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# GENERAL NOTICE

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## NOTICE 395 OF 2008

### AVIATION ACT 1962

#### PROPOSED AMENDMENT TO THE CIVIL AVIATION REGULATIONS, 1997

Under regulation 11.03.2(1)(a) of the Civil Aviation Regulations, the Chairperson of the Civil Aviation Regulations Committee (CARCOM) hereby publishes for comment the proposed amendments to the Civil Aviation Regulations, 1997, as set out in the schedules. Any comments or representations on the proposed amendments should be lodged in writing with the Chairperson of the Regulations Committee, for attention Mr. Jabulani Mashinini or Mr. Herman Wildenboer, Private Bag 73 Halfway House, 1685, fax: (011) 545-1201, or e-mail at [mashinini@caa.co.za](mailto:mashinini@caa.co.za) or [wildenboerh@caa.co.za](mailto:wildenboerh@caa.co.za), on or before 26 April 2008 ✓

#### SCHEDULE 1

##### PROPOSAL FOR THE AMENDMENT OF PART 48 OF THE CIVIL AVIATION REGULATIONS (CAR)

#### 1. PROPOSER

SACAA  
Private Bag X73  
HALFWAY HOUSE  
1685

#### 2. PROPOSER'S INTEREST

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

#### 3. PROPOSAL TO AMEND PART 48 OF THE CAR

It is hereby proposed to amend Part 48 by the substitution for sub-regulation 48.06.4(3) of the following sub-regulation:

“(3) The Commissioner must recognize the validity of licences and certificates where Contracting States, that have ratified Article 83*bis*, have transferred the authority to issue, to render valid or to renew crew licences, radio licences and certificates of airworthiness pursuant to Article 83*bis* from the State of Registry to the State of the Operator, if he or she has been officially informed of such transfer, provided that these licences and certificates have been issued, rendered valid or renewed by the appropriate authority of the State of the Operator fully meeting the requirements of Annexes 1 and 8 to the Convention on International Civil Aviation, 1944.”.

### **3.1 CURRENT REGULATION**

“(3) The Commissioner must recognize the validity of licences and certificates, where Contracting States that have ratified Article 83*bis* have transferred the authority to issue or render valid crew licences and certificates of airworthiness pursuant to Article 83*bis* from the State of Registry to the State of the Operator, if he or she has been officially informed of such transfer provided that these licences and certificates have been issued or rendered valid by the appropriate authority of the State of the Operator, fully meeting the requirements of Annexes 1 and 8 to the Convention on International Civil Aviation, 1944.”.

### **3.2 MOTIVATION**

The amendment is required by ICAO.

## **PROPOSAL FOR THE AMENDMENT OF PART 96 OF THE CIVIL AVIATION REGULATIONS (CAR)**

### **1. PROPOSER**

**SACAA  
Private Bag X73  
HALFWAY HOUSE  
1685**

### **2. PROPOSER'S INTEREST**

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil aviation in South Africa and to oversee the functioning and development of

the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

### 3. PROPOSAL TO AMEND PART 96 OF THE CAR

It is hereby proposed to amend Part 96 by the substitution for regulation 96.01.1 of the following regulation:

#### “Applicability

96.01.1(1) This Part shall apply to –

- (a) non-type certificated aircraft engaged in flying training or commercial air transport operations within the Republic;
- (b) non-type certificated aircraft registered in the Republic;
- (c) persons acting as flight crew members of non-type certificated aircraft registered in the Republic and engaged in flying training or commercial air transport operations; and
- (d) persons on board a non-type certificated aircraft engaged in flying training or commercial air transport operations.

(2) No non-type certificated aircraft shall be used in commercial air transport operations unless the operator is the holder of the appropriate air service licence issued in terms of the Air Services Licensing Act, 1990 (Act No. 115 of 1990) or International Air Services Act, 1993 (Act No. 60 of 1993): Provided that no amateur-built, production-built or ex-military aircraft shall be issued with a Class I or a Class II domestic air service licence, nor with any international air service licence.

(3) An amateur-built, production-built or ex-military aircraft may be issued with a Class III, type G16, domestic air service licence for the purpose of flipping, as defined in sub-regulation (7).

(4) No non-type certificated aircraft shall be used for flight training unless the operator is the holder of the appropriate aviation training organisation approval, issued in terms of Part 141 of these Regulations.

(5) The provisions of Part 24, Part 91 and Part 94 of these Regulations shall *mutatis mutandis* apply to any non-type certificated aircraft unless specifically exempted by the provisions of this Part.

(6) For the purpose of sub-regulation (2), tandem operations with hang-gliders, paragliders or parachutes, even if carried out for remuneration or reward,

shall not be considered to be the providing of an air service as defined in the Air Services Licensing Act, 1990 or International Air Services Act, 1993 nor to be a commercial air transport operation, as defined in Part 1 of these Regulations.

(7) For the purpose of sub-regulation (3), flipping is defined as the carrying of fare-paying passengers for the purpose of sightseeing, and such operations shall be restricted as follows:

- (a) Flights shall commence and end at the same aerodrome or helicopter landing site without any intermediate landing, and without any disembarking taking place by any means while the aircraft is in flight (parachute, rappelling, etc);
- (b) The duration of flights shall not exceed one hour of flight time; and
- (c) The number of passengers carried, whether fare-paying or carried for free, shall not exceed three.

### 3.1. MOTIVATION

The proposal is required in order to comply with ICAO requirements.

### 3.2. CURRENT REGULATION

#### “Applicability

- (1) This Part shall apply to –
  - (a) non-type certificated aircraft engaged in flying training or commercial air transport operations within the Republic;
  - (b) persons acting as flight crew members of non-type certificated aircraft registered in the Republic and engaged in flying training or commercial air transport operations; and
  - (c) persons on board a non-type certificated aircraft engaged in flying training or commercial air transport operations.

(2) No non-type certificated aircraft shall be used in commercial air transport operations unless the operator is the holder of the appropriate air service licence issued in terms of the Air Services Licensing Act, 1990 (Act No. 115 of 1990) or International Air Services Act, 1993 (Act No. 60 of 1993): Provided that no amateur-built, production-built or ex-military aircraft shall be issued with a Class I or a Class II domestic air service licence, nor with any international air service licence.

(3) An amateur-built, production-built or ex-military aircraft may be issued with a Class III – type G16 domestic air service licence for the purpose of flipping, as defined in sub-regulation (7).

(4) No non-type certificated aircraft shall be used for flight training unless the operator is the holder of the appropriate aviation training organisation approval, issued in terms of Part 141 of these regulations.

(5) The provisions of Part 24, Part 91 and Part 94 of these regulations shall mutatis mutandis apply to any non-type certificated aircraft unless specifically exempted by the provisions of this Part.

(6) For the purpose of sub-regulation (2), tandem operations with hang-gliders, paragliders or parachutes, even if carried out for remuneration or reward, shall not be considered to be the providing of an air service as defined in the Air Services Licensing Act, 1990 or International Air Services Act, 1993 nor to be a commercial air transport operation, as defined in Part 1 of the Regulations.

(7) For the purpose of sub-regulation (3), flipping is defined as the carrying of fare-paying passengers for the purpose of sightseeing, and such operations shall be restricted as follows:

- (a) flights shall commence and end at the same aerodrome or helicopter landing site without any intermediate landing, and without any disembarking taking place by any means while the aircraft is in flight (parachute, rappelling, etc);
- (b) the duration of flights shall not exceed one hour of flight time; and
- (c) the number of passengers carried, whether fare-paying or carried for free, shall not exceed nine.

## **PROPOSAL FOR THE AMENDMENT OF SA-CARS PART 145**

### **1. PROPOSER**

**SACAA  
Private Bag X73  
HALFWAY HOUSE  
1685**

### **2. PROPOSER'S INTEREST**

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil

aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

**3. PROPOSAL TO AMEND REGULATIONS 145.02.1; 145.03.1; 145.04.1; 145.05.1; 145.06.1; 145.07.1 AND 145.08.1**

It is hereby proposed to amend the provisions dealing with the manual of procedure in Regulation 145 by the substitution for sub-regulation (1) of the following sub-regulation:

**“Manual of Procedure**

(1) An applicant for the issuing of an aircraft maintenance organisation approval shall provide the Commissioner with its manual of procedure which shall –

- (a) comply with the requirements prescribed in this subpart; and
- (b) contain the information as prescribed in Document SA-CATS-AMO.

