of work to be performed;
- (b) the location where the work will be performed; and
- (c) the expected duration of the work to be performed.

(4) If considered necessary by the aerodrome operator or where the type of work can have an impact on aviation safety, the fire services must perform standby duties during such hot work or work with an open flame until the work is completed.

Protection of navigation aids

139.08.17 An aerodrome operator must -

- (a) prevent any construction or activity on the aerodrome or surrounding area that the aerodrome operator has authority over, that could have an adverse effect on the operation of any electronic or visual navigation aid or air traffic service facility for the aerodrome; and
- (b) prevent, as far as it is within the operator's authority, any interruption of electronic or visual navigation aid or air traffic service facility for the aerodrome.

Notification of aerodrome condition

139.08.18 An aerodrome operator must, as soon as practicable, notify the aeronautical information service provider of any aerodrome operational condition at the aerodrome that may affect the safe operation of aircraft, for the purpose of issuance of a NOTAM.

Unsafe conditions

139.08.19 A holder of an aerodrome certificate or licence must establish procedures for ensuring that aircraft operations are restricted or if necessary, prohibited, on any part of the aerodrome where an unsafe condition may exist.

Discontinuation of certified or aerodrome operations

139.08.20 (1) In order that adequate warning may be given to the users of an aerodrome, the holder of an aerodrome certificate or licence must give the Executive Director at least 60 days written notice of the holder's intention to discontinue the maintenance of the aerodrome or to abandon the aerodrome.

(2) If, after the expiry of the period of notice referred to in subregulation (1), an aerodrome is abandoned or is not being maintained in accordance with the conditions of the certificate or licence, the holder of the certificate or licence must remove, obliterate or modify all aerodrome markings as the Executive Director may direct.

(3) On completion of the task referred to in subregulation (2), the holder must surrender the certificate or licence to the Executive Director.

General duties of aerodrome operator

139.08.21 (1) An aerodrome operator must -

- (a) maintain the aerodrome in a serviceable condition;
- (b) keep the aerodrome free of unauthorised persons, vehicles and animals which are not under proper control or any other obstructions;
- (c) mark all obstructions in accordance with any guidelines provided for in these regulations;
- (d) inform the Executive Director of any alterations to obstruction or works on the aerodrome;
- (e) install an apparatus to show the surface direction of the wind and ensure that the apparatus is installed and functions satisfactorily;
- (f) maintain any markings provided for in these regulations in a conspicuous condition and ensure that they are readily visible to aircraft in the air or manoeuvring on the ground;
- (g) ensure the facilities offered to the public are available and in a serviceable condition;
- (h) ensure that all apparatus installed by that holder to promote safety in flight, is functioning efficiently;
- (i) appropriately mark the unserviceable areas on the landing terrain;
- (j) inform the Executive Director whenever the aerodrome becomes unserviceable through any cause or where any portion of the surface of the landing area deteriorates to such an extent that the safe operation of aircraft may be endangered and aircraft operations are limited to those portions of the aerodrome not rendered unsafe by those conditions;
- (k) submit to the Executive Director reports on the condition of the aerodrome as may be required from time to time; and
- (l) ensure that personnel operating on the airside wear high visibility clothing at all times while on the airside.

- (2) A holder of an aerodrome certificate or licence must -
 - (a) hold at least one complete and current copy of the aerodrome manual referred to in Subpart 7 at the aerodrome;
 - (b) comply with all procedures detailed in approved manuals;
 - (c) make each applicable part of the approved manuals available to the personnel who require those parts to carry out their duties; and
 - (d) continue to comply with the appropriate requirements prescribed in this Part.
- (3) A holder of an aerodrome certificate or licence must ensure that -
 - (a) organisations performing activities at the aerodrome comply with safety procedures specified by the aerodrome operator;
 - (b) very high frequency (VHF) direction finding (VDF) equipment, when installed on an aerodrome where an air traffic service unit is present, functions in accordance with standards and specifications provided for in these regulations, except that this requirement may be omitted if the air traffic service unit is serviced by surveillance;
 - (c) the facilities offered to the public are available and in a serviceable condition;
 - (d) carry out an annual survey on the aerodrome for the purpose of the approval of let-down procedures by the Executive Director.
- (4) The holder of an aerodrome certificate or licence must ensure that -
 - (a) where -
 - (i) an air traffic service unit is present on the aerodrome;
 - (ii) scheduled commercial operations are conducted; or
 - (iii) unscheduled commercial operations exceeding six movements a week are conducted and the maximum certified mass of the aircraft involved exceeds 5700 kilograms,

sensing equipment are installed to provide data to the air traffic services unit, and the specifications of such sensing equipment are in accordance with the standards provided for in these regulations.
 - (b) data provided in terms of paragraph (a) is displayed in the aerodrome control tower or air traffic service unit and at the aeronautical meteorological station, where applicable;
 - (c) where an air traffic service unit is not in operation and where scheduled commercial operations occur, data provided in terms of paragraph (a) is transmitted automatically to a minimum range of five nautical miles from the aerodrome reference point;

- (d) where pilot training operations are being undertaken at the aerodrome, wind direction, speed, surface air temperature and barometric pressure data are made available at a location accessible to pilots prior to take off; and
 - (e) where the aerodrome is used for flights coming from outside Namibia or for flights departing to a destination outside Namibia, satisfactory office facilities are available for an aeronautical meteorological station.
- (5) The holder of an aerodrome certificate or licence must -
- (a) furnish the Executive Director with the most current audited year of aerodrome financial data and the aerodrome traffic statistics for each certification or licence period;
 - (b) in the case of aerodromes which serve aircraft used in international public air transport operations, establish a facilitation committee and compile a facilitation plan in accordance with the provisions of Annex 9 to the Chicago Convention;
 - (c) monitor aircraft noise on and in the vicinity of an aerodrome, and report any deviations from the technical standards to the Executive Director;
 - (d) when the air traffic service unit at the aerodrome is not in operation, be responsible for the maintenance of flying discipline on, and in the vicinity of, that aerodrome;
 - (e) furnish in writing to the Executive Director, as soon as practicably possible, but within 30 days from the day of engagement, employment or contracting, full particulars of the accountable manager referred to in regulation 139.08.3; and
 - (f) furnish the Executive Director on monthly basis with the statistical data of incidents and accidents occurring on the airside of the aerodrome.
- (6) The holder of an aerodrome certificate or licence must ensure that in accordance with the national civil aviation security programme referred to in section 118 of the Act -
- (a) all originating hold baggage to be carried on a commercial air transport aircraft engaged in civil aviation operations are screened prior to being loaded onto the aircraft; and
 - (b) the operator of a commercial air transport aircraft engaged in a scheduled commercial air service does not carry any originating hold baggage, unless such baggage has been screened prior to being loaded into the aircraft.

Removal of obstructions from aerodrome surface

139.08.22 An aerodrome operator must remove from the aerodrome surface any vehicle or other obstruction that is likely to be hazardous to aircraft operations.

Warning notices

139.08.23 When low flying aircraft, at or near an aerodrome or taxiing aircraft are likely to be hazardous to people or vehicular traffic, the aerodrome operator must -

- (a) post hazard warning notices on any public road that is adjacent to the manoeuvring area; or
- (b) if such a public road is not controlled by the aerodrome operator, inform the authority responsible for posting the notices on the public way that there is a hazard.

SUBPART 9 AERODROME DATA

Applicability of Subpart

- 139.09.1** (1) This Subpart applies to all aerodromes except where otherwise specified.
- (2) This Subpart does not apply to aerodromes used solely as heliports.

Aeronautical data

139.09.2 An aerodrome operator must make arrangements for the determination and reporting of aerodrome-related aeronautical data in accordance with standards prescribed in Document NAM-CATS-AH.

Aerodrome reference point

- 139.09.3** (1) An aerodrome operator must establish an aerodrome reference point for an aerodrome.
- (2) The aerodrome reference point must be located near the initial or planned geometric centre of the aerodrome and must remain where first established.
- (3) The position of the aerodrome reference point must be measured and reported to the aeronautical information services in WGS-84 format.

Aerodrome and runway elevation

139.09.4 An aerodrome operator must measure and report to the aeronautical information services, the aerodrome and runway elevations in accordance with standards prescribed in Document NAM-CATS-AH.

Aerodrome reference temperature

139.09.5 An aerodrome operator must determine and notify an aerodrome reference temperature for the aerodrome in accordance with standards prescribed in Document NAM-CATS-AH.

