



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 20 August 1997

No. 1651

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## General Notice

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### MINISTRY OF WORKS, TRANSPORT AND COMMUNICATION

No. 232

1997

#### PROPOSED CIVIL AVIATION REGULATIONS :

#### PART 11 - PROCEDURES : PROCEDURES FOR MAKING REGULATIONS, ISSUING TECHNICAL STANDARDS AND GRANTING EXEMPTIONS

The Ministry of Works, Transport and Communication recently initiated the project to update the current Namibian aviation legislation. There are two main reasons for updating the aviation legislation, namely, the current legislation does not adequately reflect the policies of Namibia for the aviation sector and does not reflect recent developments within SADC. The project further aims to enhance the safety of civil

aviation by ensuring that the Namibian legislation complies with the minimum standards prescribed by the International Civil Aviation Organization.

Part of the short-term legislative reform involves the updating of the regulations made under the Aviation Act, 1962 (Act 74 of 1962).

Due to the nature and extensive range of subjects which need to be regulated, this part of the project will be executed in phases and regulations will be published accordingly. The proposed structure of the Civil Aviation Regulations is set out in Schedule 1.

All the definitions for the proposed civil aviation regulations will be contained and published in Part 1. The definitions for each Part will however be published with each set of proposed regulations, to facilitate the interpretation thereof. The definitions associated with the proposed regulations on procedures for making regulations, issuing technical standards and granting exemptions are set out in Schedule 2.

The Director : Civil Aviation invites all interested parties to comment on the proposed structure of the Civil Aviation Regulations, the proposed definitions associated with the proposed regulations, as well as the proposed regulations on Procedures for Making Regulations, Issuing Technical Standards and Granting Exemptions set out in Schedule 3. The proposed regulations represent Part 11 of the proposed structure.

Comments or representations should be lodged in writing and should reach the Ministry not later than **90 days** from the date of publication of this notice. Correspondence should be addressed to:

The Director : Civil Aviation

Ministry of Works, Transport and Communication

Department of Transport

Private Bag 12003

WINDHOEK

Attention : Mr Louis Lourens

Telephone : 208-2159

Fax : 238-884

Upon expiry of the aforementioned 90 day period, all comments which have been received will be evaluated for possible incorporation into the proposed regulations on Procedures for Making Regulations, Issuing Technical Standards and Granting Exemptions and if necessary, a workshop will be held to finalise the proposed regulations.

**SCHEDULE 1**  
**NAMIBIAN CIVIL AVIATION REGULATIONS STRUCTURE**

<p><b>DEFINITIONS</b></p> <p>Part 1 Definitions</p> <p><b>PROCEDURES</b></p> <p>Part 11 Procedures for making regulations, issuing technical Standards and granting exemptions</p> <p>Part 12 Aviation accidents and incidents</p> <p>Part 13 Enforcement procedures</p> <p><b>AIRCRAFT</b></p> <p>Part 21 Certification procedures for products and parts</p> <p>Part 34 Engine Emissions</p> <p>Part 36 Noise certification</p> <p>Part 43 General maintenance rules</p> <p>Part 47 Aircraft registration and marking</p> <p><b>PERSONNEL</b></p> <p>Part 61 Pilot licensing</p> <p>Part 63 Flight engineer licensing</p> <p>Part 64 Cabin crew licensing</p> <p>Part 65 Air traffic service personnel licensing</p> <p>Part 66 Aircraft maintenance engineer licensing</p> <p>Part 67 Medical requirements</p> <p><b>RULES OF THE AIR AND GENERAL OPERATING RULES</b></p> <p>Part 91 General operating and flight rules</p> <p>Part 92 Conveyance of dangerous goods</p> <p>Part 98 Operation of powered paragliders</p> <p>Part 100 Operation of gyroplanes</p> <p>Part 101 Operation of unmanned balloons, kites, rockets, pilotless and model aircraft</p> <p>Part 102 Operation of free balloons and airships</p> <p>Part 103 Operation of microlight aeroplanes</p> <p>Part 104 Operation of gliders</p> <p>Part 105 Parachuting operations</p> <p>Part 106 Operation of hang gliders</p>	<p><b>CERTIFICATED AIRCRAFT OPERATORS AND OTHER FLIGHT OPERATIONS</b></p> <p>Part 121 Air transport operations - large aeroplanes</p> <p>Part 127 Air transport operations - helicopter</p> <p>Part 133 Helicopters external load operations</p> <p>Part 135 Air transport operations - small aeroplanes</p> <p>Part 137 Agricultural aircraft operations</p> <p>Part 138 Emergency medical services operations</p> <p><b>ORGANISATIONS</b></p> <p>Part 141 Aviation training organisations</p> <p>Part 145 Aircraft maintenance organisations</p> <p>Part 147 Design organisations</p> <p>Part 148 Manufacturing organisations</p> <p>Part 149 Aviation recreation organisations</p> <p><b>AERODROMES AND HELIPORTS</b></p> <p>Part 139 Licensing</p> <p>Part 139 General standards</p> <p><b>AIR TRAFFIC SERVICES</b></p> <p>Part 172 Airspace and air traffic services</p> <p><b>AERONAUTICAL INFORMATION AND RELATED SERVICES</b></p> <p>Part 174 Meteorological information services</p> <p>Part 175 Aeronautical information services</p> <p><b>ADMINISTRATION</b></p> <p>Part 183 General</p> <p>Part 185 Offences</p> <p>Part 187 Fees</p>
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**SCHEDULE 2****Definitions**

