LEGAL NOTICE NO. 136

THE CIVIL AVIATION (AIR NAVIGATION SERVICES) REGULATIONS, 2008

ARRANGEMENT OF REGULATIONS

PART I- PRELIMINARY

1. Citation
2. Interpretation
3. Application

PART II- CERTIFICATION OF AIR NAVIGATION SERVICE PROVIDER

4. Requirement for the provision of Air navigation services
5. Application for certificate
6. Issuance of certificate
7. Contents of the certificate
8. Validity of a certificate
9. Renewal of certificate
10. Surrender of certificate
11. Amendment of certificate
12. Display of certificate
13. Transfer of certificate
14. Suspension, variation and revocation of certificate
15. Register of holder of certificate

PART III-MANUAL OF AIR NAVIGATION SERVICES OPERATIONS

16. Requirements for the manual of air navigation service operations
17. Contents of the manual of air navigation service operations
18. Amendment of the manual of air navigation service operations

PART IV-AIR NAVIGATION SERVICES

Air navigation facilities, records, documents etc.

19. Air navigation facilities, standard systems and charts
20. Approval of air navigation service facilities
21. Safety inspection and audits on facilities
22. Production of documents
23. Air navigation service contingency plan
24. Alternative service provider

Air Traffic Services

25. Designation of airspace or aerodromes
26. Provision of Air Traffic Services by holder of certificate
27. Co-ordination in Air Traffic Services
28. Responsibility for control
29. Communication requirements
30. Air traffic incidents
31. Aircraft in distress
32. Automatic recording of air traffic services data and communications
33. Safety management system

Communication, Navigation and Surveillance

34. Installation, operation and maintenance of communication, navigation and surveillance systems
35. Facility approval and flight inspection

Aeronautical Information Services and Aeronautical Charts

36. Provision of aeronautical information services
37. Aeronautical charts
38. Telecommunication requirements
39. Quality system

Aeronautical Search and Rescue Services

40. Provision of Search and Rescue Service

Meteorological Services

41. Provision of Meteorological service for Air Navigation

Construction of visual and instrument flight procedure

42. Construction of flight procedures
43. Approval as a procedures designer
44. Responsibilities of holder of certificate

PART V-EXEMPTION

45. Requirements for application
46. Review and publication
47. Evaluation of the request.

PART VI-GENERAL PROVISIONS

48. Drug and alcohol testing and reporting.
49. Replacement and changes on the certificate
50. Change of address.
51. Replacement of documents.
52. Use and retention of documents and records.

53. Reports of violation.
54. Failure to comply
55. Aeronautical user fees

PART VII-OFFENCES AND PENALTIES

56. Contravention of Regulations
57. Penalties
58. Appeal

SCHEDULE

THE CIVIL AVIATION ACT

(*Cap.* 394)

IN EXERCISE of the powers conferred by section 8C of the Civil Aviation Act, the Minister for Transport makes the following Regulations:-

THE CIVIL AVIATION (AIR NAVIGATION SERVICES) REGULATIONS, 2008

PARTI-PRELIMINARY

Citation

1. These Regulations may be cited as the Civil Aviation (Air Navigation Services) Regulations, 2008.

Interpretation.

2. In these Regulations unless the context otherwise requires-

"accuracy" means a degree of conformance between the estimated or measured value and the true value;

"Act" means Civil Aviation Act;

"aeronautical data" means a representation of aeronautical facts, concepts or instructions in a formalized manner suitable for communication, interpretation or processing;

"aeronautical information" means information resulting from the assembly, analysis and formatting of aeronautical data;

"aeronautical information circular" means a notice containing information that does not qualify for the origination of a notice to airmen or for inclusion in the aeronautical information service, but which relates to flight safety, air navigation, technical, administrative or legislative matters;

"aeronautical information service" means a service established within the defined area of coverage responsible for the provision of aeronautical information or data necessary for the safety, regularity

and efficiency of air navigation;

"aeronautical information publication amendment" means permanent change to information contained in the aeronautical information publication;

"aeronautical information publication supplement" means temporary changes to the information contained in the Aeronautical Information Publication which are published by means of special pages;

"aeronautical information regulation and control" means a system aimed at advance notification based on common effective dates, of circumstances that necessitate significant changes in operating practices;

"assemble" means a process of merging data from multiple sources into a database and establishing a baseline for subsequent processing;

"aeronautical fixed service" means a telecommunication service between specified fixed points provided primarily for the safety of air navigation and for the regular, efficient and economical operation of air services;

"aeronautical information publication" means a publication issued by or with the authority of a State and containing aeronautical information of a lasting character essential to air navigation;