Aerodrome dimensions and related information

139.09.6 An aerodrome operator must measure or describe, as appropriate, and publish the dimensions and related information for each facility provided for use at the aerodrome in accordance with the standards prescribed in Document NAM-CATS-AH.

Strength of pavements

- 139.09.7** (1) An aerodrome operator must determine and report the bearing strength of pavements at the aerodrome.

(2) The bearing strength of pavements must be determined and reported in accordance with the standards prescribed in Document NAM-CATS-AH.

Pre-flight altimeter check point

139.09.8 An aerodrome operator must establish for the aerodrome, one or more pre-flight altimeter check locations and report such information in accordance with the standards prescribed in Document NAM-CATS-AH.

Declared distances

139.09.9 (1) An operator of a certified or licensed aerodrome must calculate and publish the following distances for the runway or runways at the aerodrome -

- (a) take-off run available;
- (b) take-off distance available;
- (c) accelerate-stop distance available; and
- (d) landing distance available.

(2) The declared distances must be calculated in accordance with standards prescribed in Document NAM-CATS-AH.

Condition of movement area and related facilities

139.09.10 (1) An aerodrome operator must -

- (a) provide to the aeronautical information services, information on the condition of the movement area and the operational status of related facilities;
- (b) provide to the air traffic services units, information of operational significance regarding the condition of the movement area and the operational status of related facilities; and
- (c) monitor the condition of the movement area and the operational status of related facilities and provide a report on matters of operational significance affecting aircraft and aerodrome operations.

(2) The aerodrome conditions must be provided and monitored in accordance with standards prescribed in Document NAM-CATS-AH.

Information on disabled aircraft removal

139.09.11 An aerodrome operator must make available in accordance with standards prescribed in Document NAM-CATS-AH, information concerning the capability of the aerodrome to remove an aircraft disabled on or adjacent to the movement area.

Information on rescue and fire fighting level of protection

139.09.12 (1) An aerodrome operator must make available information concerning the level of protection provided at an aerodrome for aircraft rescue and firefighting purposes.

(2) The level of protection available at an aerodrome and any changes in the level of protection must be notified in accordance with the standards prescribed in Document NAM-CATS-AH.

Information concerning visual approach slope indicator systems

139.09.13 An aerodrome operator must make available information concerning the visual approach slope indicator system installed at the aerodrome in accordance with standards prescribed in Document NAM-CATS-AH.

Coordination between aeronautical information services and aerodrome authorities

139.09.14 (1) An operator of a certified or licensed aerodrome must -

- (a) make arrangements to provide to aeronautical information services, information regarding the status and condition of the aerodrome and its associated facilities and services;
- (b) before introducing changes to the air navigation system, carry out close coordination of such changes with aeronautical information services;
- (c) provide raw aeronautical information or data to the aeronautical information services to meet the needs of users.

(2) Coordination between the aerodrome operator and aeronautical information services must be carried out in accordance with standards prescribed in Document NAM-CATS-AH.

SUBPART 10 AERODROME PHYSICAL CHARACTERISTICS

Applicability of Subpart

139.10.1 (1) This Subpart applies to all aerodromes except where otherwise specified.

(2) This Subpart does not apply to aerodromes used solely as heliports.

Runways

139.10.2 An aerodrome operator must ensure that the physical characteristics of the runway or runways at the aerodrome, including the number of runways and orientation, location of the threshold, actual length of the runways, width, slopes on runways, strength and surfaces of runways and the minimum distance between parallel runways, are in accordance with the standards prescribed in Document NAM-CATS-AH.

Runway shoulders

139.10.3 An aerodrome operator must ensure that the physical characteristics of the runway or runways shoulders at an aerodrome including the widths, slopes and strength of the runway shoulders are in accordance with the standards prescribed in Document NAM-CATS-AH.

Runway turn pads

139.10.4 An aerodrome operator must ensure that, where a runway turn pad is required, the physical characteristics and the design of such runway turn pad is in accordance with the standards prescribed in Document NAM-CATS-AH.

Runway strips

139.10.5 An aerodrome operator must ensure that a runway at an aerodrome and any associated stopway is included in a strip and that the physical characteristics of that runway strip is in accordance with the standards prescribed in Document NAM-CATS-AH.

Runway end safety areas

139.10.6 An aerodrome operator must ensure that a runway end safety area is provided at each end of a runway strip where required in accordance with the standards prescribed in Document NAM-CATS-AH, and that the physical characteristics of that runway end safety area is in accordance with the specified standards.

Clearways

139.10.7 An aerodrome operator must ensure that where a clearway is provided for a particular runway at an aerodrome, that clearway is established in accordance with standards prescribed in Document NAM-CATS-AH.

Stopways

139.10.8 An aerodrome operator must ensure that where a stopway is provided for a particular runway at an aerodrome, that stopway is established in accordance with standards prescribed in Document NAM-CATS-AH.

Radio altimeter operating area

139.10.9 An aerodrome operator must ensure that where a radio altimeter operating area is provided at an aerodrome, that radio altimeter operating area is established in accordance with standards prescribed in Document NAM-CATS-AH.

Taxiways

139.10.10 An aerodrome operator must ensure that the design and the physical characteristics of a taxiway provided at an aerodrome are in accordance with the standards prescribed in Document NAM-CATS-AH.

Taxiway shoulders

139.10.11 An aerodrome operator must ensure that the physical characteristics of a taxiway shoulders at an aerodrome are in accordance with the standards prescribed in Document NAM-CATS-AH.

Taxiway strips

139.10.12 An aerodrome operator must ensure that the physical characteristics of taxiway strips are established in accordance with the standards prescribed in Document NAM-CATS-AH.

Holding bays, runway-holding positions, intermediate holding positions and road-holding positions

139.10.13 An aerodrome operator must ensure that when provided, holding bays, a runway-holding position, intermediate holding position and road-holding positions are established in accordance with the standards prescribed in Document NAM-CATS-AH.

Aprons

139.10.14 An aerodrome operator must ensure that the physical characteristics of an apron provided at an aerodrome are in accordance with the standards prescribed in Document NAM-CATS-AH.

Isolated aircraft parking position

139.10.15 (1) An operator of a certified or licensed aerodrome must designate an isolated aircraft parking position at the aerodrome in accordance with the standards prescribed in Document NAM-CATS-AH.

(2) Where an isolated aircraft parking position has not been designated in accordance with subregulation (1), the aerodrome control tower must be advised of an area or areas suitable for the parking of an aircraft which is known or believed to be the subject of an act of unlawful interference or which for other reasons needs isolation from normal aerodrome activities.

SUBPART 11 OBSTACLE RESTRICTION AND REMOVAL

Applicability of Subpart

139.11.1 (1) This Subpart applies to all aerodromes except where otherwise specified.

(2) This Subpart does not apply to aerodromes used solely as heliports.

Erection of obstacles

139.11.2 (1) A person may not cause or permit the erection or growth of an obstacle at, or in the vicinity of, an aerodrome, where the obstacle may prevent an aircraft operation from being conducted safely or the aerodrome from being usable.

(2) The erection of buildings or other objects in the navigable airspace or in the vicinity of an aerodrome or navigation aid must be in accordance with standards prescribed in Document NAM-CATS-AH.

(3) A person may not cause or permit any object, including new or extension of existing objects to penetrate the obstacle limitation surface, established in accordance with regulation 139.11.3, without the written permission of the Executive Director.

Establishment of obstacle limitation surfaces

139.11.3 (1) An aerodrome operator must -

- (a) establish obstacle limitation surfaces for the aerodrome;
- (b) monitor the established obstacle limitation surfaces around the aerodrome for infringement by objects, buildings or other structures;
- (c) establish a systematic means of surveying and monitoring any object that penetrates the obstacle limitation surfaces around the aerodrome and report any penetration immediately to the Executive Director; and
- (d) notify, through the aeronautical information services, any object that penetrates obstacle limitation surfaces around the aerodrome.

(2) The operator of an aerodrome must work jointly with the Executive Director to plan and determine the allowable height limits for new developments in the vicinity of, and outside of, the aerodrome and the type of instrument or visual flight operations that may be permitted, taking the obstacle survey plan into account.

Obstacle limitation surfaces

139.11.4 (1) The obstacle limitation surfaces established for an aerodrome must consist of the following:

- (a) outer horizontal surface;
- (b) conical surface;
- (c) inner horizontal surface;
- (d) approach surface;
- (e) inner approach surface;
- (f) transitional surface;
- (g) inner transitional surface;
- (h) balked landing surface; and
- (i) take-off climb surface.