In these regulations, unless the context otherwise indicates -

“Aeronautical Information Circular” means a notice containing information which 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;

“AIC” means Aeronautical Information Circular;

“AIP” means Aeronautical Information Publication;

“Civil Aviation Regulations Committee” means the Civil Aviation Regulations Committee instituted in terms of Subpart 2 of Part 11;

“Document NA-CATS-ATS” means a document on the Namibian Civil Aviation Technical Standards relating to Air Traffic Services, which is published by the Director in terms of the Act;

“Minister” means the Minister responsible for works, transport and communication;

“National Airspace Committee” means the National Airspace Committee instituted in terms of Subpart 5 of Part 11;

“NOTAM” means a notice distributed by means of telecommunication containing

information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is essential to personnel concerned with flight operations;

“Permanent Secretary” means the Permanent Secretary : Ministry of Works, Transport and Communication; and

“the Act” means the Aviation Act, 1962 (Act 74 of 1962).

**SCHEDULE 3**  
**LIST OF REGULATIONS**

**SUBPART 1 : GENERAL**

- 11.01.1     Applicability
- 11.01.2     Issuing of aeronautical information circulars

**SUBPART 2 : CIVIL AVIATION REGULATIONS COMMITTEE**

- 11.02.1     Institution of the committee
- 11.02.2     Meetings of the committee
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- 11.02.5     Administration

**SUBPART 3 : PROCEDURES FOR MAKING REGULATIONS AND  
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- 11.03.1     Submission of proposal
- 11.03.2     Processing of proposal
- 11.03.3     Consideration of proposal
- 11.03.4     Making of regulation
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**SUBPART 4 : PROCEDURES FOR GRANTING OF EXEMPTIONS**

- 11.04.1     Application for exemption
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- 11.04.3     Adjudication of application for exemption
- 11.04.4     Granting of exemption
- 11.04.5     Refusal of exemption

**SUBPART 5 : NATIONAL AIRSPACE COMMITTEE**

- 11.05.1 Institution of the committee
- 11.05.2 Meetings of the committee
- 11.05.3 Remuneration of members
- 11.05.4 Administration



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

**11.01.1** (1) This Part shall apply to -

- (a) the institution of consultative structures by the Director for the purposes of the Regulations;
- (b) the procedures relating to -
  - (i) the introduction of any regulation to be made under section 22 of the Act;
  - (ii) the amendment or withdrawal of any regulation made under section 22 of the Act;
  - (iii) the introduction of any technical standard to be issued under section 22A of the Act; and
  - (iv) the amendment or withdrawal of any technical standard issued under section 22A of the Act; and
- (c) the procedures relating to the application for, and the granting of, an exemption from any requirement prescribed in the Regulations.

(2) The provisions of this Part dealing with the matters contemplated in

subregulation (1)(c), shall apply *mutatis mutandis* in respect of applications for, and the granting of, exemptions in any other case envisaged in section 22(1)(u) of the Act.

- (3) This Part shall not apply in respect of -
- (a) a particular case where the Director finds compliance with any procedure prescribed in this Part to be impractical, unnecessary or contrary to the public interest; and
  - (b) any application for an exemption made in terms of regulation 92.00.3.
- (4) No regulation, technical standard or exemption shall be invalid merely because a requirement in this Part has not been complied with.

#### **Publication of aeronautical information circulars**

**11.01.2** The Director may publish aeronautical information circulars containing information on technical standards, practices and procedures which the Director has found to be acceptable for compliance with the associated regulation.