"air navigation services facility" means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, any structures, mechanisms, lights, beacons, marks, communicating systems, or other instruments or devices used or useful as an aid to the safe taking off, navigation, and landing of aircraft and any combination of such facilities;

"air navigation services provider" means an independent entity established for the purpose of operating and managing air navigation services;

"air traffic" means an aircraft in flight or operating on the manoeuvring area of an aerodrome;

"air traffic service" includes flight information service, alerting service and air traffic control service;

"air traffic control service" means a service provided for the purposes of-

(a) preventing collisions-

(i) between aircraft, and

(ii) on the manoeuvring area, between aircraft and obstructions; and

(b) expediting and maintaining an orderly flow of air traffic;

"authorised person" means any person authorized by the Authority either generally or in relation to a particular case or class of cases and includes the holder for the time being of an office designated by the Authority;

"certificate" means the certificate issued by the Authority under Regulation 6(1);

"controlled aerodrome" means an aerodrome at which air traffic control service is provided to aerodrome traffic;

"controlled flight" means any flight which is subject to an air traffic control clearance;

"control zone" means a controlled airspace extending upwards from the surface of the earth to a specified upper limit;

"cyclic redundancy checks" means a mathematical algorithm applied to the digital expression of data that provides a level of assurance against loss or alteration of data;

"data link communications" means a form of communication intended for the exchange of messages via a data link;

"data quality" means a degree or level of confidence that the data provided meets the requirements of the data user in terms of accuracy, resolution and integrity;

"flight information centre" means a unit established to provide flight information service and alerting service;

"flight information region" means airspace of defined dimensions within which flight information service and alerting service are provided;

"flight information service" means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

"forecast" means a statement of expected meteorological conditions for a specified time or period, and for a specified area or portion of airspace;

"incident" means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

"Integrated Aeronautical Information Package" means a package consisting of-

(i) aeronautical information publication including amendment service and supplements;

(ii) notice to airmen;

(iii) aeronautical information circular; and

(iv) checklists and lists of valid notices to airmen;

"integrity aeronautical data" means a degree of assurance that

an aeronautical data and its value has not been lost nor altered since the data origination or authorized amendment;

"international notice to airmen office" means an office designated by the State for the exchange of notices to airmen internationally;

"meteorological office" means an office designated to provide meteorological service for international air navigation;

"notice to airmen" 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;

"printed communications" means communications which automatically provide a permanent printed record at each terminal of a circuit of all messages which pass over such circuit;

"runway" means a defined rectangular area on a land aerodrome prepared for the landing and take-off of aircraft;

"runway visual range" means the range over which the pilot of an aircraft on the centre line of a runway can see the runway surface markings or the lights delineating the runway or identifying its centre line;

"rescue" means an operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety;

"search" means an operation normally co-coordinated by a rescue co-ordination centre or rescue sub-centre using available personnel and facilities to locate persons in distress; and

"search and rescue service" means the performance of distress monitoring, communication, co-ordination and search and rescue functions, initial medical assistance or medical evacuation, through the use of public and private resources, including cooperating aircraft, vessels and other craft and installations;

Application

3. (1) The provisions of these Regulations shall not affect or apply to a person providing air navigation service in the course of his duties for state aircraft.

PART II-CERTIFICATION OF AIR NAVIGATION SERVICE PROVIDER

Requirements for provision of air navigation services.

4. A person shall not provide air navigation services in the designated airspace, aerodromes and portions of the airspace over the high seas that lie within the designated airspace unless –

(a) he holds a certificate issued under these Regulations; and

(b) the services are provided in accordance with the requirements prescribed by the Authority and the procedures

specified in the manual of air navigation service operations.

Application for certificate.

5. A person applying for a certificate shall make an application in a form prescribed by the Authority and such application shall be accompanied by –

(a) the applicant's manual of air navigation service operations as specified under Regulation 16(1), for approval;

(b) a written statement setting out the services and locations at which they shall be provided; and

(c) fees as prescribed by the Authority.

Issuance of certificate.

6. (1) The Authority shall issue a certificate in a form and manner prescribed by these Regulations.

(2) The Authority shall, before issuing a certificate, be satisfied that -

(a) the personnel of the applicant are adequate in number and have the necessary competency and experience to provide the service;

(b) the manual of air navigation service operations prepared and submitted with the application contains all the relevant information;

(c) the facilities, services and equipment are established in accordance with these Regulations;

(d) the operating procedures make satisfactory provision for the safety of aircraft;

(e) an approved safety management system is in place;

(f) the applicant has approved procedures to meet the requirements of the Civil Aviation (Security) Regulations made under the Act;

(f) the applicant has financial capability to provide the service; and

(h) the applicant has insurance policy in force in relation to the services provided.