(2) Subject to sub-regulations (5) and (6), the holder of a maintenance organisation certificate must amend the details in the holder's Manual of Procedure to ensure that the Manual of Procedure provides a current description of the organisation.

(3) The certificate holder must –

- (a) ensure that each amendment to its Manual of Procedure meets the applicable requirements of this Part and any other relevant Part of these Regulations; and
- (b) comply with the amendment procedures contained in its Manual of Procedures.

(4) The certificate holder must provide the Commissioner with a copy of each amendment to its Manual of Procedure as soon as practicable after the amendment has been incorporated into the certificate holder's Manual of Procedure.

(5) A certificate holder proposing to change any of the following must apply to, and obtain the prior acceptance, of the Commissioner:

- (a) the chief executive;

- (b) the listed senior persons;
- (c) the maintenance ratings;
- (d) the procedures for changing the scope within a rating;
- (e) the locations at which maintenance is carried out; or
- (f) the procedure for authorizing persons to certify maintenance.

(6) The Commissioner may specify conditions under which a certificate holder must operate during or following any of the changes listed in sub-regulation (5), to ensure continued compliance with the requirements of this Part.

(7) A certificate holder must comply with any conditions specified in sub-regulation (6).

(8) If any change, referred to in this regulation, requires an amendment to the certificate, the certificate holder must forward the certificate to the Commissioner immediately.

(9) The certificate holder must make such amendments to its Manual of Procedure as the Commissioner may consider necessary in the interests of aviation safety.

### **3.1. MOTIVATION**

The proposal is required in order to comply with ICAO requirements.

### **3.2. CURRENT REGULATION**

#### **“Manual of Procedure**

(1) An applicant for the issuing of an aircraft maintenance organisation approval shall provide the Commissioner with its manual of procedure which shall –

- (a) comply with the requirements prescribed in this subpart; and
- (b) contain the information as prescribed in Document SA-CATS-AMO.

**4. PROPOSAL TO AMEND REGULATIONS 145.02.7; 145.03.7; 145.04.7; 145.05.7; 145.06.7; 145.07.7 AND 145.08.7**

It is hereby proposed to amend the provisions dealing with the issuing of approval in regulations 145.xx.7 (as applicable) by the substitution for sub-regulation (1) of the following sub-regulation:

**“Issuing of approval**

(1) An applicant is entitled to an aircraft maintenance organisation approval if the Commissioner is satisfied that –

- (a) the applicant meets the requirements prescribed in Part 145, as applicable, and the applicant has compiled a statement of compliance which is accepted by the Commissioner;
- (b) the applicant's senior person or persons required by Part 145 is a competent and fit person or are fit and competent persons and never held a senior position in an aircraft maintenance organisation where the approval was revoked or cancelled by the Commissioner or the Minister as a result of the organisation failing to comply with the requirements of Part 145; and
- (c) the granting of the certificate is not contrary to the interests of aviation safety.”

**4.1. MOTIVATION**

The proposal is required in order to comply with ICAO requirements.

**4.2. CURRENT REGULATION**

**“Issuing of approval**

(1) The Commissioner shall issue an aircraft maintenance organisation approval if the applicant complies with the requirements of regulation 145.02.1 to 145.02.5 inclusive”.

**5. PROPOSAL TO AMEND REGULATIONS 145.02.4; 145.03.4; 145.04.4; 145.05.4; 145.06.4; 145.07.4 AND 145.08.4**

It is hereby proposed to amend the provisions dealing with personnel requirements in sub-regulations 145.xx.4 (as applicable) by the substitution for the above named sub-regulations of the following sub-regulations:

**“Personnel requirements**

(1) Each applicant for the grant of an aircraft maintenance organisation approval shall engage, employ, or contract –

- (a) a senior person identified as the Chief Executive or 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 who is or are responsible for ensuring that the applicant's organisation complies with the requirements of this Part. Such nominated person or persons shall be ultimately responsible to the Chief Executive or Accountable Manager for the following functions:
  - (i) maintenance control;
  - (ii) personnel authorisations; and
  - (iii) internal quality assurance; and
- (c) sufficient personnel to plan, perform, supervise, inspect and certify the maintenance activities listed in the applicant's manual of procedure.

(2) The applicant's Chief Executive, Accountable Manager and Maintenance and Quality Assurance Manager shall meet the minimum requirements as prescribed in SA-CATS-AMO.

(3) No organisation shall engage, employ or contract (a) senior person(s) as quality assurance manager/responsible person maintenance without prior acceptance of the Commissioner.

(4) The applicant shall –

- (a) establish a procedure to initially assess, and a procedure for maintaining, the competence of the personnel involved in planning,

performing, supervising, inspecting, or certifying the maintenance activities performed by the applicant's organisation; and

- (b) provide those personnel with written evidence of the scope of their authorisation.

(4) The certificate holder shall ensure that the personnel involved in performing, planning, supervising, inspecting, or certifying maintenance activities of the certificate holder are engaged, employed, contracted by only one organisation.

(5) The certificate holder shall establish a list of certifying staff in the Manual of Procedure or referenced in the Manual of Procedure, such list shall contain as the minimum the following:

- (i) The full name of the certifying personnel;
- (ii) The company authorisation number or identification stamp issued; and
- (iii) CAA license number issued.

## **5.1 MOTIVATION**

The proposal is required in order to comply with ICAO requirements.

## **5.2 CURRENT REGULATION**

### **“Personnel requirements**

- (1) The applicant shall engage, employ, or contract –
  - (a) a senior person identified as the accountable manager and compliance officer of the organisation concerned, 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 prescribed in this subpart, and who shall, 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 such compliance by him or her;
- (iii) Powers to order cessation of any activity where such compliance is not affected;
- (iv) A duty to establish liaison mechanisms with the Commissioner with a view to ascertain correct manners of compliance with the said requirements, and interpretations of such requirements by the Commissioner, and to facilitate liaison between the Commissioner 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 sub-paragraph (iv);

(b) a competent person who is responsible for quality control, and who has direct access to the accountable manager and compliance officer referred to in paragraph (a) on matters affecting airworthiness and aviation safety; and

(c) adequate personnel to plan, perform, supervise, inspect and certify all maintenance undertaken by such organisation.

(2) The applicant shall establish a procedure for initially assessing, and a procedure for maintaining, the competence of those personnel involved in planning, performing, supervising, inspecting or certifying the maintenance undertaken by the organisation.

(3) The applicant shall ensure that –

- (a) the personnel in all technical departments are of sufficient numbers and experience and have been given appropriate authority to be able to discharge their allocated responsibilities;
- (b) there is full and efficient co-ordination between departments and within departments in respect of airworthiness matters.

**6. PROPOSAL TO AMEND REGULATIONS 145.02.16; 145.03.16; 145.04.16; 145.05.16; 145.06.16; 145.07.16 AND 145.08.16**

It is hereby proposed to amend the provisions dealing with reports on defects or non-airworthy conditions in sub-regulations 145.xx.16 (as applicable) by the substitution for the above named sub-regulations of the following sub-regulations:

**“Reports on defects or non-airworthy conditions**

(1) The holder of an aircraft maintenance organisation approval shall report to the Commissioner any defect or condition of an aircraft or aircraft component which may hazard the aircraft, within 48 hours from the moment the defect or condition to which the report relates, has been identified.

(2) Each applicant for the grant of a maintenance organisation certificate shall establish procedures for –

- (a) collecting, investigating, and analysing information relating to defects in the aircraft or component maintained by the applicant and distributing that information to –
  - (i) the applicable design organisation; and
  - (ii) the owner or operator of that aircraft or component; and
- (b) providing defect incident information to the Authority in accordance with Part 12”.

**6.1 MOTIVATION**

The proposal is required in order to comply with ICAO requirements.

**6.2 CURRENT REGULATION****“Reports on defects or non-airworthy conditions**

(1) The holder of an aircraft maintenance organisation approval with a Category A rating shall report to the Commissioner any defect or condition of an aircraft or aircraft component which may hazard the aircraft, within 48 hours from the moment the defect or condition to which the report relates, has been identified.

(2) The holder of an approval with a Category A rating shall establish a procedure for reporting such defects or conditions to the Commissioner.

(3) Where the holder of an approval with a Category A rating is contracted to perform maintenance, such holder shall inform the operator or owner of the aircraft of any such defect or condition”.