**SUBPART 2**  
**CIVIL AVIATION REGULATIONS COMMITTEE**

**Institution of the committee**

**11.02.1** (1) The Director shall institute a Civil Aviation Regulations Committee to advise the Director on proposals with regard to -

- (a) the introduction of any regulation to be made under section 22 of the Act;
- (b) the amendment or withdrawal of any regulation made under section 22 of the Act;
- (c) the introduction of any technical standard to be issued under section 22A of the Act;
- (d) the amendment or withdrawal of any technical standard issued under section 22A of the Act;
- (e) any matter relating to civil aviation, including any such matter referred to it by the Director.

(2) The members of the committee shall consist of -

- (a) a person designated by the Director, as chairperson;
- (b) the chairperson of each subcommittee established by the committee in terms of regulation 11.02.3; and

- (c) such other persons appointed by those stakeholders recognised by the Director.

(3) Subject to the provisions in this Subpart, the committee shall in consultation with the Director, determine the procedures to be followed in the performance of its functions.

### **Meetings of the committee**

**11.02.2** (1) The committee shall hold meetings at such times and places as may from time to time be determined by the chairperson, but at least once a year.

(2) (a) The chairperson shall normally preside at every meeting of the committee.

(b) If the chairperson is absent from a meeting of the committee, the members present shall from among their number elect a person to preside at that meeting.

(3) The procedures to be followed at meetings of the committee shall be determined by the chairperson.

(4) The committee shall cause minutes to be kept of every meeting thereof.

(5) The minutes referred to in subregulation (4), shall be kept at the offices of the Director.

### **Subcommittees of the committee**

**11.02.3** (1) The committee may, with the approval of the Director, establish such subcommittees as it may deem necessary for the performance of its functions.

(2) The membership of each subcommittee established in terms of subregulation (1) shall be unlimited.

(3) The chairperson of the committee shall appoint a chairperson for each subcommittee so established.

(4) Subject to the provisions of this Subpart, the committee shall, after consultation with the Director, determine the procedures to be followed by a subcommittee in the performance of its functions.

(5) The provisions of regulation 11.02.2 shall *mutatis mutandis* apply in respect of any meeting held by a subcommittee.

### **Remuneration of members**

**11.02.4** A member of the committee referred to in regulation 11.02.1 and a member of any subcommittee established in terms of regulation 11.02.3 shall not receive any remuneration or allowance from the ministry in respect of the functions performed by such member as a member of the committee or a subcommittee.

### **Administration**

**11.02.5** All administrative work as well as secretarial work, in connection with the performance of the functions of the committee and any subcommittee

established in terms of regulation 11.02.3, shall be carried out by officers and employees in the ministry designated for such purpose by the Permanent Secretary.

**SUBPART 3**  
**PROCEDURES FOR MAKING REGULATIONS**  
**AND ISSUING TECHNICAL STANDARDS**

**Submission of proposal**

**11.03.1** (1) Any interested person may submit to the committee referred to in regulation 11.02.1, a proposal on the introduction, amendment or withdrawal of a regulation or technical standard.

- (2) The proposal shall be submitted in writing and shall -
- (a) state the name and address of the proposer;
  - (b) state the contents of the regulation, technical standard or amendment proposed, or specify the regulation or technical standard which the proposer wishes to be withdrawn;
  - (c) explain the interests of the proposer; and
  - (d) contain any information, views or arguments supporting the proposal.

**Processing of proposal**

**11.03.2** (1) The chairperson of the committee referred to in regulation 11.02.1, shall, as soon as practicable after the receipt of a proposal -

- (a) publish the proposed regulation, amendment or withdrawal by notice in the *Gazette*; or
- (b) publish the proposed technical standard, amendment or withdrawal by notice in the AIC.

(2) After publication of the notice referred to in subregulation (1)(a) or (b), any interested person may in writing, and within a period stated in the notice, but not less than 30 days from the date of publication of the notice, submit comments regarding the proposed regulation, technical standard, amendment or withdrawal in question, to the chairperson of the committee.

(3) The chairperson of the committee shall 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 participate.

### **Consideration of proposal**

**11.03.3** (1) The committee shall, at its next meeting, consider the proposal together with all comments which are received within the period stated in the notice referred to in regulation 11.03.2(1)(a) or (b).

(2) The committee shall, after it has completed its consideration of the proposal and comments on such proposal, make an appropriate recommendation to the Director.

### **Making of regulation**

**11.03.4** Subject to the provisions of section 22 of the Act, the Director shall,



if the Director is satisfied and after considering the recommendation made by the committee in terms of regulation 11.03.3(2), that giving effect to the proposal would be in the interests of aviation safety, submit the proposed regulation, amendment or withdrawal to the Minister for approval.