(2) The obstacle limitation surfaces referred to in subregulation (1) must be established in accordance with the standards prescribed in Document NAM-CATS-AH.

Obstacle limitation requirements

139.11.5 (1) An aerodrome operator must establish obstacle limitation surfaces for non-instrument runways, non-precision approach runways and precision approach runways and for runways meant for take-off.

(2) The obstacle limitation surfaces established in terms of subregulation (1) must be in accordance with the standards prescribed in Document NAM-CATS-AH, and must be clear of any penetration of obstacles temporary or otherwise.

Objects outside obstacle limitation surfaces

139.11.6 (1) A person may not construct any building, structure or other objects beyond the limits of the obstacle limitation surfaces of an aerodrome that extend above a height of 45 metres above the mean level of the aerodrome landing areas unless -

- (a) that person has had prior consultation with the Executive Director; and
- (b) the construction is in accordance with standards prescribed in Document NAM-CATS-AH.

(2) The Executive Director must whenever necessary, permit an aeronautical study to be conducted on the effect of the construction referred to in subregulation (1) on the operation of aircraft.

Removal of obstacles and other objects

139.11.7 (1) A person must remove any object that will adversely affect the optimum siting or performance of visual or non-visual aids or constitute a hazard to aircraft operation as prescribed in Document NAM-CATS-AH.

(2) The Executive Director may direct the removal of any obstacle which, in the opinion of the Executive Director, constitutes a hazard to aircraft operations, and the cost of such removal must be borne by the owner of the obstacle or the person who placed the obstacle at the place where it is removed from.

**SUBPART 12
VISUAL AIDS FOR NAVIGATION****Applicability of Subpart**

139.12.1 (1) This Subpart applies to all categories of aerodromes except where otherwise specified.

(2) This Subpart does not apply to aerodromes used solely as heliports.

Wind direction indicator

139.12.2 (1) An aerodrome operator must ensure that an aerodrome is equipped with at least one wind direction indicator.

(2) A wind direction indicator required by subregulation (1) must be located so as to be visible from aircraft in flight or on the movement area and in such a way as to be free from the effects of air disturbances caused by nearby objects.

(3) The characteristics of the wind direction indicator must be in accordance with standards prescribed in Document NAM-CATS-AH.

Landing direction indicator

139.12.3 An aerodrome operator must ensure that, where a landing direction indicator is provided at an aerodrome, it is located in a conspicuous place on the aerodrome and the characteristics of such landing direction indicator are in accordance with standards prescribed in Document NAM-CATS-AH.

Signaling lamp

139.12.4 (1) An aerodrome operator must ensure that a signaling lamp is provided in the aerodrome control tower at an aerodrome where air traffic control service is provided to aerodrome traffic.

(2) The characteristics of the signalling lamp must be in accordance with standards prescribed in Document NAM-CATS-AH.

Signal panels and signal areas

139.12.5 Where provided at an aerodrome, the location and characteristics of a signal panel and signal area must be in accordance with standards prescribed in Document NAM-CATS-AH.

Markings

139.12.6 An aerodrome operator must ensure that markings displayed at an aerodrome are conspicuous and such markings are displayed in accordance with standards prescribed in Document NAM-CATS-AH.

Lights

139.12.7 (1) An aerodrome operator must ensure that any lights or emissions that may endanger the safety of aircraft or cause confusion to aircraft operating at an aerodrome are extinguished, screened or otherwise modified so as to eliminate the source of the danger or confusion.

(2) An aerodrome operator must ensure that -

(a) elevated approach, runway, stopway and taxiway lights and their supporting structures, are frangible and are designed in accordance with standards prescribed in Document NAM-CATS-AH;

(b) light fixtures inserted in the surface of runways, stopways, taxiways and aprons are designed and fitted in accordance with standards prescribed in Document NAM-CATS-AH; and

(c) the intensity of the runway lighting at the aerodrome is adequate and compatible with that of the approach lighting system and that suitable intensity control system that allows for the adjustment of the light intensity is provided.

(3) Aerodrome lighting systems provided at an aerodrome must be in accordance with the standards prescribed in Document NAM-CATS-AH.

Signs

139.12.8 (1) An aerodrome operator must provide at an aerodrome, signs to convey a mandatory instruction, information on a specific location or destination on a movement area or to provide other information.

(2) An aerodrome operator must ensure that signs provided at an aerodrome are frangible and that their locations and specifications are in accordance with the standards prescribed in Document NAM-CATS-AH.

Markers

139.12.9 (1) An aerodrome operator must ensure that markers provided at an aerodrome are frangible, and when located near a runway or taxiway must be sufficiently low to preserve clearance for propellers and for the engine pods of jet aircraft.

(2) An aerodrome operator must ensure that location and specifications of markers provided at an aerodrome are in accordance with the standards prescribed in Document NAM-CATS-AH.

SUBPART 13 VISUAL AIDS FOR DENOTING OBSTACLES

Applicability of Subpart

139.13.1 This Subpart applies to all categories of aerodromes unless otherwise specified.

Objects to be marked or lighted

139.13.2 (1) An aerodrome operator must ensure that objects within the lateral boundaries of the obstacle limitation surfaces are marked, as appropriate, and if used at night or in conditions of low visibility, lighted, in accordance with standards prescribed in Document NAM-CATS-AH, except that aircraft servicing equipment and vehicles used only on aprons may be exempted from this requirement.

(2) An aerodrome operator must ensure that obstacles outside the lateral boundaries of the obstacle limitation surfaces are marked and lighted in accordance with standards prescribed in Document NAM-CATS-AH.

Marking and lighting of objects

139.13.3 (1) The presence of objects which must be lighted, as specified in regulation 139.13.2, must be indicated by low, medium or high intensity obstacle lights or a combination of such lights in accordance with specifications prescribed in Document NAM-CATS-AH.

(2) Mobile objects, fixed objects and wind turbines must be marked or lighted in accordance with the standards prescribed in Document NAM-CATS-AH.

SUBPART 14 VISUAL AIDS FOR DENOTING RESTRICTED USE AREAS

Applicability of Subpart

139.14.1 This Subpart applies to all categories of aerodromes.

Closed runways and taxiways or parts thereof

139.14.2 (1) An aerodrome operator must ensure that a closed marking is displayed on a runway or taxiway or portion thereof which is permanently closed to the use of all aircraft.

(2) The location and characteristics of a closed marking required by subregulation (1) must be in accordance with the standards prescribed in Document NAM-CATS-AH.

Non-load-bearing surface

139.14.3 An aerodrome operator must ensure that the boundaries between non-load-bearing surfaces and the load-bearing surfaces are marked in accordance with the standards prescribed in Document NAM-CATS-AH.

Pre-threshold area

139.14.4 Where provided at an aerodrome, the paved surface of a pre-threshold area must be marked in accordance with the standards prescribed in Document NAM-CATS-AH.

Unserviceable areas

- 139.14.5** (1) An aerodrome operator must -
- (a) display conspicuous unserviceability markers on unserviceable areas; and
 - (b) ensure that unserviceability lights are used on a movement area used at night or in conditions of low visibility.
- (2) The location and characteristics of unserviceability markers and lights required by subregulation (1) must be in accordance with the standards prescribed in Document NAM-CATS-AH.

**SUBPART 15
ELECTRICAL SYSTEMS****Applicability of Subpart**

- 139.15.1** (1) This Subpart applies to certified aerodromes.
- (2) This Subpart also applies to licensed aerodromes where electrical systems are provided for use at the aerodrome.

Electrical power supply systems for air navigation facilities

- 139.15.2** (1) An operator of an aerodrome must make available, adequate power supply at the aerodromes for the safe functioning of air navigation facilities.
- (2) The provision, design and installation of the electrical systems, required under these regulations including power supply connections, the time interval between failure of the primary source of power and the complete restoration of the services and the switch-over times must be in accordance with the standards prescribed in Document NAM-CATS-AH.
- (3) An operator of an aerodrome must provide adequate secondary power to ensure essential facilities are automatically connected to power supply upon failure of the primary source of power.
- (4) The secondary power provided in accordance with subregulation (3) must be in accordance with the standards prescribed in Document NAM-CATS-AH.

Systems design

- 139.15.3** (1) An aerodrome operator must ensure that the electrical systems for the power supply, lighting and control of the lighting systems are so designed that an equipment failure will not leave the pilot with inadequate visual guidance or misleading information.
- (2) The systems design must be in accordance with the standards prescribed in Document NAM-CATS-AH.

Monitoring

- 139.15.4** (1) An operator of an aerodrome must have in place, a system for monitoring the operational status of lighting systems at the aerodrome.
- (2) The system for monitoring required by subregulation (1) must be in accordance with the standards prescribed in Document NAM-CATS-AH.