**7. PROPOSAL TO ADD REGULATIONS 145.02.18; 145.03.18; 145.04.18; 145.05.18; 145.06.18; 145.07.18 AND 145.08.18**

It is hereby proposed to add the provisions dealing with maintenance personnel duty time limitations in Part 145 as sub-regulations 145.xx.18 (as applicable):

**“Maintenance personnel duty time limitations**

(1) An applicant for a maintenance organisation certificate must establish procedures to ensure that a person who is authorised under regulation Part 145 to perform or supervise maintenance, or to certify release to service, or to certify conformity to acceptable data is relieved from duty for–

- (a) a period of at least 8 consecutive hours in the 24-hour period immediately before exercising the authorisation; and
- (b) at least 4 periods of at least 24 consecutive hours each in the 30-day period immediately before exercising the authorisation.

**7.1 MOTIVATION**

The proposal is required in order to comply with ICAO requirements.

**7.2 CURRENT REGULATION**

This is a new Regulation.

**PROPOSAL FOR THE AMENDMENT OF SA-CARS PART 1 AND INSERTION OF PARTS 109 AND 110**

**1. PROPOSER**

**South African Civil Aviation Authority  
Private Bag X73  
HALFWAY HOUSE  
1685**

## 2. PROPOSER'S INTEREST

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

## 3. PROPOSAL TO AMEND REGULATION 1 OF THE REGULATIONS

It is hereby proposed to amend regulation 1.00.1 of the regulations by:

- (a) the insertion of the following definitions after the definition of "aircraft":

**'aircraft security check'** means an inspection of the interior of an aircraft to which passengers may have had access and an inspection of the hold for the purposes of searching for suspicious objects, weapons, explosives or other dangerous devices, articles and substances;

**'aircraft security search'** means a thorough inspection of the interior and exterior of the aircraft for the purpose of searching for suspicious objects, weapons, explosives or other dangerous devices, articles or substances;"

- (b) the insertion of the following definition after the definition of "certificate of proficiency":

**'background check'** means a check of a person's identity and previous experience, including any criminal history, where appropriate, as part of the assessment of an individual's suitability for unescorted access to a security restricted area;

**'certification'** means formal evaluation and confirmation by or on behalf of the appropriate authority for aviation security that a person possesses the necessary competencies to perform assigned functions to an acceptable level as defined by the appropriate authority;"

- (c) the insertion of the following definition after the definition of "company":

**'competency based testing'** means a written, oral or practical evaluations of the competencies which the screeners are supposed to demonstrate at the end of training;

- (d) the insertion of the following definition after the definitions of "heliport operating minima":

**'human factors principles'** means principles which apply to design, certification, training, operations and maintenance and which seek safe interface between the human and other system components by proper consideration to human performance;

**'human performance'** means human capabilities and limitations, which have an impact on the safety, security and efficiency of aeronautical operations;"

(e) the insertion of the following definition after the definition of "passenger aircraft":

**'performance based testing'** means testing conducted as part of the quality management system. A snap shot of the performance of aviation security screeners;"

**'screening'** means the application of technical or other means which are intended to identify and / or detect weapons, explosives or other dangerous devices which may be used to commit an act of unlawful interference;"

(f) the insertion of the following definitions after the definition of "sector":

**'security'** means safeguarding 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 regulation;"

(g) the insertion of the following definitions after the definition of "security control":

**'security inspection'** means an examination of the implementation of relevant national civil aviation security regulation requirements by an airline, airport, or other entity involved in security;

**'security restricted area'** means those areas of the airside of an airport, which are identified as priority risk areas where in addition to access control, other security controls are applied, and such area normally include, inter alia, all commercial aviation passenger departure areas between the screening checkpoint and the aircraft, the ramp, baggage make-up areas, including those where aircraft are being brought into service and screened baggage and cargo are present, cargo sheds, mail centres, airside catering and aircraft cleaning premises;"

**'security survey'** means an evaluation of security needs including the identification of vulnerabilities which could be exploited to carry out an act of unlawful interference, and the recommendation of corrective actions;

**'security test'** means a covert or overt trial of an aviation security measure which simulates an attempt to commit an unlawful act;"

(h) the insertion of the following definition after the definition of "standard training":

**'standardised testing'** means test result fall within an established norm, which would indicate that the test is not too difficult or too easy;

(i) the insertion of the following definition after the definition of "unaccompanied baggage"

**'unidentified baggage'** means baggage at an airport, with or without a baggage tag, which is not picked up by or identified with a passenger;

(j) the insertion of the following definition after the definition of "valid":

**'valid test'** means the test measures what is intended to be measured;".

### 3.1 CURRENT PROVISIONS

Not in existence.

### 3.2 MOTIVATION

The proposed insertion is required in order to comply with ICAO Annex 17 standards. These were findings in the previous ICAO audit conducted in August 2006. The ICAO follow up audit is fast approaching and it is our intention to address these findings speedily.

## 4. PROPOSAL FOR THE INSERTION OF PART 109 INTO THE REGULATIONS

The following part is herewith inserted after Part 108 of the Regulations:

**PART 109: AVIATION SECURITY TRAINING ORGANISATIONS****SUBPART 1: GENERAL**

- 109.01.1 Applicability
- 109.01.2 Designation of body or institution
- 109.01.3 Display of aviation security training organisation approval
- 109.01.4 Advertisements
- 109.01.5 Security inspections and audits
- 109.01.6 Suspension and cancellation of aviation security training organisation approval and appeal
- 109.01.7 Register of approvals

**SUBPART 2: APPROVAL OF ORGANISATION (AVIATION SECURITY TRAINING)**

- 109.02.1 Requirement for approval
- 109.02.2 Manual of procedure
- 109.02.3 Quality control system
- 109.02.4 Personnel requirements
- 109.02.5 Accommodation, facilities and equipment
- 109.02.6 Application for approval or amendment thereof
- 109.02.7 Issuing of approval
- 109.02.8 Scope of approval
- 109.02.9 Period of validity
- 109.02.10 Transferability
- 109.02.11 Changes in quality control system
- 109.02.12 Renewal of approval
- 109.02.13 Duties of holder of approval
- 109.02.14 Documents and records

## **SUBPART 1: GENERAL**

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### **Applicability**

**109.01.1** (1) This Part shall apply to the approval and operation of organizations conducting –

- (a) standard aviation security training; and
- (b) aviation security awareness training.

(2) For purposes of this Part, aviation security training means the training referred to in sub-regulation (1) (a) and (b).

### **Designation of body or institution**

**109.01.2** (1) The Commissioner may, subject to the provisions of section 4(2) and (3) of the Act, designate a body or institution to –

- (a) exercise control over the aviation security training specified in the Regulations, and over the persons conducting such training;
- (b) determine standards for the aviation security training and for the training of such persons;
- (c) issue, confirm, suspend or withdraw certificates for the successful completion of the aviation security training, and keep all books or documents regarding such training; and
- (d) advise the Commissioner on any matter connected with the aviation security training or persons.

(2) The designation referred to in sub-regulation (1) shall be made in writing and shall be published by the Commissioner in the Gazette within 30 days from the date of such designation.

(3) The powers and duties referred to in sub-regulation (1) shall be exercised and performed according to the conditions, rules, requirements, procedures or standards as prescribed in Document SA-CATS-ASTO.

### **Display of aviation security training organisation approval**

**109.01.3** The holder of an aviation security training organisation approval shall display the approval in a prominent place, generally accessible to the public at such holder's principal place of business and, if a copy of the approval is

displayed, shall produce the original approval to an authorised officer, inspector or authorised person if so requested by such officer, inspector or person.

### **Advertisements**

**109.01.4** Any advertisement by an organisation indicating that it is an aviation security training organisation, shall –

- (a) reflect the number of the aviation security training organisation approval issued by the Commissioner; and
- (b) contain a reference to the aviation security training for which such approval was issued.

### **Security inspections and audits**

**109.01.5** (1) An applicant for the issuing of an aviation security training organisation approval shall permit an authorised officer, inspector or authorised person to carry out such security inspections and audits which may be necessary to verify the validity of any application made in terms of regulation 109.02.6 or regulation 109.03.2, as the case may be.

(2) The holder of an aviation security training organisation approval shall permit an authorised officer, inspector or authorised person to carry out such security inspections and audits which may be necessary to determine compliance with the appropriate requirements prescribed in this Part.