#### **Issuing of technical standard**

**11.03.5** Subject to the provisions of section 22A of the Act, the Director shall, if the Director is satisfied and after considering the recommendation made by the committee in terms of regulation 11.03.3(2), that giving effect to the proposal would be in the interests of aviation safety, issue the proposed technical standard, amendment or withdrawal.

**SUBPART 4****PROCEDURES FOR GRANTING OF EXEMPTIONS****Application for exemption**

**11.04.1** (1) An application for an exemption shall be made in writing to the Director and shall -

- (a) state the name and 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, as well as the extent to which the exemption may affect aviation safety; and
- (f) include a summary of the application for purposes of publication in the AIC, which summary shall 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 shall be -
- (a) submitted at least 90 days, or such shorter period as the Director may allow on good cause shown, before the proposed effective date of the exemption; and
  - (b) accompanied by the appropriate fee as prescribed in Part 187.

### **Processing of application for exemption**

**11.04.2** (1) Subject to the provisions of regulation 11.04.3(2), the Director shall, as soon as practicable after the receipt of an application for an exemption referred to in regulation 11.04.1, publish by notice in the AIC the following particulars in respect of the application concerned:

- (a) The reference number of the application;
- (b) the full name of the applicant;
- (c) a reference to the requirement from which exemption is requested;
- (d) a brief description of the general nature of the exemption requested; and
- (e) a reference to the date by which the representations referred to in subregulation (2) must be submitted to the Director.

(2) Any person may, after the publication of the notice referred to in subregulation (1) address in writing representations to the Director against or in favour of the application concerned.

### **Adjudication of application for exemption**

**11.04.3** (1) The Director shall, before deciding whether to grant or refuse an exemption, consider all representations which are received within the period specified in the notice published in terms of regulation 11.04.2(1).

(2) Notwithstanding the provisions of subregulation (1), the Director may consider an application and grant or refuse an exemption immediately after the receipt of the application, if the Director is of the opinion that compliance with the procedures referred to in regulation 11.03.3 would defeat the object of such application.

(3) The Director may exempt an applicant from any requirement prescribed in the Regulations, if the Director is satisfied that -

- (a) the requirement has been substantially complied with and that further compliance is unnecessary; or
- (b) events have occurred which make the requirement unnecessary or inappropriate in the particular case; and
- (c) granting the exemption will not jeopardise aviation safety.

### **Granting of exemption**

**11.04.4** (1) The Director may grant an exemption under such conditions

and for such period which the Director may determine.

(2) In the event of an exemption being granted for a period exceeding 90 days, the Director shall, within 30 days from the date on which the exemption has been granted, publish the full particulars thereof in the AIC.

### **Refusal of exemption**

**11.04.5** (1) If the granting of an exemption is refused, the Director shall notify the applicant in writing of the refusal.

(2) The notice referred to in subregulation (1) shall state the reasons for such refusal.

**SUBPART 5**  
**NATIONAL AIRSPACE COMMITTEE**

**Institution of the committee**

**11.05.1** (1) The Director shall institute a National Airspace Committee to, based on proposals made by users and service providers, provide guidelines and recommendations to the Director on -

- (a) the designation of airspace and aerodromes referred to in regulation 172.02.1; and
- (b) any matter relating to current airspace structures and associated services provided or intended to be provided within such structures, or any amendment thereof, including any such matter referred to it by the Director.

(2) The members of the committee shall consist of -

- (a) a person designated by the Director, as chairperson; and
- (b) such other persons appointed by those stakeholders recognised by the Director.

(3) The procedures to be followed and the criteria to be taken into account when the committee exercises the functions, shall be as prescribed in Document NA-CATS-ATS.

**Meetings of the committee**

**11.05.2** (1) The committee shall hold meetings at such times and places as may from time to time be determined by the chairperson, but at least once every three months.

(2) (a) The chairperson shall normally preside at every meeting of the committee.

(b) If the chairperson is absent from a meeting of the committee, the members present shall from among their number elect a person to preside at that meeting.

(3) The procedures to be followed at meetings of the committee shall be determined by the chairperson.

(4) The committee shall cause minutes to be kept of every meeting thereof.

(5) The minutes referred to in subregulation (4), shall be kept at the offices of the Director.

**Remuneration of members**

**11.05.3** A member of the committee referred to in regulation 11.04.1 shall not receive any remuneration or allowance from the ministry in respect of the functions performed by such member as a member of the committee.

**Administration**

**11.05.4** All administrative work as well as secretarial work, in connection with the performance of the functions of the committee, shall be carried out by officers and employees in the ministry designated for such purpose by the Permanent Secretary.