(3) The Authority may attach to a certificate any other conditions under which the certificate may be used that seem necessary to the Authority.

(4) The Authority may refuse to grant a certificate to an applicant and where the Authority refuses, the Authority shall

notify the applicant, in writing, of the reasons for the refusal, not later than fourteen days after making that decision.

Contents of the Certificate.

7. A certificate issued under these Regulations shall include among others, the information as to-

(a) the holder's full names and physical address of his principal place of business;

(b) a list of services covered by the holder's certificate; and

Validity of a certificate.

8. A certificate shall be valid for a period of two years from the date of issuance, unless suspended, cancelled or revoked in accordance with these Regulations.

Renewal of certificate

9. (1) A person applying for the renewal of a certificate shall submit an application in a form and accompanied by a fee, as may be prescribed by the Authority.

(2) The application shall be submitted to the Authority not less than sixty days before the date of expiry of the certificate.

(3) The renewal of a certificate shall be subject to compliance with these Regulations and any other conditions as may be specified or notified by the Authority.

Surrender of certificate

10. (1) Subject to paragraph (2) and any conditions prescribed by the Authority, a holder of a certificate may surrender the certificate to the Authority at any time.

(2) A holder of a certificate who wishes to surrender the certificate shall give the Authority not less than one hundred eighty days notice in writing, before the date on which the certificate is to be surrendered.

(3) Upon expiry of the date of surrender of the certificate in paragraph (2), the holder of the certificate shall not provide the air navigation services unless authorised to do so by the Authority.

Amendment of certificate

11. (1) The Authority may amend a certificate upon-

(a) application made by a holder of a certificate in a form prescribed by the Authority; or

(b) the Authority's initiative, where the Authority deems necessary.

(2) A holder of a certificate applying to the Authority for amendment of the certificate under paragraph (1) (a) shall be required to-

(a) attach to the application form two copies of proposed amendments to the manual of air navigation service operations; and

(b) pay such a fee as may be prescribed by the Authority.

(3) Where the Authority initiates amendments under paragraph (1) (b), the holder of the certificate shall be required to make amendments to the manual of air navigation service operations accordingly.

Display of certificate

12. (1) The holder of a certificate shall display the certificate, or a copy of it, in a conspicuous place, generally accessible to the public at the holder's principal place of business.

(2) Where a copy of the certificate is displayed under paragraph (1), the holder of the certificate shall produce the original certificate to the Authority for inspection if requested to do so.

Transfer of certificate

13. A certificate issued under these Regulations shall not be transferable.

Suspension, variation and revocation of certificate.

14. (1) The Authority may, suspend provisionally, pending further investigation, any certificate issued under these Regulations, if it considers that-

(a) a relevant provision of the Act or these Regulations, or a condition in the certificate, has not been, or is not being, complied with;

(b) false or materially incorrect information was given to the Authority in the application for the certificate; or

(c) it is in the public interest to do so.

(2) The Authority may, upon the completion of an investigation which has shown sufficient ground to the Authority's satisfaction under paragraph (1), suspend, vary or revoke any certificate issued under these Regulations.

(3) A holder or any person having the possession or custody of any certificate which has been suspended, revoked or varied under these Regulations shall surrender the certificate to the Authority within fourteen days from the date of suspension, revocation or variation.

Register of holders of certificates.

15. (1) The Authority shall keep and maintain a register of holder of a certificate showing –

(a) full names;

(b) date of issue or renewal of the certificate;

(c) type of service offered;

(d) expiry date of the certificate;

(e) date of suspension, variation or revocation of the certificate, if any;

(f) physical and postal address; and.

(g) any other particulars as may be prescribed by the Authority.

(2) Any changes in the particulars recorded under paragraph (1) shall be entered in the register by the Authority.

(3) The register shall be a public document and any particular entered may be obtained by any person upon payment of such a fee as may be prescribed by the Authority.

PART III-MANUAL OF AIR NAVIGATION SERVICES OPERATIONS

Requirements for the manual of air navigation services operations.

16. (1) The manual of air navigation services operations submitted upon application for a certificate shall be-

(a) type written;

(b) signed by the operator;

(c) in a format that is easy to revise;

(d) organized in a manner that facilitates the preparation, review and approval processes; and

(e) in a system that records the current pages and any amendments, including a page for logging revisions.

(2) A holder of a certificate shall keep at least one approved copy of the manual at the principal place of business.

Contents of the manual of air navigation services operations.