### **Suspension and cancellation of aviation security training organisation approval and appeal**

**109.01.6** (1) An authorised officer, inspector or authorised person may suspend for a period not exceeding 30 days, an aviation security training organisation approval issued under this Part, if –

- (a) after a security inspection and audit carried out in terms of regulation 109.01.5, it is evident that the holder of the approval does not comply with the requirements prescribed in this Part, and such holder fails to remedy such non-compliance within 30 days after receiving notice in writing from the authorised officer, inspector or authorised person to do so; or
- (b) the authorised officer, inspector or authorised person is prevented by the holder of the approval 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 authorised officer, inspector or authorised person who has suspended an approval in terms of sub-regulation (1), shall deliver a report in writing to the Commissioner, stating the reasons why, in his or her opinion, the suspended approval should be cancelled.
- (3) The authorised officer, inspector or authorised person concerned shall submit a copy of the report referred to in sub-regulation (2), to the holder of the approval which has been suspended, and shall furnish proof of such submission for the information of the Commissioner.
- (4) The Commissioner shall submit to the Minister, the report referred to in sub-regulation (2), within seven days of receipt thereof.
- (5) The holder of an approval who feels aggrieved by the suspension of the approval may appeal against such suspension to the Minister, within 30 days after such holder becomes aware of such suspension.
- (6) An appellant shall deliver an appeal in writing, stating the reasons why, in its opinion, the suspension should be varied or set aside.
- (7) The appellant shall submit a copy of the appeal and any documents or records supporting such appeal, to the authorised officer, inspector or authorised person concerned and shall furnish proof of such submission for the information of the Minister.
- (8) The authorised officer, inspector or authorised person concerned may, within 30 days of receipt of the copy of the appeal referred to in sub-regulation (6), deliver his or her written reply to such appeal to the Minister.
- (9) The Minister may –
- (a) adjudicate the appeal on the basis of the documents submitted to him or her; or
  - (b) order the appellant and the authorised officer, inspector or authorised person concerned to appear before him or her, either in person or through a representative, at a time and place determined by him or her, to give evidence.
- (10) The Minister may confirm, vary or set aside the suspension referred to in sub-regulation (1).
- (11) The Minister shall cancel the approval concerned if –
- (a) he or she confirms the suspension in terms of sub-regulation (10); or
  - (b) an approval is suspended in terms of sub-regulation (1) and the holder thereof does not appeal against such suspension in terms of sub-regulation (5).

## Register of approvals

**109.01.7** (1) The Commissioner shall maintain a register of all aviation security training organisation approvals issued in terms of the regulations in this Part.

(2) The register shall contain the following particulars:

- (a) The full name of the holder of the approval;
- (b) the postal address of the holder of the approval;
- (c) the date on which the approval was issued or renewed;
- (d) particulars of the scope of the approval issued to the holder of the approval; and
- (e) the nationality of the holder of the approval.

(3) The particulars referred to in sub-regulation (2) shall be recorded in the register within seven days from the date on which the approval is issued by the Commissioner.

(4) The register shall be kept in a safe place at the office of the Commissioner.

(5) A copy of the register shall be furnished by the Commissioner, on payment of the appropriate fee as prescribed in Part 187, to any person who requests the copy.

## **SUBPART 2: APPROVAL OF ORGANISATION (AVIATION SECURITY TRAINING)**

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### Requirement for approval

**109.02.1** No organisation shall conduct aviation security training except under the authority of, and in accordance with the provisions of, an aviation security training organisation approval issued under this Subpart.

### Manual of procedure

**109.02.2** An applicant for the issuing of an aviation security training organisation approval to conduct aviation security training, shall provide the Commissioner with its manual of procedure which shall –

- (a) comply with the requirements prescribed in this Subpart; and
- (b) contain the information as prescribed in Document SA-CATS-ASTO.

### Quality control system

**109.02.3** (1) The applicant shall establish a quality control system for the control and supervision of the aviation security training covered by the application.

(2) The minimum standards for a quality control system shall be as prescribed in Document SA-CATS-ASTO.

### Personnel requirements

**109.02.4** (1) The applicant shall engage, employ or contract –

- (a) a senior person identified as the accountable manager and compliance officer of the organisation concerned, 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 prescribed in this Subpart, and who shall 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 such compliance by him or her;
  - (iii) powers to order cessation of any activity where such compliance is not effected;
  - (iv) a duty to establish liaison mechanisms with the Commissioner with a view to ascertain correct manners of compliance with the said requirements, and interpretations of such requirements by the Commissioner, and to facilitate liaison between the Commissioner 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 accountable manager and compliance officer referred to in paragraph (a) on matters affecting aviation safety and security; and

- (c) adequate personnel to plan, conduct and supervise the aviation security training covered by the application.
- (2) The applicant shall 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 shall ensure that those personnel responsible for training or assessing students, have a combination of competence and experience adequate for the level of competence required for such training or assessment.

### **Accommodation, facilities and equipment**

**109.02.5** The applicant shall ensure that the accommodation, facilities and equipment are adequate to enable the personnel to conduct the aviation security training covered by the application.

### **Application for approval or amendment thereof**

**109.02.6** An application for the issuing of an aviation security training organisation approval to conduct aviation security training, or an amendment thereof, shall be –

- (a) made to the Commissioner in the appropriate form as prescribed in Document SA-CATS-ASTO; 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 approval**

**109.02.7** (1) The Commissioner shall issue an aviation security training organisation approval to conduct aviation security training, if the applicant complies with the requirements prescribed in regulations 109.02.2 to 109.02.5.

(2) The Commissioner shall issue the approval on the appropriate form as prescribed in Document SA-CATS-ASTO.

### **Scope of approval**

**109.02.8** An aviation security training organisation approval to conduct aviation security training shall specify the aviation security training which the holder of the approval is entitled to conduct.

### **Period of validity**

**109.02.9** (1) An aviation security training organisation approval to conduct aviation security training, shall be valid for the period determined by the Commissioner, which period shall not exceed five years, calculated from the date of issuing or renewal thereof.

(2) The approval shall remain in force until it expires or is suspended by an authorised officer, inspector or authorised person, or cancelled by the Minister, in terms of regulation 109.01.6.

(3) The holder of an approval which expires, shall forthwith surrender the approval to the Commissioner.

(4) The holder of an approval which is suspended, shall forthwith produce the approval upon suspension thereof, to the authorised officer, inspector or authorised person concerned for the appropriate endorsement.

(5) The holder of an approval which is cancelled, shall, within 30 days from the date on which the approval is cancelled, surrender such approval to the Commissioner.

### **Transferability**

**109.02.10** (1) Subject to the provisions of sub-regulation (2), an aviation security training organisation approval to conduct aviation security training, shall not be transferable.

(2) A change in ownership of the holder of an approval to conduct aviation security training, shall be deemed to be a change of significance referred to in regulation 109.02.11.

### **Changes in quality control system**

**109.02.11** (1) If the holder of an aviation security training organisation approval to conduct aviation security training, desires to make any change in the quality control system referred to in regulation 109.02.3, which is significant to the showing of compliance with the appropriate requirements prescribed in this Part, such holder shall apply to the Commissioner for the approval of such change.

(2) The provisions of regulation 109.02.6 shall apply mutatis mutandis to an application for the approval of a change in the quality control system.

(3) An application for the approval of a change in the quality control system shall be granted by the Commissioner if the applicant satisfies the Commissioner, upon submission of appropriate proposed changes to its manual of procedure, that it will continue to comply with the provisions of regulations 109.02.2, after the implementation of such approved change.

### **Renewal of approval**

**109.02.12** (1) An application for the renewal of an aviation security training organisation approval to conduct aviation security training, shall be –

- (a) made to the Commissioner in the appropriate form as prescribed in Document SA-CATS-ASTO; and
- (b) be 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 approval shall at least 60 days immediately preceding the date on which such approval expires, apply for the renewal of such approval.

### **Duties of holder of approval**

**109.02.13** The holder of an aviation security training organisation approval to conduct aviation security training, shall –

- (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 prescribed in this Part.