SUBPART 16
AERODROME OPERATIONAL SERVICES, EQUIPMENT AND INSTALLATIONS

Applicability of Subpart

139.16.1 (1) This Subpart applies to certified aerodromes.

(2) This Subpart may apply to licensed aerodromes where considered necessary by the Executive Director.

Aerodrome emergency planning

139.16.2 (1) An operator of an aerodrome must establish an aerodrome emergency plan at the aerodrome that -

- (a) is commensurate with the aircraft operations and other activities conducted at the aerodrome;
- (b) provides for the coordination of the actions to be taken in an emergency occurring at the aerodrome or in its vicinity including -
 - (i) aircraft emergencies;
 - (ii) sabotage including bomb threats;
 - (iii) unlawfully seized aircraft;
 - (iv) dangerous goods occurrences;
 - (v) building fires;
 - (vi) natural disaster; and
 - (v) public health emergencies such as -
 - (aa) increased risk of travellers or cargo spreading a serious communicable disease internationally through air transport;
 - (bb) severe outbreak of a communicable disease potentially affecting a large proportion of aerodrome staff;
- (c) coordinates the response or participation of all existing agencies which, in the opinion of the aerodrome operator, could be of assistance in responding to an emergency;
- (d) provides for cooperation and coordination with the rescue coordination centre, as necessary;
- (e) includes at least the following -
 - (i) types of emergencies planned for;
 - (ii) agencies involved in the plan;
 - (iii) responsibility and role of each agency, the emergency operations centre and the command post for each type of emergency;

- (iv) information on names and telephone numbers of offices or people to be contacted in the case of a particular emergency; and
- (v) a grid map of the aerodrome and its immediate vicinity;
- (f) observes human factor principles;
- (g) provides for the establishment of an emergency operations centre and command post;
- (h) provides for adequate communication systems;
- (i) contains procedures for periodic testing of the adequacy of the plan and the reviewing of the results of such tests;
- (j) provides for the testing of the plan through -
 - (i) full-scale aerodrome emergency exercise; or
 - (ii) a series of modular tests;
- (k) provides for the reviewing of the plan after the testing or after an actual emergency; and
- (l) provides for the handling of emergencies in difficult environments.

(2) An aerodrome emergency plan must be established in accordance with standards prescribed in Document NAM-CATS-AH.

Rescue and firefighting services

- 139.16.3**
- (1) An operator of an aerodrome must -
 - (a) provide rescue and firefighting equipment and services at the aerodrome;
 - (b) designate suitably located and equipped public and private organisations to provide the rescue and firefighting service; and
 - (c) where the aerodrome is located close to water or swampy areas or difficult terrain, make available, specialist rescue services and firefighting equipment appropriate to the hazard and risk.
 - (2) An operator of an aerodrome must -
 - (a) ensure that the established rescue and firefighting services at the aerodrome is capable of providing the required level of protection appropriate to the aerodrome fire services category of the aerodrome;
 - (b) ensure that the rescue and firefighting services level of protection, extinguishing agents and rescue equipment are determined and established;
 - (c) ensure that the rescue and firefighting services is capable of meeting the required response times;
 - (d) ensure that emergency access roads, fire stations, communication and alerting systems are provided;

- (e) ensure that the number of firefighting vehicles are commensurate with the established aerodrome category;
 - (f) ensure the availability of sufficient trained and competent personnel commensurate with the aerodrome firefighting category;
 - (g) have in place a rescue and firefighting personnel training programme which includes training in human performance and team coordination; and
 - (h) ensure that all responding rescue and firefighting personnel are provided with protective clothing and respiratory equipment.
- (3) The aerodrome rescue and firefighting services established in accordance with subregulations (1) and (2) must be in accordance with standards prescribed in Document NAM-CATS-AH.

Disabled aircraft removal

139.16.4 An operator of a certified or licensed aerodrome must establish a plan for coordinating the removal of an aircraft disabled on, or adjacent to, the movement area of the aerodrome in accordance with standards prescribed in Document NAM-CATS-AH.

Wildlife hazard management

139.16.5 (1) An operator of a certified or licensed aerodrome must have in place a wildlife management programme that includes -

- (a) assessment of the wildlife strike hazard on, or in the vicinity of, an aerodrome; and
 - (b) monitoring, recording and reporting the presence of wildlife on, or in the vicinity of, an aerodrome.
- (2) The wildlife management programme must be established in accordance with standards prescribed in Document NAM-CATS-AH.
- (3) The operator of a certified or licensed aerodrome must -
- (a) ensure that wildlife strike reports are collected and forwarded to the Executive Director;
 - (b) adopt measures to minimise the likelihood of collisions between wildlife and aircraft;
 - (c) take action to eliminate or to prevent the establishment of garbage disposal dumps or any other source which may attract wildlife to the aerodrome or its vicinity, unless an appropriate wildlife assessment indicates that they are unlikely to create conditions conducive to a wildlife hazard problem;
 - (d) where the elimination of existing sites is not possible, ensure that any risk to aircraft posed by these sites is assessed and reduced to as low as reasonably practicable; and
 - (e) give due consideration to aviation safety concerns related to land developments in the vicinity of the aerodrome that may attract wildlife.

Apron management service

139.16.6 (1) An operator of a certified or licensed aerodrome may, when warranted by the volume of traffic and operating conditions, provide an appropriate apron management service at the aerodrome.

(2) The apron management service established in terms of subregulation (1) must be in accordance with standards prescribed in Document NAM-CATS-AH.

Ground servicing of aircraft

139.16.7 An aerodrome operator must establish procedures for ground servicing of an aircraft in accordance with standards prescribed in Document NAM-CATS-AH.

Aerodrome vehicle operations

139.16.8 (1) A vehicle must be operated -

- (a) on a manoeuvring area only as authorised by the aerodrome control tower; and
- (b) on an apron only as authorised by the designated apron management service.
- (2) The driver of a vehicle operating on the movement area must -
 - (a) comply with all mandatory instructions conveyed by markings and signs except where otherwise authorised by -
 - (i) the aerodrome control tower when on the manoeuvring area; or
 - (ii) the designated apron management service when on the apron;
 - (b) comply with all mandatory instructions conveyed by lights;
 - (c) be appropriately trained for the tasks to be performed;
 - (d) comply with the instructions issued by -
 - (i) the aerodrome control tower when on the manoeuvring area; and
 - (ii) the designated apron management service, when on the apron;
 - (e) when driving a radio-equipped vehicle, establish satisfactory two-way radio communication with the -
 - (i) aerodrome control tower before entering the manoeuvring area; and
 - (ii) designated apron management service before entering the apron;
 - (f) when driving a radio-equipped vehicle, maintain a continuous listening watch on the assigned frequency when on the movement area.

(3) The aerodrome operator must have procedures in place to guide ground vehicle operations in accordance with standards prescribed in Document NAM-CATS-AH.

Surface movement guidance and control systems

139.16.9 (1) An operator of a certified aerodrome must have surface movement guidance and control system (SMGCS) at the aerodrome in accordance with standards prescribed in Document NAM-CATS-AH.

(2) The characteristics of an surface movement guidance and control system including the design must be in accordance with standards prescribed in Document NAM-CATS-AH.

Siting of equipment and installations on operational areas

139.16.10 (1) A person may not place any equipment or installation on a runway strip, a runway end safety area, a taxiway strip or on a clearway if it may endanger an aircraft.

(2) Any equipment or installation required for air navigation or for safety of aircraft and which must be located on the areas specified in subregulation (1) must be frangible and must be located in accordance with the standards prescribed in Document NAM-CATS-AH.

Fencing

139.16.11 (1) An operator of a certified or licensed aerodrome must provide a fence or other suitable barrier on an aerodrome to -

- (a) prevent the entrance of animals to the movement area; and
- (b) to deter the inadvertent or premeditated access of an unauthorised person onto a non-public area of the aerodrome.

(2) The fence or barrier required under subregulation (1) must be provided in accordance with standards prescribed in Document NAM-CATS-AH.

Security lighting

139.16.12 Where it is considered desirable, for security reasons, a fence or other barrier provided at an aerodrome for the protection of civil aviation must be illuminated in accordance with standards prescribed in Document NAM-CATS-AH.

Autonomous runway incursion warning system

139.16.13 Where an autonomous runway incursion warning system (ARIWS) is installed at an aerodrome, the characteristics must be in accordance with the standards prescribed in Document NAM-CATS-AH.