17. (1) A manual of air navigation service operations shall contain all information and instructions necessary to enable the personnel of air navigation service provider perform their duties and in particular shall include provision for-

(a) the services to be provided;

(b) the personnel requirements and their responsibilities;

(c) training and performance assessment of staff and how that information is tracked;

(d) safety management system and quality assurance;

(e) contingency plans developed for part or total system failure;

(f) compliance with the Civil Aviation (Security) Regulations made under the Act;

(g) facilities and equipment and how they are installed and maintained;

(h) fault and defect reporting;

(i) maintenance of documents and records;

(j) search and rescue responsibilities and co-ordination; facility operations and maintenance plan and procedure;

(k) schedule of the proposed hours of service for the first twelve months of operation;

(l) a summary of safety factors considered before seeking certification;

(m) systems and procedures to ensure separation between controlled flights and active special use airspace; and

(n) any other information requested by the Authority.

Amendment of the Manual of Air Navigation Service Operations.

18. For the purpose of maintaining the accuracy and up to date information in the manual of air navigation service operations, the –

(a) holder of a certificate may, whenever necessary and upon approval by the Authority; or

(b) Authority may issue a written directive requiring the holder of a certificate to, amend or alter the manual of air navigation service operations.

Air navigation facilities, records, documents etc.

Air navigation services facilities, standard systems and charts

19. The Authority shall in accordance with these Regulations, designate a service provider to-

(a) provide, in the designated portion of Airspace, facilities for the provision of air navigation services;

(b) adopt and put into operation the appropriate standard systems of communications procedures, codes, markings, signals, lighting and other operational practices and rules;

(c) publish aeronautical maps and charts.

Approval of air navigation services facilities

20. A person shall not install and use air navigation service facilities in the designated airspaces and aerodromes

without approval of the Authority.

Safety inspections and audit on facilities etc.

21. (1) The Authority shall carry out safety inspections and audits on air navigation facilities, services, documents and records of the air navigation service provider which may be necessary to determine compliance to these Regulations.

(2) An inspector of the Authority shall have unrestricted access to the facilities, installations, records and documents of the air navigation services and the air navigation meteorological service provider to determine compliance with these regulations.

(3) The safety inspections and audits carried out under paragraph (1) shall be in a manner prescribed by the Authority.

Production of documents

22. A holder of a certificate shall produce any relevant documents under his possession if requested by the Authority or its authorised person within seventy two hours of such request.

Air navigation services contingency plan

23. (1) A holder of a certificate shall-

(a) develop and maintain contingency plans for implementation in the event of disruption or potential disruption, of air navigation services in the airspace for which he is responsible;

(b) liaise with other air navigation service providers in adjacent or contiguous airspaces while developing contingency plans.

(2) The contingency plans shall include-

(a) the actions to be taken by the certificate holder's personnel responsible for providing the service in the event of disruption or potential disruption of services;

(b) possible alternative arrangements for providing the service; and

(c) the arrangements for resuming normal operations for the service.

Alternative designated service provider

24. The Authority may, when it considers necessary in the public interest, appoint an alternative designated service provider to provide service in respect of a certificate suspended by the Authority, for the duration of such suspension.

Air Traffic Services

Designation of Airspace or aerodromes

25. (1) The Authority shall designate portions of the airspace or particular aerodromes for the provision of air traffic services upon application by the service provider.

(2) The designation of portions of the airspace or particular aerodromes shall be-

(a) flight information region;

(b) control area;

(c) control zone;

(d) controlled aerodromes.

(3) In determining the need to designate portions of airspace or particular aerodromes for the provision of air traffic services by the applicant, the Authority shall take into consideration-

(a) the types of air traffic involved;

(b) the density of air traffic;

(c) the meteorological conditions; and

(d) any other factors which may be relevant.

(4) The Authority shall publish the designation of a portion of the airspace or particular aerodromes in the relevant aeronautical publications.

Provision of air traffic services by holder of certificate.

26. The holder of a certificate shall make application for the portions of the airspace and the aerodromes which shall be provided with air traffic services as prescribed by the Authority;

Coordination in air traffic services

27. An air traffic service provider shall, in carrying out his objectives, establish procedures for the coordination with air operators, military authorities, meteorological service providers and aeronautical information service providers by-

(a) making available to the air operators information to enable them meet their obligations;

(b) co-operating with the military authorities responsible for activities that may affect civil flights;

(c) providing the most up to date meteorological information for aircraft operations;

(d) providing timely and up to date information to meet the need for in-flight information.

(e) exchanging and coordinating aeronautical information relating to the safety of air navigation between adjacent air traffic service units.

Responsibility for control

28. A holder of a certificate shall establish procedures to ensure responsibility of control of an aircraft and transfer of such responsibility as prescribed by the Authority.