### **Documents and records**

**109.02.14** (1) The holder of an aviation security training organisation approval to conduct aviation security training, shall –

- (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; and
  - (b) establish procedures to control the documents referred to in paragraph (a).
- (2) The procedures referred to in sub-regulation 1(b) shall ensure that –
- (a) all documents are reviewed and authorised by the appropriate personnel before the issuing thereof;
  - (b) 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 approval;
  - (c) all obsolete documents are promptly removed from all points of issue or use; and
  - (d) changes to documents are reviewed and authorised by the appropriate personnel.
- (3) The holder of the approval shall establish procedures to identify, collect, index, store and maintain all records which may be necessary –
- (a) for the specified aviation security training conducted by such holder;
  - (b) to determine compliance with the appropriate requirements prescribed in this Subpart.
- (4) The procedures referred to in sub-regulation (3) shall ensure that –
- (a) a record is kept of each quality control review of the holder of the approval;
  - (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 approval, 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.

#### **4.2 CURRENT REGULATION**

Not in existence

#### **4.3 MOTIVATION**

The proposed insertion is required in order to comply with ICAO Annex 17 standards. These were findings in the previous ICAO audit conducted in August 2006.

### **5. PROPOSAL FOR THE INSERTION OF PART 110 INTO THE REGULATIONS**

The following part is herewith inserted after Part 109 of the Regulations:

#### **PART 110: AVIATION SECURITY SCREENER CERTIFICATION**

##### **SUBPART 1: GENERAL**

- 110.01.1 Applicability
- 110.01.2 Authority to act as an aviation security screener
- 110.01.3 Competency
- 110.01.4 Documentation
- 110.01.5 Logbooks
- 110.01.6 Medical fitness
- 110.01.7 Register of certification
- 110.01.8 Language
- 110.01.9 Designation of examiner
- 110.01.10 Suspension and cancellation of certification and appeal
- 110.01.11 Aviation security training organisation
- 110.01.12 Validation of certification issued by appropriate authority

##### **SUBPART 2: AVIATION SECURITY SCREENER CERTIFICATION**

- 110.02.1 Requirements for aviation security screener certification
- 110.02.2 Training

- 110.02.3 Theoretical knowledge examination
- 110.02.4 Skill test
- 110.02.5 Application for aviation security screener certification
- 110.02.6 Issuing of aviation security screener certification
- 110.02.7 Period of validity
- 110.02.8 Privileges

## **SUBPART 1: GENERAL**

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### **Applicability**

**110.01.1** This part shall apply to the application for and issuing of certification for aviation security screeners, the privileges and limitations of such certification and matters related thereto.

### **Authority to act as an aviation security screener**

**110.01.2** (1) No person shall act as an aviation security screener at a South African airport, airline or regulated agent unless such person is the holder of a valid aviation security screener certification issued by the Commissioner in terms of this Part.

(2) No aviation security screener shall exercise privileges other than the privileges granted by the certification held by such an aviation security screener.

(3) The holder of an aviation security screener certification shall pay the annual currency fees as prescribed in Part 187 applicable to the type of certification on the anniversary date of such certification.

### **Competency**

**110.01.3** (1) No aviation security screener shall exercise the privileges granted by an aviation security screener certification unless such aviation security screener maintains competency by complying with the requirements prescribed in this part.

(2) The holder of an aviation security screener certification shall submit copies of all documentation reflecting continued maintenance of competency to the Commissioner within 7 days after compliance with the appropriate requirements prescribed in this Part.

(3) The holder of an aviation security screener certification shall undergo background checks by recognized appropriate agencies (SAPS or

National Intelligence Agency) to ensure that undesirable persons are not granted aviation security screener certification.

### **Documentation**

**110.01.4** The Commissioner shall ensure that an aviation security screener certification is issued in such a manner that the validity thereof may readily be determined by any appropriate authority.

### **Logbooks**

**110.01.5** (1) An aviation security screener certified to operate technical screening equipment shall maintain a logbook and shall record therein all screening hours / time spent screening using technical equipment.

(2) The form of and information to be contained in a logbook referred to in sub-regulation (1) and the manner in which such logbook has to be maintained, shall be prescribed in Document SA-CATS-ASS.

### **Medical fitness**

**110.01.6** An applicant for or the holder of a aviation security screener certification shall obtain a Class 2 medical certificate issued in terms of Part 67.

### **Register of certification**

**110.01.7** (1) The Commissioner shall maintain a register of all aviation security screener certification issued in terms of the regulations in this part.

(2) The register shall contain the following particulars –

- (a) the full name of the holder of the certification;
- (b) the postal address of the holder of the certification;
- (c) the date on which the certification was issued;
- (d) the nationality of the holder of the certification.

(3) The particulars referred to in sub-regulation (2) shall be recorded in the register within seven days from the date on which the certification is issued by the Commissioner.

(4) The register shall be kept in a safe place at the office of the Commissioner.

(5) A copy of the register shall be furnished by the Commissioner, on payment of the appropriate fee as prescribed in Part 187, to any person who requests the copy.

### **Language**

**110.01.8** Aviation security screeners shall have sufficient ability in reading, speaking and understanding the English language to enable them to adequately carry out their responsibilities as aviation security screeners.

### **Designation of examiner**

**110.01.9** (1) The Commissioner may, subject to the provisions of section 4(2) and (3) of the Act, designate an examiner to conduct skill tests and to issue skill test reports.

(2) The privileges referred to in sub-regulation (1) shall be exercised and performed according to the conditions, rules, requirements, procedures or standards as prescribed in Document SA-CATS-ASS.

(3) The Commissioner shall sign and issue to each designated examiner a document which shall state the full name of such examiner and contain a statement that –

- (a) such examiner has been designated in terms of sub-regulation (1); and
- (b) such examiner is empowered to exercise the privileges referred to in sub-regulation (1).

(4) The application to be considered for designation as referred to in sub-regulation (1) shall be accompanied by –

- (a) detail of the to which the application applies; and
- (b) the appropriate fee as prescribed in Part 187.

### **Suspension and cancellation of certification and appeal**

**110.01.10** (1) An authorised officer, inspector or authorised person may suspend for a period not exceeding 30 days, an aviation security screener certification, if –

- (a) it is evident that the holder of the certification does not comply with the requirements prescribed in this part, and such holder fails to remedy such non-compliance immediately after receiving notice in writing from the aviation security inspector to do so; or
- (b) the suspension is necessary in the interests of aviation security.

(2) The authorised officer, inspector or authorised person who has suspended a certification in terms of sub-regulation (1), shall deliver a report in

writing to the Commissioner, stating the reasons why, in his or her opinion, the suspended certification should be cancelled.

(3) The authorised officer, inspector or authorised person concerned shall submit a copy of the report referred to in sub-regulation (2), to the holder of the certification which has been suspended, and shall furnish proof of such submission for the information of the Commissioner.

(4) The Commissioner shall submit to the Minister, the report referred to in sub-regulation (2), within seven days of receipt thereof.

(5) The holder of a certification who feels aggrieved by the suspension of the certification may appeal against such suspension to the Minister, within 30 days after such holder becomes aware of such suspension.

(6) An appellant shall deliver an appeal in writing, stating the reasons why, in his or her opinion, the suspension should be varied or set aside.

(7) The appellant shall submit a copy of the appeal and any documents or records supporting such appeal, to the authorised officer, inspector or authorised person concerned and shall furnish proof of such submission for the information of the Minister.

(8) The authorised officer, inspector or authorised person concerned may, within 30 days of receipt of the copy of the appeal referred to in sub-regulation (7), deliver his or her written reply to such appeal to the Minister.

(9) The Minister may –

- (a) adjudicate the appeal on the basis of the documents submitted to him or her; or
- (b) order the appellant and the authorised officer, inspector or authorised person concerned to appear before him or her, either in person or through a representative, at a time and place determined by him or her, to give evidence.

(10) The Minister may confirm, vary or set aside the suspension referred to in sub-regulation (1).

(11) The Minister shall cancel the certification concerned if –

- (a) he or she confirms the suspension in terms of sub-regulation (10);
- or
- (b) a certification is suspended in terms of sub-regulation (1) and the holder thereof does not appeal against such suspension in terms of sub-regulation (5),

### **Aviation security training organisation**

**110.01.11** Training as required by this part shall only be provided by the holder of an aviation training organisation approval issued in terms of Part 109.

**Validation of certification issued by appropriate authority**

110.01.12 (1) The holder of a certification and rating issued by an appropriate authority, who desires to act as an aviation security screener at a South African airport, airline or regulated agent, shall apply to the Commissioner in the appropriate form as prescribed in Document SA-CATS-ASS, for a validation of such certification.

(2) The application for a validation referred to in sub-regulation (1) shall be accompanied by-

(a) a certified true copy of the certification to which the validation refers;

(b) a valid medical certificate, if applicable; and

(c) the appropriate fee as prescribed in Part 187.