SUBPART 17 AERODROME MAINTENANCE

Applicability of Subpart

139.17.1 This Subpart applies to all aerodromes except where otherwise specified.

Maintenance programme

139.17.2 (1) An operator of a certified or licensed aerodrome must establish a maintenance programme, including preventive maintenance, to maintain aerodrome facilities in a condition which does not impair the safety, regularity or efficiency of air navigation.

(2) The maintenance programme must be established in accordance with standards prescribed in Document NAM-CATS-AH.

Maintenance of pavements and friction measurement

139.17.3 (1) An operator of a certified or licensed aerodrome must establish a maintenance programme for the maintenance of aerodrome facilities.

(2) The aerodrome maintenance programme required by subregulation (1) must be established in accordance with standards prescribed in Document NAM-CATS-AH.

Removal of contaminants

139.17.4 The operator of an aerodrome must remove standing water, mud, dust, sand, oil, rubber deposits and other contaminants from paved surfaces at an aerodrome in accordance with the standards prescribed in Document NAM-CATS-AH.

Runway pavement overlays

139.17.5 (1) An operator of an aerodrome must ensure that projects involving runway pavement overlays are undertaken in accordance with the standards prescribed in Document NAM-CATS-AH.

(2) The aerodrome operator must ensure that the characteristics of a temporary ramp, when constructed for use by aircraft during runway pavement overlay, are in accordance with the standards prescribed in Document NAM-CATS-AH.

Maintenance of visual aids for navigation

139.17.6 (1) An operator of a certified or licensed aerodrome must establish and implement in accordance with the standards prescribed in Document NAM-CATS-AH, a programme for the maintenance of visual aids for navigation that are installed on the aerodrome.

(2) The maintenance programme required by subregulation (1) must include -

- (a) a system of preventive maintenance of visual aids;
- (b) procedures for ensuring that each visual aid for navigation continues to provide reliable and accurate guidance information to the user in accordance with the applicable standards;
- (c) details on the number of lights that may be allowed to be unserviceable in each lighting system to ensure continuity of guidance to the user; and
- (d) procedures for restoring any unserviceable or deteriorated item back into service without undue delay.

(3) An operator of a certified or licensed aerodrome must restrict construction or maintenance activities in the proximity of aerodrome electrical systems whenever low visibility procedures are in use.

SUBPART 18
REQUIREMENTS SPECIFIC TO HELIPORTS

Applicability of Subpart

- 139.18.1** (1) This Subpart applies to -
- (a) all heliports intended to be used by helicopters; and
 - (b) areas designated for the exclusive use of helicopters at an aerodrome that is primarily meant for the use of helicopters.
- (2) This Subpart covers aspects specific to heliport planning, design and operations.

Definitions for this Subpart

- 139.18.2** In this Subpart, unless the context otherwise indicates -
- “heliport” means an aerodrome or a defined area on a structure intended to be used wholly or in part for the arrival, departure and surface movement of helicopters;
- “obstacle” means all fixed (whether temporary or permanent) and mobile objects or parts thereof, that -
- (a) are located on an area intended for the surface movement of aircraft;
 - (b) extend above a defined surface intended to protect aircraft in flight; or
 - (c) stand outside those defined surfaces and that have been assessed as being a hazard to air navigation.

Heliport reference point

- 139.18.3** (1) A heliport operator must establish a heliport reference point for a heliport or a landing location not collocated with an aerodrome and when the heliport or landing location is collocated with an aerodrome, the established aerodrome reference point serves both the aerodrome and heliport or landing location.
- (2) The heliport operator must ensure that -
- (a) the heliport reference point is located near the initial or planned geometric centre of the heliport or landing location and must normally remain where first established; and
 - (b) the position of the heliport reference point is measured and reported to the aeronautical information services in degrees, minutes and seconds.

Heliport elevations

- 139.18.4** A heliport operator must measure and report to the aeronautical information services, the heliport elevation and geoid undulation in accordance with the standards prescribed in Document NAM-CATS-AH.

Heliport dimensions and related information

139.18.5 A heliport operator must measure and provide to aeronautical information services, the dimensions and relevant information on the landing and take-off facilities at the heliport in accordance with the standards prescribed in Document NAM-CATS-AH.

Declared distances

139.18.6 A heliport operator must declare and report to aeronautical information services the following distances for the heliport -

- (a) take-off distance available;
- (b) rejected take-off distance available; and
- (c) landing distance available.

Physical characteristics of surface-level heliports

139.18.7 (1) An operator of a surface-level heliport must ensure that the physical characteristics of a surface-level heliport, including the physical characteristics of the final approach and take-off area, the touchdown and lift-off areas, helicopter clearways, the safety areas, helicopter ground taxiways and taxi routes, helicopter air taxiways and air taxi routes and helicopter stands, are in accordance with the standards prescribed in Document NAM-CATS-AH.

- (2) An operator of a surface-level heliport must ensure that -
 - (a) no fixed object is permitted above the surface of the ground on a helicopter ground taxi-route, except for frangible objects, which, because of their function, must be located thereon;
 - (b) no mobile object is permitted on a ground taxi-route during helicopter movement; and
 - (c) objects whose function requires them to be located on a helicopter ground taxi-route comply with the standards prescribed in Document NAM-CATS-AH.

Physical characteristics of elevated heliports

139.18.8 An operator of an elevated heliport must ensure that the physical characteristics of the heliport, including the physical characteristics of the final approach and take-off area, the touchdown and lift off areas, the clearways, the safety areas, taxiways and taxi routes and aprons, are in accordance with the standards prescribed in Document NAM-CATS-AH.

Physical characteristics of helidecks

139.18.9 An operator of helideck must ensure that the physical characteristics of the helideck, including the physical characteristics of the final approach and take-off area and the touchdown and lift off areas, are in accordance with the standards prescribed in Document NAM-CATS-AH.

Physical characteristics of shipboard heliports

139.18.10 An operator of a shipboard heliport must ensure that the physical characteristics of the heliport, including the physical characteristics of the final approach and take-off area and the touchdown and lift off areas, are in accordance with the standards prescribed in Document NAM-CATS-AH.

Obstacle limitation surfaces and sectors

139.18.11 The obstacle limitation surfaces and sectors for heliports must be established in accordance with the standards prescribed in Document NAM-CATS-AH.

Obstacle limitation requirements

139.18.12 (1) An operator of a surface level heliport must establish the obstacle limitation surfaces in accordance with the standards prescribed in Document NAM-CATS-AH including -

- (a) take-off climb surface;
- (b) approach surface; and
- (c) transitional surfaces.

(2) The surfaces listed in subregulation (1) must be established in accordance with standards prescribed in Document NAM-CATS-AH.

(3) Obstacle limitation surfaces for elevated heliports must conform to the requirements for surface-level heliports specified in subregulations (1) and (2), and must be established in accordance with the standards prescribed in Document NAM-CATS-AH.

(4) An operator of a helideck must ensure that -

- (a) the helideck has an obstacle-free sector;
- (b) there are no fixed obstacles within the obstacle-free sector above the obstacle-free surface;
- (c) obstacle protection are provided for helicopters in the immediate vicinity of the helideck below the helideck level and in accordance with the standards prescribed in Document NAM-CATS-AH; and
- (d) objects within the TLOF comply with the standards prescribed in Document NAM-CATS-AH.

(5) When helicopter operating areas are provided in the bow or stern of a ship they must conform the obstacle criteria for helidecks.

(6) The obstacle limitation requirements for shipboard heliports including requirements for location of objects within the TLOF and for the winching area must be as prescribed in Document NAM-CATS-AH.

Visual aids

139.18.13 (1) An operator of a heliport must provide visual aids at the heliport including -

- (a) wind direction indicators;
- (b) markings and markers; and
- (c) lights.

(2) The visual aids required by subregulation (1) must be in accordance with the requirements of regulations 139.18.14, 139.18.15 and 139.18.16 and the associated standards prescribed in Document NAM-CATS-AH.

Wind direction indicator

139.18.14 An operator of a heliport must ensure that -

- (a) at least one wind direction indicator is provided at the heliport;
- (b) the wind direction indicator is located and constructed in accordance with standards prescribed in Document NAM-CATS-AH; and
- (c) a wind direction indicator at a heliport intended for use at night is illuminated.

Markings and markers

139.18.15 An operator of a heliport must ensure that markings and markers at the heliport comply with the standards prescribed in Document NAM-CATS-AH.

Lights

139.18.16 An operator of a heliport must ensure that lighting systems at the heliport comply with standards prescribed in Document NAM-CATS-AH.