Communication requirements

29. A holder of a certificate shall establish communication requirements as prescribed by the Authority.

Air Traffic Incidents

30. A holder of a certificate shall establish procedures for the notification, investigation, and reporting of the air traffic incidents, which shall be made in a prescribed incident report form.

Aircraft in distress

31. A holder of a certificate shall-

(a) make provision for assistance to aircraft in distress in the designated portion of airspace;

(b) collaborate in coordinated measures when undertaking search and rescue for aircraft in distress in accordance with the Act and Regulations made thereunder.

Automatic recording of a traffic services data and communications

32. (1) A holder of a certificate shall-

(a) make provision for the automatic recording of air traffic service data and communications; and

(b) retain the recorded air traffic service data and communications for a period of at least thirty days.

(2) Notwithstanding paragraph (1), the recorded air traffic service data and communications, if pertinent to accident and incident investigations, shall be retained for longer periods until it is evident that it is no longer required.

Safety management system

33. A holder of a certificate shall have a safety management system that complies with the requirements prescribed by the Authority.

Communication, Navigation and Surveillance

Installation, operation and maintenance of Communication,Navi

34. (1) The holder of a certificate shall ensure that the communication, navigation and surveillance systems are installed, operated, maintained, available and reliable in accordance with the

gation and Surveillance systems.

requirements prescribed by the Authority.

(2) A person shall not perform a function related to the installation, operation or maintenance of any communication, navigation and a surveillance system unless-

(a) that person has successfully completed training in the performance of that function; and

(b) the holder of a certificate is satisfied that the technical person is competent in performing that function.

Facility approval and flight inspection

35. (1) The Authority shall approve all the communication, navigation and surveillance facilities before their installation, use, decommissioning, upgrading or relocation, in the designated airspace and aerodromes.

(2) A holder of a certificate shall ensure that the radio navigation aids prescribed by the Authority are available for use by aircraft engaged in air navigation and are subjected to periodic ground and flight inspection.

Aeronautical Information Services and Aeronautical Charts

Provision of aeronautical information services

36. (1) A holder of a certificate shall-

(a) receive, originate, collate, assemble, edit, format, publish, store and distribute aeronautical information concerning the designated airspace;

(b) publish the aeronautical information as an integrated aeronautical information package;

(c) ensure that the aeronautical information provided is adequate, of required quality and timely;

(d) make available to aeronautical information services of other states any information necessary for the safety, regularity or efficiency of air navigation;

(e) designate the office to which all elements of integrated aeronautical information package originated by other states is addressed.

(2) The holder of a certificate shall, on request by other agencies, provide all information relating to the designated airspace.

(3) The conditions, requirements, rules, procedures and standards for the publication of the aeronautical information in the –

(a) aeronautical information circular;

(b) aeronautical information publication and its amendments;

(c) aeronautical information publication supplements;

(d) notice to airmen, as the case may be, shall be in accordance with the requirements of these Regulations.

(4) The aeronautical information publication amendments and supplements issued under the aeronautical information regulation and control system shall be as prescribed by the Authority.

Aeronautical charts

37. (1) A holder of certificate shall ensure the availability of the required aeronautical charts containing accurate and adequate information including information relevant to the phase of flight.

(2) The aeronautical charts produced and the units of measurements used shall be maintained in a form prescribed by the Authority.

Telecommunication requirements

38. (1) Each international notice to airmen office shall be connected, through the aeronautical fixed service within the airspace for which it provides service, to-

(a) area control and flight information centres;

(b) aerodrome or heliport at which an information service is provided with pre-flight briefing and post-flight information.

(2) The connections under paragraph (1) shall provide for printed communications.

(3) Aeronautical fixed services shall comprise the systems and applications that are used for ground to ground communications in the international telecommunication service in accordance with the requirements of these Regulations.

(4) For the purpose of paragraph (3) "ground to ground" means point to point or point to multiple points.

(5) For exchange of messages over the teleprinter circuits, the signals of the appropriate international telegraphic alphabet permitted shall be in accordance with the requirements of these regulations.

Quality system

39. (1) A holder of a certificate shall-

(a) establish and maintain a quality system of procedures, processes and resources in its

aeronautical information services to implement quality management at each function stage; and

(b) receive, originate, collate, assemble, edit, format, publish, store and distribute aeronautical information and data concerning the designated airspace responsible for air traffic services in accordance with its quality system.

(2) For the purpose of paragraph (1) (a) "function stage" means receiving, originating, collating, assembling, editing, formatting, publishing, storing and distribution of aeronautical information and data.