(3) Certification issued by an appropriate authority may be validated by the Commissioner –

(a) subject to the same restrictions which apply to such certification;

(b) in accordance with and subject to the requirements and conditions as prescribed in Document SA-CATS-ASS; and

(c) on the appropriate form as prescribed in Document SA-CATS-ASS.

(4) The duration of a validation issued by the Commissioner shall be –

(a) 12 months calculated from the date of issue of such a validation by the Commissioner; or

(b) the period of validity of the certification issued by the appropriate authority concerned,

whichever period is the lesser .

(5) The holder of a validation issued by the Commissioner may, subject to the provisions of sub-regulation (6), apply to the Commissioner for the renewal of such validation which shall be done at least 21 days immediately preceding the date of expiry of such validation.

(6) The Commissioner may renew a validation of a certification in the circumstances and on conditions as prescribed in Document SA-CATS-ASS: Provided that a validation of certification, the privileges of which are to be exercised for commercial purposes, may only be renewed for the same period as referred to in sub-regulation (4).

(7) The holder of a validation issued by the Commissioner shall comply with the provisions prescribed in this part and the requirements and conditions as prescribed in Document SA-CATS-ASS.

## **SUBPART 2: AVIATION SECURITY SCREENER CERTIFICATION**

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### **Requirements for aviation security screener certification**

**110.02.1** An applicant for the issuing of an aviation security screener certification shall –

- (a) be not less than 18 years of age;
- (b) hold a valid CLASS 2 medical certificate issued in terms of Part 67;
- (c) have successfully completed the training referred to in Regulation 110.02.2;
- (d) have passed the theoretical knowledge examination referred to in Regulation 110.02.3; and
- (e) have undergone the skill test referred to in Regulation 110.02.4.

### **Training**

**110.02.2** An applicant for the issuing of an aviation security screener certification shall have successfully completed the appropriate training as prescribed in Document SA-CATS-ASS.

### **Theoretical knowledge examination**

**110.02.3** (1) An applicant for the issuing of an aviation security screener certification shall have passed the appropriate written examination as prescribed in Document SA-CATS-ASS.

(2) The applicant who fails a theoretical knowledge examination may apply for retesting after the appropriate period specified in Document SA-CATS-ASS.

### **Skill test**

**110.02.4** (1) An applicant for the issuing of an aviation security screener certification shall demonstrate to an aviation security designated examiner, the ability to perform as a aviation security screener, the procedures as prescribed in Document SA-CATS-ASS, with a degree of competency appropriate to the privileges granted to the holder of a aviation security screener certification.

(2) The applicant shall undergo the skill test referred to in sub-regulation (1) within three months of passing the theoretical knowledge examination referred to in regulation 110.02.3.

### **Application for aviation security screener certification**

**110.02.5** An application for the issuing of an aviation security screener certification shall be –

- (a) made to the Commissioner in the appropriate form as prescribed in Document SA-CATS-ASS; and
- (b) accompanied by –
  - (i) original or certified proof of –
    - (aa) the identity of the applicant; and
    - (bb) the age of the applicant;
  - (ii) a valid CLASS 2 medical certificate issued in terms of Part 67;
  - (iii) original or certified proof that the applicant has passed the theoretical knowledge examination referred to in Regulation 110.02.3;
  - (iv) the skill test report as prescribed in Document SA-CATS-ASS, signed by a designated examiner;
  - (v) the appropriate fee as prescribed in Part 187; and
  - (vi) two recent passport size photographs of the applicant.

### **Issuing of aviation security screener certification**

**110.02.6** (1) The Commissioner shall issue an aviation security screener certification if the applicant complies with the requirements referred to in regulation 110.02.1.

(2) A certification shall be issued on the appropriate form as prescribed in Document SA-CATS-ASS.

(3) Upon the issuing of a certification the holder thereof shall forthwith affix his or her signature in ink in the space on the certification provided for such purpose.

**Period of validity**

**110.02.7** An aviation security screener certification shall be valid for an indefinite period: Provided that the privileges of such certification shall not be exercised by the holder thereof unless –

- (a) he or she is the holder of a valid Class 2 medical certificate issued in terms of Part 67; and
- (b) he or she undergoes the recurrent training prescribed in this Part.

**Privileges**

**110.02.8** The holder of a valid aviation security screener certification shall be entitled to perform screening duties for which the holder received his or her training referred to in regulation 110.02.2 and which is specified on such certification.

**5.2 CURRENT REGULATION**

Not in existence

**5.3 MOTIVATION**

The proposed insertion is required in order to comply with ICAO Annex 17 standards. These were findings in the previous ICAO audit conducted in August 2006. The ICAO follow up audit is fast approaching and it is our intention to address these findings speedily.

**PROPOSAL FOR THE AMENDMENT OF PART 91 OF THE CIVIL AVIATION REGULATIONS (CAR)****1. PROPOSER**

**SACAA  
Private Bag X73  
HALFWAY HOUSE  
1685**

## 2. PROPOSER'S INTEREST

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

## 3. PROPOSAL TO AMEND PART 91 REGULATIONS 91.04.13

It is hereby proposed to amend Part 91 by the substitution for regulation 91.04.13 of the following regulation:

### **"Flight data recorder**

**91.04.13** (1) No owner or operator of an aircraft specified in Document SA-CATS-OPS 91 shall operate the aircraft unless such aircraft is equipped with the appropriate flight data recorder (FDR) as prescribed herein and in Document SA-CATS-OPS 91.

(2) All FDRs shall be capable of retaining the information recorded during at least the last 25 hours of their operation, except for the Type II FDR which shall be capable of retaining the information recorded during at least the last 2 hours of its operation.

(3) A Type II FDRs shall record the parameters required to determine accurately the aircraft flight path, speed, attitude, engine power and configuration of lift and drag devices.

(4) A Type I FDR shall record the parameters required to determine accurately the aircraft flight path, speed, attitude, engine power, configuration and operation. The parameters that satisfy the requirements for a Type I FDR are listed in sub-regulations (5) to (9). The parameters without an asterisk (\*) are mandatory parameters which shall be recorded. In addition, the parameters designated by an asterisk (\*) shall be recorded if an information data source for the parameter is used by aeroplane systems or the flight crew to operate the aeroplane.

(5) The following parameters satisfy the requirements for flight path and speed:

- (a) Pressure altitude
- (b) Indicated airspeed or calibrated airspeed
- (c) Air-ground status and each landing gear air-ground sensor when practicable
- (d) Total or outside air temperature
- (e) Heading (primary flight crew reference)
- (f) Normal acceleration
- (g) Lateral acceleration
- (h) Longitudinal acceleration (body axis)
- (i) Time or relative time count
- (j) Navigation data\*: drift angle, wind speed, wind direction, latitude/longitude
- (k) Groundspeed\*
- (l) Radio altitude\*

(6) The following parameters satisfy the requirements for attitude:

- (a) Pitch attitude
- (b) Roll attitude
- (c) Yaw or sideslip angle\*
- (d) Angle of attack\*

(7) The following parameters satisfy the requirements for engine power:

- (a) Engine thrust/power: propulsive thrust/power on each engine, cockpit thrust/power lever position
- (b) Thrust reverse status\*
- (c) Engine thrust command\*
- (d) Engine thrust target\*
- (e) Engine bleed valve position\*
- (f) Additional engine parameters\*: EPR, N1, indicated vibration level, N2, EGT, TLA, fuel flow, fuel cut-off lever position, N3

(8) The following parameters satisfy the requirements for configuration:

- (a) Pitch trim surface position
- (b) Flaps\*: trailing edge flap position, cockpit control selection
- (c) Slats\*: leading edge flap (slat) position, cockpit control selection
- (d) Landing gear\*: landing gear, gear selector position
- (e) Yaw trim surface position\*
- (f) Roll trim surface position\*
- (g) Cockpit trim control input position pitch\*
- (h) Cockpit trim control input position roll\*

- (i) Cockpit trim control input position yaw\*
- (j) Ground spoiler and speed brake\*: Ground spoiler position, ground spoiler selection, speed brake position, speed brake selection
- (k) De-icing and/or anti-icing systems selection\*
- (l) Hydraulic pressure (each system)\*
- (m) Fuel quantity\*
- (n) AC electrical bus status\*
- (o) DC electrical bus status\*
- (p) APU bleed valve position\*
- (q) Computed centre of gravity\*