Heliport emergency planning

139.18.17 (1) An operator of a certified heliport must establish a heliport emergency plan commensurate with the helicopter operations and other activities conducted at the heliport.

(2) The plan established in terms of subregulation (1) must be established in accordance with the standards prescribed in Document NAM-CATS-AH.

Rescue and firefighting

139.18.18 An operator of a certified or licensed heliport must provide rescue and firefighting services in accordance with regulation 139.16.3 and the standards prescribed in Document NAM-CATS-AH.

Insertion of Part 140 into Regulations

11. The Regulations are amended by the insertion immediately after the heading “ORGANISATIONS” of the following Part:

**“PART 140
SAFETY MANAGEMENT SYSTEMS AND RELATED MATTERS**

LIST OF REGULATIONS

SUBPART 1: GENERAL

- 140.01.1 Applicability
140.01.2 Definitions for this Part

SUBPART 2: SMS FRAMEWORK

- 140.02.1 Establishment of SMS
140.02.2 Requirements of SMS
140.02.3 Implementation of SMS

SUBPART 3: SENIOR ACCOUNTABLE MANAGER AND KEY PERSONNEL

- 140.03.1 Senior accountable managers
140.03.2 Key safety personnel

SUBPART 4: MISCELLANEOUS MATTERS

- 140.04.1 Violations and offences
140.04.2 Safety charges
140.04.3 International general aviation operators of large or turbojet aeroplanes
140.04.4 Holder of more than one certificate

**SUBPART 1
GENERAL**

Applicability

140.01.1 (1) This Part applies to a participant or holder of an aviation document who or that the Executive Director has, by way of an aviation directive, determined that the Part applies.

(2) The participant’s or holder’s organisation SMS must address the identification of hazards, assessment of risk and development of risk mitigation strategies where applicable.

(3) In this Part the abbreviation “SMS” is used for the expression safety management system within the meaning and context of Annex 19 of the Chicago Convention.

Definitions for this Part

140.01.2 In this Part, unless the context indicates otherwise -

“acceptable level of safety performance (ALoSP)” means the minimum level of safety performance of civil aviation in Namibia, as defined in a participant’s or holder’s safety management system, expressed in terms of safety performance targets and safety performance indicators;

“change management” means a formal process to manage changes within a participant’s or holder’s organisation in a systematic manner, so that changes which may impact identified hazards and risk mitigation strategies, are accounted for, before the implementation of such changes;

“defences” means specific mitigating actions, preventive controls or recovery measures put in place to prevent the realisation of a hazard or its escalation into an undesirable consequence;

“large or turbojet aeroplane” means an aeroplane with all-up weight exceeding 5700 kilograms;

“risk mitigation” means the process of incorporating defences or preventive controls to lower the severity or likelihood of a hazard’s projected consequence;

“safety data collection and processing systems” (SDCPS) means processing and reporting systems, safety databases, schemes for exchange of information, and recorded information including but not be limited to -

- (a) data and information pertaining to accident or incident investigations;
- (b) mandatory safety reporting systems;
- (c) continuing airworthiness reporting;
- (d) operational performance monitoring;
- (e) inspections, audits, surveys; or
- (f) safety studies and reviews; and
- (g) voluntary safety reporting systems and self-disclosure reporting systems including automatic and manual data capturing;

“safety management system” (SMS) means a systematic approach to managing aviation safety, including the necessary organisational structures, accountability, responsibilities, policies and procedures;

“safety oversight” means a function performed by the Authority to ensure that individuals and organisations performing an aviation activity comply with the Act, regulations, technical standards and directives;

“safety performance” means the SSP or a participant’s or holder’s safety achievement as defined by its safety performance targets and safety performance indicators;

“safety performance indicator” means a data-based safety parameter used for monitoring and assessing safety performance;

“safety performance target” means the SSP or a participant’s or holder’s planned or intended target for a safety performance indicator over a given period that aligns with the safety objectives;

“safety risk” means the predicted probability and severity of the consequences or outcomes of a hazard;

“State Safety Programme (SSP)” means an integrated set of regulations and activities aimed at improving aviation safety in Namibia; and

“surveillance” means activities through which the Authority proactively verifies through inspections, monitoring, reviews and audits that an aviation document participant or holder continues to meet the established civil aviation requirements and functions at the level of competency and safety required in Namibia.

SUBPART 2 SMS FRAMEWORK

Establishment of SMS

140.02.1 (1) A participant or holder must under the SSP, establish, implement, maintain and adhere to an SMS that is appropriate to the size, nature and complexity of the operations, activities or services authorised to be conducted in terms of the participant's or holder's aviation document and the hazards and risks related to the relevant operations, activities or services.

(2) The SMS of a participant or holder must include its acceptable level of safety performance (ALoSP), the safety oversight framework, safety performance indicators and targets that are acceptable to the Executive Director.

(3) The acceptance of a participant's or holder's SMS by the Executive Director is conditional on proof that it was developed effectively and progressively within the context of the participant's or holder's operational change management and other systems, and in accordance with requirements for SMS implementation specified in regulation 140.02.3.

(4) A participant or holder must comply with the SMS requirements issued under the SSP, liaise with the SSP Committee established under Part 11 when required, and support the SDCPS to facilitate safety information sharing and exchange and the protection to safety data captured and derived from mandatory and voluntary safety information systems authorised by the Executive Director.

Requirements of SMS

140.02.2 (1) The SMS must follow the framework set out in the safety management manual and include -

- (a) safety policy, safety oversight, and objectives, including -
 - (i) management commitment;
 - (ii) safety accountability and responsibilities;
 - (iii) appointment of key safety personnel;
 - (iv) coordination of emergency response planning (ERP); and
 - (v) SMS documentation;
- (b) safety risk management, including -
 - (i) hazard identification; and
 - (ii) safety risk assessment and mitigation;
- (c) safety assurance, including -
 - (i) safety performance monitoring and measurement;
 - (ii) change management; and
 - (iii) continuous improvement of the SMS;

- (d) safety promotion, including -
 - (i) training and education; and
 - (ii) safety communication.

(2) A participant or holder must develop and implement the components and elements listed in subregulation (1) in accordance with the standards prescribed in Document NAM-CATS SMS 140.

Implementation of SMS

- 140.02.3** (1) The senior accountable manager of a participant or holder must -
- (a) ensure that the SMS requirements specified in regulation 140.02.2 are implemented in a planned, structured and effective manner to ensure that the SMS is applied to maintain and improve aviation safety; and
 - (b) implement the SMS phases in the manner as specified in Document NAM-CATS SMS 140 and in accordance with any other directives issued by the Executive Director.

(2) The time-scale for completion of SMS implementation, for a participant or holder whose aviation document is suspended or made subject to conditions on or after the date this Part comes into effect, must be determined by the Executive Director.

SUBPART 3

SENIOR ACCOUNTABLE MANAGER AND KEY PERSONNEL

Senior accountable manager

140.03.1 (1) The participant or holder by way of a written notice in the manner acceptable to the Executive Director, must nominate a suitably qualified natural person, to be the senior accountable manager who is to have or is likely to have control over the exercise of the privileges under the aviation document in the manner contemplated by sections 66 and 68 of the Act.

(2) On receipt of a nomination, the Executive Director must give due consideration, to the nominated persons, compliance with the qualifications and experience requirements and the conclusion of the fit and proper person test in the manner contemplated by sections 68 and 69 of the Act in particular, and generally required in terms of the Act.

(3) Where applicable, the nominee must meet the other relevant requirements as provided for in the approved operational manual or other documents of the participant or holder as authorised by the Executive Director when approving the application and grant, including any renewal or amendment, of the aviation document concerned.

(4) The Executive Director must, within 21 days of receiving the written notice referred to subregulation (1), inform the participant or holder of the proposed or final determination on whether or not the nominee is fit and proper for the purposes of control over the exercise of the privileges under the aviation document.

- (5) If the Executive Director determines that the nominee -
 - (a) meets the fit and proper requirements, the Executive Director must in writing notify the participant or holder who must designate the person concerned as

the senior accountable manager of the participant or holder to carry out the responsibilities under the aviation document irrespective of that person's employment, contractual or other functions at the participant's or holder's organisation; or

- (b) does not meet the fit and proper requirements, the Executive Director must in writing notify the participant or holder and the nominee of the determination, giving the reasons for that determination.