(3) The quality system established under paragraph (1) (b) shall ensure that-

(a) the personnel is trained to acquire the skills, knowledge and competency required to perform those functions;

(b) procedures exist for-

(i) traceability to its origin of data anomalies or errors, detected and corrected;

(ii) assurance and confidence that distributed aeronautical information or data satisfy stated requirements for data quality, traceability and timeliness;

(iii) protection of electronic aeronautical data stored or in transit is monitored by the cyclic redundancy check to assure integrity of data;

(iv) validation and verification to ensure quality requirements and traceability of aeronautical data;

(v) the audit and remedial action for the compliance with the quality system established;

(c) publication resolution of aeronautical data and confidence level and integrity is maintained, as prescribed by the Authority;

(d) material issued as part of the integrated aeronautical information package is checked and coordinated with the responsible services before it is published;

Aeronautical search and rescue services

Provision of Search and Rescue Service

40. (1) The Authority shall designate an agency to coordinate and direct the prompt provision of search and rescue

services within the designated airspace on a twenty- four hour basis.

(2) The designated service provider shall have in place a search and rescue manual approved by the Authority.

Meteorological Services

Provision of meteorological service for air navigation.

41. (1) The Authority shall designate a service provider for the provision of meteorological services for air navigation.

(2) The service provider designated under paragraph (1) shall-

(a) make routine meteorological observations regular intervals;

(b) make special weather observations whenever specified changes occur in respect of surface wind, visibility, runway visual range, present weather, cloud and air temperature;

(c) prepare and obtain significant weather forecasts information and maintain contact with regional specialized meteorological centres for the exchange of information on volcanic ash and tropical cyclones activity;

(d) provide briefing, consultation and flight documentation to flight crew members and other flight operations personnel;

(e) perform weather watch and monitoring, including the ability to detect and forecast hazards relevant to the aviation community, as prescribed by the Authority;

(f) derive forecast and warning products to the requirements prescribed by the Authority for the pilot, air traffic service and air operators;

(g) maintain a record of aeronautical climatological information for supply to pilot, air traffic service and air operators and any other person, on request;

(h) exchange aeronautical meteorological information with other aeronautical meteorological offices; and

(i) supply information received concerning the accidental release of radioactive materials into the atmosphere within its area of responsibility to the air traffic service providers for dissemination.

(3) The conditions, rules, requirements, procedures or standards of the designation shall be prescribed by the Authority.

(4) A person shall not provide meteorological information service at aerodromes or portion of airspace, except under the conditions prescribed by the Authority.

Construction of visual and instrument flight procedures

Construction of flight procedures

42. A holder of a certificate shall develop visual and instrument flight procedures to be used by aircraft operating in the designated airspace and aerodrome as prescribed by the Authority.

Approval as procedure designer

43. A person shall not design or publish visual and instrument flight procedures for use in the designated airspace and aerodromes unless he has completed approved training in the construction of visual and instrument flight procedures.

Responsibilities of a holder of certificate.

44. A holder of a certificate authorised to perform the functions under regulation 42 shall carry out design work, review or amend visual and instrument flight procedures subject to any conditions specified in the certificate.

PART V-EXEMPTION

Requirements for application

45. (1) A person may apply to the Authority for an exemption from any application of these Regulations.

(2) Unless in case of an emergency processing, a person requiring exemptions from any of these regulations shall make an application to the Authority at least sixty days from the proposed effective date, giving information as to -

(a) name and contact address including electronic mail and fax, if any;

(b) telephone number;

(c) a citation of the specific requirement from which the applicant seeks exemption;

(d) a description of the type of operations to be conduct under the proposed exemption;

(e) the proposed duration of the exemption;

(f) an explanation of how the exemption would be in public interest, that is, benefit the public as a whole;

(g) a detailed description of the alternative means by which the applicant will ensure a level of safety equipment to that established by the regulation in question;

(h) a review and discussion of any known safety

concerns with the requirement, including information about any relevant accidents or incidents of which the applicant is aware; and

(i) if the applicant handles international operations and seeks to operate under the proposed exemption, an indication whether the exemption would contraveneany provision of the standards and recommended practices of the International Civil Aviation Organization (ICAO).

(3) Where the applicant seeks an emergency processing, the application shall contain supporting facts on the nature of the emergency.

(4) The Authority may deny, in writing, an application for emergency processing if it finds that the applicant's supporting facts have no basis to warrant the granting of has not justified the failure to apply for an exemption in time.

(5) The application for exemption shall be accompanied by fee specified by the Authority.

Review and publication

46 (1) The Authority shall review the application for accuracy and compliance with the requirements under Regulations 45 and if it appears satisfactory, it shall publish a detailed summary of the application for comments, within a prescribed time, in either-

(a) Government *Gazette;*,

(b) aeronautical information circular; or

(c) a daily newspaper with wide circulation.