(9) The following parameters satisfy the requirements for operation:

- (a) Warnings
- (b) Primary flight control surface and primary flight control pilot input: pitch axis, roll axis, yaw axis
- (c) Marker beacon passage
- (d) Each navigation receiver frequency selection
- (e) Manual radio transmission keying and CVR/FDR synchronization reference
- (f) Autopilot/autothrottle/AFCS mode and engagement status\*
- (g) Selected barometric setting\*: pilot, first officer
- (h) Selected altitude (all pilot selectable modes of operation)\*
- (i) Selected speed (all pilot selectable modes of operation)\*
- (j) Selected Mach (all pilot selectable modes of operation)\*
- (k) Selected vertical speed (all pilot selectable modes of operation)\*
- (l) Selected heading (all pilot selectable modes of operation)\*
- (m) Selected flight path (all pilot selectable modes of operation)\*: course/DSTRK, path angle
- (n) Selected decision height\*
- (o) EFIS display format\*: pilot, first officer
- (p) Multi-function/engine/alerts display format\*
- (q) GPWS/TAWS/GCAS status\*: selection of terrain display mode including pop-up display status, terrain alerts, both cautions and warnings, and advisories, on/off switch
- (r) position
- (s) Low pressure warning\*: hydraulic pressure, pneumatic pressure
- (t) Computer failure\*
- (u) Loss of cabin pressure\*
- (v) TCAS/ACAS (traffic alert and collision avoidance system/ airborne collision avoidance system)\*
- (w) Ice detection\*
- (x) Engine warning each engine vibration\*
- (y) Engine warning each engine over temperature\*
- (z) Engine warning each engine oil pressure low\*
- (za) Engine warning each engine over speed\*

- (zb) Wind shear warning\*
- (zc) Operational stall protection, stick shaker and pusher activation\*
- (zd) All cockpit flight control input forces\*: control wheel, control column, rudder pedal cockpit input forces
- (ze) Vertical deviation\*: ILS glide path, MLS elevation, GNSS approach path
- (zf) Horizontal deviation\*: ILS localizer, MLS azimuth, GNSS approach path
- (zg) DME 1 and 2 distances\*
- (zh) Primary navigation system reference\*: GNSS, INS, VOR/DME, MLS, Loran C, ILS
- (zi) Brakes\*: left and right brake pressure, left and right brake pedal position
- (zj) Date\*
- (zk) Event marker\*
- (zl) Head up display in use\*
- (zm) Para visual display on\*

(10) The data obtained from an FDR shall be obtained from aircraft sources which enable accurate correlation with information displayed to the flight crew. The minimum recording duration shall be equal to the duration of the CVR, and shall be correlated to the recorded cockpit audio.

(11) The FDR shall start automatically to record the data prior to the aircraft being capable of moving under its own power and shall stop automatically after the aircraft is incapable of moving under its own power.

(12) An aircraft may commence a flight with the FDR inoperative: Provided that –

- (a) the aircraft shall not depart from an aerodrome where repairs or replacements to such flight data recorder can be made;
- (b) the aircraft does not exceed six further consecutive flights with the flight data recorder unserviceable;
- (c) not more than 48 hours have elapsed since the flight data recorder became unserviceable;
- (d) any cockpit voice recorder is combined with the flight data recorder; and
- (e) the mandatory parameters are operational, meaning only parameters identified with the asterisk (\*) may be in-operational.

### 3.1. MOTIVATION

The proposal is required in order to comply with ICAO requirements.

### 3.3. CURRENT REGULATION

#### “Flight data recorder

(1) No owner or operator of an aircraft specified in Document SA-CATS-OPS 91, shall operate the aircraft unless such aircraft is equipped with the appropriate flight data recorder as prescribed in Document SA-CATS-OPS 91.

(2) The flight data recorder shall be capable of retaining the data recorded during at least –

- (a) in the case of an aeroplane, the last 25 hours of its operation; or
- (b) in the case of a helicopter, the last 10 hours of its operation.

(3) The data obtained from a flight data recorder shall be obtained from aircraft sources which enable accurate correlation with information displayed to the flight crew.

(4) The flight data recorder shall start automatically to record the data prior to the aircraft being capable of moving under its own power and shall stop automatically after the aircraft is incapable of moving under its own power.

(5) An aircraft may commence a flight with the flight data recorder inoperative: Provided that –

- (a) the aircraft shall not depart from an aerodrome where repairs or replacements to such flight data recorder can be made;
- (b) the aircraft does not exceed six further consecutive flights with the flight data recorder unserviceable;
- (c) not more than 48 hours have elapsed since the flight data recorder became unserviceable; and
- (d) any cockpit voice recorder is combined with the flight data recorder.

## 4. PROPOSAL TO AMEND REGULATIONS 91.04.31

It is hereby proposed to amend the provisions of regulation 91.04.31 by the substitution for the said sub-regulation of the following sub-regulation:

### **“Airborne Collision Avoidance System**

(1) As from 1 January 2003, all turbine-engine aeroplanes of a maximum certificated take-off mass in excess of 15 000 kg or authorized to carry more than 30 passengers shall be equipped with an airborne collision avoidance system (ACAS II).

(2) As from 1 January 2005, all turbine-engine aeroplanes of a maximum certificated take-off mass in excess of 5 700 kg or authorized to carry more than 19 passengers shall be equipped with an airborne collision avoidance system (ACAS II).

#### **4.1. MOTIVATION**

The proposal is required in order to comply with ICAO requirements.

#### **4.2 CURRENT REGULATION**

##### **“Airborne Collision Avoidance System**

(1) As from 1 July 2003, whenever an aircraft is equipped with an airborne collision avoidance system (ACAS), such system shall –

- (a) function in accordance with the relevant provisions of Document SA-CATS-OPS 91; and
- (b) when serviceable, be activated at all times during flight in all airspace, including oceanic, international, foreign and domestic airspace, even if in terms of these regulations the carriage of ACAS equipment is not compulsory for that particular type of aircraft or the type of operation.

(2) Whenever an ACAS becomes unserviceable during flight when operation of ACAS is mandatory, the pilot-in-command of that aeroplane shall inform the responsible air traffic service unit as soon as is practical.”

**PROPOSAL FOR THE AMENDMENT OF SA-CARS PART 139 OF THE CIVIL  
AVIATION REGULATIONS, 1997**

**A. PROPOSER**

**SACAA  
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1685**

**B. PROPOSER'S INTEREST**

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

**SCHEDULE 1**

**1.1 PROPOSAL TO AMEND REGULATION 139.01.33 OF THE REGULATIONS**

It is hereby proposed to amend Regulation 139.01.33 by the addition of sub-regulation (8):

(8) (a) The obstacle limitation surfaces as prescribed in Document SA-CATS-AH shall be clear of any penetration of obstacles temporary or otherwise.

(b) The Commissioner may consider individual exemptions of a deviation from this regulation, on presentation of a case study, including a full risk assessment analysis.

(c) In the event of a conflict of interest between land use authorities and air space users, Air safety shall be regarded as predominant and not to be compromised by land development projects or other obstacles.

**1.2 CURRENT REGULATION**

Not in existence.

### 1.3 MOTIVATION

The proposed amendment intends to regulate obstacle limitation zones and land use around aerodromes.

## SCHEDULE 2

### 2.1 PROPOSAL TO INSERT REGULATION 139.01.34 IN THE REGULATIONS

It is hereby proposed to insert regulation 139.01.34 as follows:

#### “Lead in lights

**139.01.34** (1) In the event that the Commissioner so requires, the licence holder of an aerodrome or heliport shall ensure that such an aerodrome or heliport has runway lead in light system which--

- (a) provides visual guidance along a specific approach path;
- (b) assists in the avoidance of hazardous terrain; or
- (c) assists in noise abatement as prescribed in Document SA-CATS-AH.

### 2.2 CURRENT REGULATION

Not in existence.

### 2.3 MOTIVATION

The proposed amendment intends to introduce regulation in terms of runway lead-in lighting systems to the license holder of an aerodrome.

## SCHEDULE 3

### 3.1 PROPOSAL TO INSERT REGULATION 139.01.35 IN THE REGULATIONS

It is hereby proposed to insert Regulation 139.01.35 in the Regulations:

#### “Surface movement guidance and control system (SMGCS)

**139.01.35** (1) All aerodromes shall have surface movement guidance and control system as prescribed in Document SA-CATS-AH, implemented.