(6) Without derogating from the generality of subregulation (5), the senior accountable manager must undertake the participant's or holder's compliance and responsibilities as required under this Subpart, including but not limited to -

- (a) unrestricted access to work performed or activities undertaken by all other persons as employees of, and other persons rendering service under contract with, the participant or holder concerned;
- (b) full rights of consultation with any other person in respect of compliance required of that person;
- (c) powers to order cessation of any activity where such an activity endangers or is likely to endanger civil aviation safety;
- (d) a duty to establish liaison mechanisms in writing with the Executive Director with a view to ascertain correct ways of compliance with the safety oversight and performance, SMS requirements and interpretations of those requirements by the Executive Director, and to facilitate regular liaison between the Executive Director and the participant or holder; and
- (e) powers to report directly to the management of the participant or holder.

(7) The Executive Director may address any enquiry in relation to a matter connected with the participant's or holder's senior accountable manager, and the senior accountable manager must reply in writing not later than the date specified by the Executive Director.

(8) In the event that the senior accountable manager is replaced as a consequence of employment or other organisational changes, the participant or holder must ensure the nomination of a replacement by notification to the Executive Director within 14 days after the event.

(9) When a replacement in terms of subregulation (8), the procedures set out in subregulations (1) to (5) must be followed.

(10) If the senior accountable manager -

- (a) is negligent or incompetent in implementing the SMS and safety oversight, approved manuals, the Act or these regulations or any directive; or
- (b) no longer meets the qualifications and experience requirements or no longer satisfies the fit and proper test determinations as required under the Act or this Part,

the Executive Director may, after giving the participant or holder, and the senior accountable manager concerned, an opportunity to be heard, direct the removal of that person from office of senior accountable manager by a specified date and request the nomination for determination of suitability of another person in his or her place by the participant or holder within a specified period.

(11) The Executive Director may, upon the receipt of a written request made by a participant or holder, before the date determined in subregulation (10) and on good cause shown, in writing, grant an extension of time to such participant or holder, for the removal of that person from office as senior accountable manager, but subject to such conditions as the Executive Director may impose.

Key safety personnel

140.03.2 (1) The senior accountable manager must proceed to nominate the key safety personnel identified for designation in the approved manual of the participant or holder issued in terms of technical standards and under an application for and grant of, inclusive of an amendment or renewal, of an aviation document.

(2) Where an approved manual provides for a safety manager as one of the key safety personnel, then the senior accountable manager must nominate a person in a similar manner prescribed in regulation 140.03.1(1) for the fit and proper person test pursuant to sections 68 and 69 of the Act in particular, and generally required in terms of the Act.

(3) The Executive Director may require the name and particulars regarding the qualifications and experience of any other person nominated by the senior accountable manager as key safety personnel, to be submitted for purposes of the fit and proper person test pursuant to sections 68 and 69 of the Act in particular, and generally required in terms of the Act.

(4) The qualifications and experience requirements and the fit and proper testing of any key safety personnel nominee may, at the discretion of the Executive Director, include matters relevant to the standards prescribed in Document NAM-CATS SMS 140 applicable to the participant or holder to enable the Executive Director to determine the fit and proper status of the nominated key safety personnel.

(5) Whenever any one or more, of the key safety personnel -

(a) is negligent or incompetent in implementing the SMS and safety oversight, approved manuals, the Act or these regulations or any directive; or

(b) no longer meets the qualifications and experience requirements or no longer satisfies the fit and proper test determinations as required under the Act or this Part,

the Executive Director may, after giving the senior accountable manager concerned, or, in the absence of a senior accountable manager in the manner set out under regulation 140.03.6, the participant or holder, and the key safety personnel concerned, an opportunity to be heard, direct the removal of that person or persons by the senior accountable manager or participant or holder, as the case may be, from office of key safety personnel by a specified date and request the nomination for determination of suitability of another person or persons in his or her, or their, place by the senior accountable manager or participant or holder, as the case may be, within a specified period.

(6) The Executive Director may, upon the receipt of a written request made by the senior accountable manager, or participant or holder, as the case may be, before the date determined in subregulation (5), and on good cause shown, in writing grant an extension of time to such senior accountable manager, or participant or holder, as the case may be, for the removal of that person or persons from the establishment of the key safety personnel, but subject to such conditions as the Executive Director may impose.

SUBPART 4
MISCELLANEOUS MATTERS

Violations and offences

140.04.1 (1) If the participant or holder or the senior accountable manager, as the case may be, fails, without good cause or reason acceptable to the Executive Director obtained beforehand, to nominate a senior accountable manager, or safety manager, or key safety personnel, as required under this Part, or to comply with the directive by the Executive Director for the removal of the senior accountable manager, or the safety manager, or the key safety personnel, as the case may be, or within the extended period of time, if any, granted by the Executive Director in the manner stipulated in this Part -

- (a) the participant or holder or senior accountable manager, as the case may be, is liable to pay the administrative fine upon assessment determined under Part 185, and in accordance with the daily fine provision provided for in that Part, for as long as the non-compliance exists; and
- (b) the aviation document may be suspended or revoked or be endorsed under the imposition of a condition in the manner contemplated by sections 42 or 43 of the Act, respectively.

(2) Despite the provisions of subregulation (1), any participant or holder or senior accountable manager, as the case may be, who fails to comply with a directive issued by the Executive Director, commits an offence and is liable to be prosecuted under any one or more of the offences in Parts 13 (General offences) or 14 (Safety Offences) of the Act.

Safety charges

140.04.2 The Authority may impose safety charges, prescribed in Part 187, payable by participants, holders or users of both domestic and international civil aviation services, to ensure safety compliance levels or in relation to any application action required for participation in the civil aviation system.

International general aviation operators of large or turbojet aeroplanes

140.04.3 An international general aviation operator of large or turbojet aeroplanes must establish and maintain an SMS that is appropriate to the size and complexity of the operation that must, as a minimum, include -

- (a) a process to identify actual and potential safety hazards and assess the associated risks;
- (b) a process to develop and implement remedial action necessary to maintain an acceptable level of safety;
- (c) provisions for continuous monitoring and regular assessment of the appropriateness and effectiveness of safety management activities; and
- (d) any other information as required by the Executive Director in relation to its operations in the Namibia civil aviation system.

Holder of more than one certificate

140.04.4 Where the participant or holder is the holder of more than one aviation document, it, may with the approval of the Executive Director, integrate the requirements of this Part into a single SMS.

Substitution of Part 185 of Regulations

12 . The Regulations are amended by the substitution for Part 185 of the following Part:

**“PART 185
OFFENCES, FINES AND RELATED MATTERS**

SUBPART 1: OFFENCES

185.01.1 Presumptions and evidence
185.01.2 Offences

SUBPART 2: ADMINISTRATIVE FINES

185.02.1 Applicability
185.02.2 Threshold amounts and conditions
185.02.3 Criteria and determinations for imposition of administrative fines
Appendix 1: Assessment determinations matrix
Appendix 2: Administrative fines amounts

**SUBPART 1
OFFENCES**

Presumptions and evidence

185.01.1 In criminal proceedings under the Act and these regulations the evidence on documentation must, in addition to the law regulating procedure and the admissibility of evidence in criminal matters, be dealt with subject to necessary changes required by the context as set out in regulation 13.02.02.

Offences

- 185.01.2** (1) A person commits an offence if that person -
- (a) hinders or obstructs a designated inspector, authorised officer or authorised person or an aviation medical examiner (AME) in the exercise of his or her powers or the performance of his or her duties;
 - (b) when called upon by a designated inspector, authorised officer or authorised person to do so, refuses or fails to give his or her name and address or gives a false name or address;
 - (c) obstructs or impedes any other person acting in the exercising or performance of any privileges, powers or duties conferred on such other person by or under the regulations;
 - (d) makes or causes to be made, either orally or in writing -

- (i) any fraudulent, misleading or false statement for the purpose of obtaining any licence, rating, certificate, permit, approval, authorisation, exemption or other document in terms of these regulations;
- (ii) any fraudulent, misleading or false entry in any logbook, record or report which is required to be kept, maintained, made or used to show compliance with any provision of these regulations;
- (e) falsifies, counterfeits, alters, defaces or mutilates or adds anything to, any licence, rating, certificate, permit, approval, authorisation, exemption or other document issued in terms of these regulations;
- (f) does or causes, or permits to be done or caused, any act contrary to, or who fails to comply with any provision of these regulations or a direction given or a prohibition made or a condition imposed or a rule, an order or a directive made in terms thereof;
- (g) exercises a privilege granted by, or uses any, licence, rating, certificate, permit, approval, authorisation, exemption or other document issued under these regulations, of which he, she or it is not the holder;
- (h) unless otherwise authorised by these regulations, permits a licence, rating, certificate, permit, approval, authorisation, exemption or other document issued under these regulations, of which he, she or it is the holder, to be used, or a privilege granted thereby, to be exercised, by any other person;
- (i) operates or attempts to operate any aircraft in respect of which no valid certificate of registration or a valid certificate of airworthiness have been issued;
- (j) commits any act, whether by interference with any flight crew member, air traffic service (ATS) personnel member or by tampering with any aircraft or any part thereof or by disorderly conduct or otherwise, which is likely to endanger the safety of any aircraft or its occupants;
- (k) without the permission of an aerodrome or heliport operator, enters any place within the boundaries of a certified or licensed aerodrome or heliport or other aerodrome regulated under Part 139, which has been closed to the public; or
- (l) gives false information pertaining to the investigation of any aviation accident or incident.