(2) Where application requirements have not been fully complied with, the Authority shall request the applicant, in writing, to comply prior to publication or making a decision under paragraph (3).

(3) If the request is for emergency processing, the Authority shall publish the decision as soon as possible upon processing the application.

Evaluation of the request

47. (1) Where the application requirements have been satisfied, the Authority shall conduct an evaluation of the request to include-

(a) determination of whether-

(i) an exemption would be in the public interest;

(ii) after a technical evaluation, the applicant's proposal would provide a level of safety equivalent to that established by the regulations made under the Act, although where the Authority decides that a technical evaluation of the request would impose a significant burden on the Authority's technical resources, the Authority may deny the exemption on that basis;

(iii) a grant of the exemption would contravene these Regulations; and

(b) recommendations based on the preceding elements, of whether the request should be granted or denied, and of any conditions or limitations that should be part of the exemption.

(2) The Authority shall notify the applicant, in writing, and publish in the Government Gazette or a daily newspaper with a wide circulation a detailed summary of its evaluation and decision to grant or deny the request.

(3) The summary referred to in paragraph (2) shall specify the duration of the exemption and any conditions or limitations of the exemption.

(4) If the exemption affects a significant population of the aviation community of the State, the Authority shall publish the summary in aeronautical information circular.

PART VI-GENERAL PROVISIONS

Drug and alcohol testing and reporting.

48. (1) Any person who performs any function prescribed by these Regulations directly or by contract under the provisions of these Regulations may be tested for drug or alcohol usage.

(2) Where the Authority or any person authorised by the Authority wishes to test a person referred to in paragraph (1) for the percentage by weight of alcohol in the blood, or for the presence of narcotic drugs, marijuana, or depressant or stimulant drugs or substances in the body, and that person.

(a) refuses to submit to the test; or

(b) having submitted to the test, refuses to authorise the release of the test results, the Authority may suspend or revoke the certificate of the holder that employs that person.

(3) In determining whether to suspend or revoke the certificate of the holder, the Authority shall consider all relevant factors, including-

(a) whether the holder had knowledge of the drug or alcohol use;

(b) whether the holder encouraged the person to refuse the drug or alcohol test;

(c) whether the holder dismissed the person who failed or refused the drug tests; or

(d) the position that person held.

(4) The Authority shall require the holder to show cause why the certificate should not be suspended, revoked or cancelled.

(5) A person who is convicted, whether in or outside the designated airspace, for any offence relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marijuana, or depressant or stimulant drugs or substances, shall be dismissed from the employment by the holder of certificate.

(6) The Authority may suspend or revoke the certificate of a holder that refuses to dismiss from its employment a person convicted under paragraph (5).

Replacement and changes on certificate.

49. (1) A holder of a certificate issued under these Regulations may apply to the Authority for-

(a) replacement of the certificate if lost or destroyed;

(b) change of name on the certificate; or

(c) an endorsement on the certificate.

(2) When applying under paragraph (1), the holder of a certificate shall submit to the Authority-

(a) the original certificate or a copy thereof in case of loss; and
(b) a court order, or other legal document verifying the name change.

(3) The Authority shall return to the holder of the certificate, with the appropriate changes applied for, if any, the original documents specified under paragraph (2) and, where necessary, retain copies thereof.

Change of address.

50. (1) A holder of a certificate issued under these Regulations shall notify the Authority of the change in the physical and mailing address within fourteen days of such change.

(2) A person who does not notify the Authority of the change in the physical and mailing address within the time frame specified in paragraph (1) commits an offence.

Replacement of documents.

51. A person may apply to the Authority in the prescribed form for replacement of documents issued under these Regulations if such documents are lost or destroyed.

Use and retention of documents and records.

52. (1) A person shall not-

(a) use any certificate or exemption issued or required by or under these Regulations which has been forged, altered, revoked, or suspended, or to which he is not entitled; or

(b) forge or alter any certificate or exemption issued or required by or under these Regulations; or

(c) lend any certificate or exemption issued or required by or under these Regulations to any other person; or

(d) make any false representation for the purpose of procuring for himself or any other person the grant issue renewal or variation of any such certificate or exemption.

(e) mutilate, alter, render illegible or destroy any records, or any entry made therein, required by or under these Regulations to be maintained, or knowingly make, or procure or assist in the making of, any false entry in any such record, or wilfully omit to make a material entry in such record.

(2) All records required to be maintained by or under these Regulations shall be recorded in a permanent and indelible material.

(3) A person shall not issue any certificate or exemption under these Regulations unless he is authorised to do so by the Authority.