(2) Any person who is convicted of an offence in terms of subregulation (1) is liable the penalties stipulated in section 54(2)(c)(ii) of the Act.

SUBPART 2 ADMINISTRATIVE FINES

Applicability

185.02.1 (1) The offences set out in regulation 185.01.2 are applicable for purposes of this Subpart as if it is a violation of these regulations subject to the threshold amounts for administrative fines as set out in this Subpart.

(2) The offences in Parts 13, 14, 15 and 16 of the Act are applicable for purposes of this Subpart as if it is a violation of these regulations subject to the threshold amounts for administrative fines as set out in this Subpart.

Threshold amounts and conditions

185.02.2 (1) For the purposes of regulation 185.02.1, the maximum administrative fine that may be imposed by the Authority under these regulations is N\$200 000, but subject to compliance with the administrative fine notice requirements provided for in regulation 13.03.3.

(2) In addition to the requirements of regulation 13.04.1 on the resolution of an internal review, the Executive Director may impose administrative daily fines not exceeding N\$2000 for each day of non-compliance which amount may not exceed the threshold set out in subregulation (1) in respect of each case of a violation.

- (3) The administrative fine amounts imposed in terms of this Subpart may -
- (a) be suspended by the Executive Director wholly or in part;
 - (b) be imposed to run concurrently with another administrative fine already imposed by the Executive Director; or
 - (c) run consecutively with an administrative fine imposed for another violation of these regulations before or after the administrative fine imposed on the current matter or be separated from it, at the discretion of the Executive Director,

and subject to any conditions as determined by the Executive Director in each instance.

(3) If any person fails to pay an administrative fine imposed on that person in terms of these regulations within the specified period, the Executive Director may recover such administrative fine from that person in the manner contemplated in section 65 of the Act.

(6) In the event that the holder or participant seeks the review of a decision taken by the Executive Director to impose an administrative fine in terms of Subpart 4 of Part 13 or by way of appeal to the High Court, the Executive Director may not implement or enforce that decision until the appeal or review process is concluded and must waive the administrative fine amount during the review process.

(7) An administrative fine already paid may be refunded, if so recommended as a result of an investigation conducted pursuant to section 41 of the Act or upon reversal of the Executive Director's decision by a competent court.

Criteria and determinations for imposition of administrative fines

185.02.3 (1) The Executive Director may consider any or all of the following criteria and determinations when appraising or taking a decision to impose an administrative fine on holders or participants, inclusive of a decision on an aviation document, as the case may be:

- (a) nature of the violation;
- (b) the extent to which the violation was intentional, deliberate or negligent;
- (c) the seriousness or severity of the violation;

- (d) whether the violation has the potential of hindering the Executive Director or a designated inspector, authorised officer or authorised person from ensuring civil aviation safety and security;
- (e) the duration and frequency of the violation;
- (f) the behaviour of the holder or participant after the violation;
- (g) whether the holder or participant brought the violation to the attention of the Authority, the Executive Director, an inspector authorised officer or authorised person or any law enforcement agency;
- (h) whether the holder or participant has taken reasonable steps to put in place effective remedial steps or corrective action, to discontinue the violation;
- (i) if prior actions taken by the Authority in the form of an infringement notice, warning, meeting or order, proved ineffective to deter the violation;
- (j) previous records and compliance history of the holder or participant, or his or her predecessor in title in its operations within the 12 months period immediately before the violation;
- (k) whether the holder or participant derived any economic benefit from the violation or had safety and economic impact on any other third party;
- (l) the general status of the holder or participant regarding operations or ability to comply with the aviation document at the time of the imposition of the administrative fine or during any on-site or off-site investigation; and
- (m) whether the violation will or has the potential of introducing any risks in the relevant holder's or participant's operational manual or any other manual required under the aviation document.

(2) The Executive Director may consider any other criteria or determination not listed under subregulation (1), if it is considered material and appropriate when appraising or taking a decision to impose an administrative fine.

(3) The criteria and determinations referred to in subregulations (1) and (2) and coupled with the mitigating factors with various weights assigned to each criteria and determination and factor and summarised in Appendix 1 must be applied using the format set out therein to determine the appropriate assessed amount for payment of the administrative fine.

(4) The appropriate administrative fine amount is outlined in Appendix 2 and is dependent on the score obtained from Appendix 1.

(5) In determining the violation and the appropriate administrative fine to be imposed, it must be presumed that each violation relying on the same or similar facts, or intent, constitutes a single violation such that only a single administrative fine amount as specified in regulation 185.02.2 may be imposed for such violation.

APPENDIX 1

ASSESSMENT DETERMINATIONS MATRIX
(Regulation 185.02.3(3))

[A] Assessment determination	0	1	2	3	4	5	Weight [A]+[B] 1	Severity score	Value (Weight x severity)
[B] Severity levels of violation	None	Low level	Medium-low level	Medium (moderate) level	High-medium level	High level			
Intent	None	Should have known	-	Non-malicious intent		Deliberate	5		
Likelihood of recurrence	None	Unlikely		Likely		Significant likelihood	5		
Hindrance	None	Low impact	Medium to low impact	Medium (moderate impact)	High-medium impact	High impact	4		
Duration (after notification)	Zero/immediate	2 weeks	One month	6 weeks	Two months	10 weeks	4		
Frequency	Zero	One violation	-	Two violations		Several violations	4		
Previous records / compliance history	None	Prior cautionary advices	Prior warning for similar violation	Minor case of prior warning for similar violation	Investigation launched for violation	Adverse finding on investigation outcome	3		
Continuation after notification/warning	No notification/warning received	Ceased immediately	Ceased within one weeks	Ceased within 2 weeks		Ceased within 3 weeks	4		
Informed NCAA about compliance delay	Immediately	Less than 24 hours	Less than two days	Not later than one week	Not later than two weeks	Not later than three weeks	4		
Cooperation with NCAA	Full timely cooperation & corrective action	Acceptable cooperation		Significant cooperation	Insignificant cooperation	Unacceptable cooperation	4		
Benefits derived	None	Minimum benefit to participant	-	Moderate benefit		Significant benefit	3		
Level of negligence	Oblivious			Ignorant	Deviant	Negligent	4		

History of previous fines	None	Prior cautionary advices	Prior warning for similar violations		More than two prior warnings for similar violation	More than three violations	3		
Operations & documents usage abilities	Documentation inadequate	Documentation not available		Documentation defaced or breached		No reporting on documentation lost/ misplaced/ no reporting	3		
Voluntary information to NCAA	Contra-vention observed / detected by NCAA	Contra-vention reported by 3 rd party		Delay in reporting violation		Comprehensively informed NCAA; full facts disclosed	-3		
Corrective actions/ plans	None	Submitted one week beyond required deadline	Submitted two weeks beyond required deadline	Submitted two weeks late and incomplete	Not submitted within extended deadline period	Failure to submit despite warning issued to submit	-4		
Compliance program levels	None	Supportive information lacking	Supportive information provided	Manuals in some respects complied with.	Manuals in many respects complied with	Manuals fully complied with	-5		
TOTALS									

Assessment total score

TOTAL	
Divided by 4	
Grand total	

APPENDIX 2**ADMINISTRATIVE FINEA AMOUNTS**
(Regulation 185.02.3(4))

Violations severity Points lower bound	Violations severity Points upper bound	Admin fine lower bound Max N\$	Admin fine upper bound Max N\$	Recommended administrative fine N\$
1-11	12-20	2001	20000	
21-41	42-60	20001	80000	
61-71	72-80	80001	100000	
81-91	82-90	100001	150000	
91-95	96-100	150001	200000	

Recommended

Designated inspector/authorised officer /authorised person

Date

Approved

EXECUTIVE DIRECTOR

Date