(4) A person shall not issue any certificate of the kind referred to in paragraph (4) unless he has satisfied himself that all statements in the certificate are correct, and that the applicant is qualified to hold that certificate.

Reports of violation.

53. (1) Any person who knows of a violation of the Act, any amendment thereto, or any Regulations, rules, or orders issued thereunder, shall report it to the Authority.

(2) The Authority may determine the nature and type of any additional investigation or enforcement action that need to be taken.

Failure to comply

54. Any person who fails to comply with any direction given to him by the Authority or by any authorised person under any provision of these Regulations shall be deemed for the purposes of these Regulations to have contravened that provision.

Aeronautical fees

55. (1) The Authority shall notify in writing the fees to be charged in connection with the issue, renewal, extension or variation of any certificate, test, inspection or investigation required by, or for the purpose of these Regulations any orders, notices or proclamations made thereunder.

(2) Upon an application being made in connection with which any fee is chargeable in accordance with the provisions of paragraph (1), the applicant shall be required, before the application is accepted, to pay the fee so chargeable.

(3) If, after that payment has been made, the application is withdrawn by the applicant or otherwise ceases to have effect or is refused, the Authority shall not refund the payment made.

PART VII-OFFENCES AND PENALTIES

Contravention of Regulations

56. A person who contravenes any provision of these Regulations may have his certificate or exemption revoked or suspended.

Penalties

57. (1) A person who contravenes any provision of these Regulations, orders, notices or proclamations made thereunder shall, upon conviction, be liable to a fine or imprisonment or both, and in the case of a continuing contravention, each day of the contravention shall constitute a separate offence.

(2) Any person who contravenes any provision specified in Part A of the Schedule to these Regulations shall upon conviction be liable to a fine not less than seventy thousand shillings or to imprisonment for a term not less than six months or to both, for each offence.

(3) Any person who contravenes any provision specified in Part B of the Schedule to these Regulations shall upon conviction be liable to a fine not less than one hundred and forty thousand shillings or to imprisonment for a term not less than one year or to both, for each offence.

(4) Any person who contravenes any provision of these Regulations not being a provision referred to in the Schedule to these Regulations, shall be liable to a fine not less than seventy thousand shillings for each offence.

(5) If it is proved that an act or omission of any person, which would otherwise have been a contravention by that

person of a provision of these Regulations, orders, notices or proclamations made there under was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission shall be deemed not to be a contravention by that person of that provision.

(6) The Authority and any person specifically authorised by name by him or any police officer not below the rank of inspector specifically authorised by name by the Minister, may compound offences under Part A of the Schedule to these Regulations by assessing the contravention and requiring the person reasonably suspected of having committed the offence to pay to the Authority a sum of not less than seventy thousand shillings for provisions referred to in the Schedule to these Regulations.

Appeal

58. Where any person is aggrieved by any order made under these Regulations may, within twenty one days of such order being made, appeal against the order to the High Court.

PART VIII- SAVING AND TRANSITIONAL PROVISION

Transitional

59. A person who, immediately before the commencement of these Regulations, was providing air navigation services in the designated airspace, aerodromes and portions of airspace over the high seas, may, on commencement of these Regulations, continue his services but shall within ninety days after the commencement of these Regulations obtain a certificate from the Authority in accordance with these Regulations.

SCHEDULE (r. 57(2)(3))

Regulation	Title	Part
4	Requirements for the provision of air navigation services	B
12	Display of certificate	A
13	Transfer of certificate	B
14(3)	Suspension, cancellation and revocation of certificate	A
18(2)	Amendment of the manual of air navigation services operations	B
20	Approval of air navigation services facilities	B
21(2)	Safety inspection and audit on air navigation	A

	services	
22	Production of documents	B
23	Air navigation services contingency plan	A
28	Responsibility for control	A
29	Communication requirements	A
30(1)	Air traffic incidents	B
31	Aircraft in distress	A
32	Automatic recording of surveillance data and communications	A
33	Safety management system	B
34	Installation, operation and maintenance of communication, navigation and surveillance systems	B
35	Facility approval and flight inspection	B
36	Provision of aeronautical information services	A
37	Production of aeronautical charts	A
38	Telecommunication requirements	A
39	Quality system	B
40	Provision of search and rescue service	A
41	Provision of meteorological service for air navigation	B
42	Construction of flight procedures	A
43	Approval as a procedures designer for air navigation services.	B
48	Drug and alcohol testing and reporting.	B
49	Change of name.	B
50	Change of address.	B
52	Use and retention of documents and records.	B
54	Enforcement of directions	A

Dated the 29th October, 2008.

C. A. MWAKWERE,
Minister for Transport.