(2) Where an advanced surface movement guidance and control system has been implemented, the provisions of sub-regulation (3) and (4) shall be applicable.

(3) Where stop bars are specified as components of an advanced surface movement guidance and control system and where higher intensities are required to maintain ground movements at a certain speed in very low visibilities or in bright daytime conditions, the intensity in red light and beam spreads of stop bar lights shall be in accordance with the specifications prescribed in Document SA-CATS-AH.

(4) Where taxiway centre line lights are specified as components of an advanced surface movement guidance and control system and where higher intensities are required to maintain ground movements at a certain speed in very low visibilities or in bright daytime conditions, taxiway centre line lights shall be in accordance with the specifications prescribed in Document SA CATS-AH.

### **3.2 CURRENT REGULATION**

SMGS is a new development and no regulations exist to regulate it.

### **3.3 MOTIVATION**

The proposed amendment intends to provide regulation of new SMGS being introduced.

## **SCHEDULE 4**

### **4.1 PROPOSAL TO AMEND REGULATION 139.02.7 OF THE REGULATIONS**

It is hereby proposed to amend regulation 139.02.7 by the addition of the following sub-regulations (3), (4), (5), (6), and (7):

“(3) A discrete communication system shall be provided linking a fire station with the control tower, where applicable, or any other fire station on the aerodrome and the rescue and fire fighting vehicles;

(4) An alerting system for the rescue and fire fighting personnel, capable of being operated from a fire station, shall be provided at a fire station, or any other fire station on the aerodrome and aerodrome control tower.

(5) (a) Emergency access roads shall be provided on an aerodrome where terrain conditions permit their construction, so as to facilitate minimum response times.

(b) Where a fence is provided, the need for convenient access to the outside areas shall be utilised.

(6) (a) Emergency access roads shall be capable of supporting the heaviest vehicles and shall be utilised in all weather conditions.

(b) Roads within 90 m of a runway shall be surfaced to prevent surface erosion and transfer of debris to the runway.

(c) Sufficient vertical clearance shall be provided from overhead obstructions for the largest vehicles.

(7) When the surface of the road is indistinguishable from the surrounding area, or in areas where snow may obscure the location of the roads, edge markers shall be placed at intervals of about 10 m.”

#### **4.2 CURRENT REGULATION**

Does not exist.

#### **4.3 MOTIVATION**

The proposed amendment intends to assign applicability and accountability to the license holder of an aerodrome.

### **SCHEDULE 5**

#### **5.1 PROPOSAL TO AMEND REGULATION 139.02.9 OF THE REGULATIONS**

It is hereby proposed to amend regulation 139.02.9 by the substitution in sub-regulation (1) for paragraph (c) of the following paragraph:

“(c) as soon as possible, of any change which may affect the use of the aerodrome, including the presence of water in the runway as prescribed in Document SA-CATS-AH; and”

#### **5.2 CURRENT REGULATION**

139.02.9 (1) An applicant for the issuing of an aerodrome licence shall establish a procedure to notify the air traffic service unit concerned and the Commissioner –

(a) of the aerodrome data and information;

- (b) of any limitation on the use of the aerodrome contemplated in Regulation 139.01.3;
- (c) as soon as possible, of any change which may affect the use of the aerodrome; and
- (d) any other information required in terms of regulations in Part 175.

### 5.3 MOTIVATION

The proposed amendment intends to assign accountability to the license holder of an aerodrome to monitor and report water on runways.

## SCHEDULE 6

### 6.1 PROPOSAL TO AMEND REGULATION 139.02.19 OF THE REGULATIONS

It is hereby proposed to amend regulation 139.02.19 by the addition in sub-regulation (2) of paragraphs (p), (q), (r), (s) and (t) as follows:

- “(p) The surface of runway is maintained in a condition such as to prevent formation of harmful irregularities.
- (q) Measurements of the friction characteristics of a runway surface is made periodically with a continuous friction measuring device using self-wetting features.
- (r) Corrective maintenance action is be taken when the friction characteristics for either the entire runway or a portion thereof are below a minimum friction level specified in Document SA-CATS-AH.
- (s) When there is a reason to believe that the drainage characteristics for either the whole runway or a portion thereof, are poor due to slopes or depressions, then the runway friction characteristics shall be assessed under natural or simulated conditions that are representative of local rain, and corrective maintenance action is taken as necessary.
- (t)
  - (i) The surface of a paved runway shall be maintained in a good condition so as to provide good friction characteristics and low rolling resistance.
  - (ii) Snow, slush, ice, standing water, mud, dust, sand, oil, rubber deposits and other contaminants shall be removed as rapidly and completely as possible to minimise accumulation.”

## **6.2 CURRENT REGULATION**

Does not exist.

## **6.3 MOTIVATION:**

The proposed amendment intends to provide regulation of friction characteristics of runways to be monitored

## **SCHEDULE 7**

### **7.1 PROPOSAL TO AMEND REGULATION 139.02.19 OF THE REGULATIONS**

It is hereby proposed to amend regulation 139.02.19 by the addition of sub-regulation (5):

“(5) (a) The holder of the licence is accountable for the implementation of aeronautical studies, inclusive of technical analysis, risk assessment and proposed risk mitigation for any contemplated deviation of any applicable ICAO standard and recommended practice and the resultant outcome of such studies shall be presented to the Commissioner Civil Aviation for approval.

(b) Any deviation from the provisions of sub-paragraph (a) shall be approved by the Commissioner and published in the Aeronautical Information Publication, and any significant change shall be filed as a difference, by the Authority, with ICAO through the normal Civil Aviation Authority processes.”

### **7.2 CURRENT REGULATION**

Not in existence

### **7.3 MOTIVATION**

The proposed amendment intends to assign accountability to the license holder of an aerodrome in terms of aeronautical studies.

## **SCHEDULE 8**

### **8.1 PROPOSAL TO AMEND REGULATION 139.02.26 OF THE REGULATIONS**

It is hereby proposed to amend regulation 139.02.26 by the addition of the following sub-regulations (4), (5), (6), (7), (8) and (9):

- (4) A fence or other suitable barrier shall be provided on an aerodrome to –
- (a) prevent the entrance to the movement area of animals large enough to be a hazard to aircraft; and
  - (b) to deter the inadvertent or premeditated access of an unauthorised person onto a non public area of the aerodrome.
- (5) Suitable means of protection shall be provided to deter the inadvertent or premeditated access of an unauthorised person into ground installations and the facilities essential for the safety of civil aviation located off the aerodrome.
- (6) The fence or barrier shall be located so as to separate the movement area and other facilities or zones on the aerodrome vital to the safe operation of aircraft from areas open to public access.
- (7) When greater security is thought necessary-
- (a), a cleared area should be provided on both sides of the fence or barrier to facilitate the work of patrols, and to make trespassing more difficult.
  - (b) Consideration should be given to the provision of a perimeter road inside the fencing for use of both the maintenance personnel and security patrols.
- (8) At all international aerodromes-
- (a) a fence or other barrier provided for the protection of international civil aviation and its facilities shall be illuminated at a minimum essential level;
  - (b) the lights shall be located so that the ground area on both sides of the fence or barrier, particularly at the access points is illuminated; and
  - (c) the lights should be positioned or guarded accordingly so as not to be confused with ground based navigation lights and not to cause distraction to airborne flights.
- (9) During Low Visibility Procedures the appropriate aerodrome authority shall restrict construction or maintenance activities in the proximity of aerodrome electrical systems as prescribed in appendix M to the Civil Aviation Regulations Part 139."

## **8.2 CURRENT REGULATION**

### **"Control of entry into restricted area**

**139.02.26** (1) The holder of an aerodrome licence shall exercise control over entry into a restricted area.

(2) The control referred to in sub-regulation (1) shall be exercised according to the procedures and criteria approved by such holder.

(3) An authorised officer, inspector or authorised person may –

- (a) prohibit any person from entering a restricted area;
- (b) order any person to leave a restricted area immediately, whether such person has been granted permission to be within a restricted area or not.

### **8.3 MOTIVATION**

The proposed amendment intends to assign accountability to the license holder of an aerodrome to provide fences or barriers and to illuminate them.

## **SCHEDULE 9.**

### **9.1 PROPOSAL TO AMEND REGULATION 139.02.27 OF THE REGULATIONS**

It is hereby proposed to amend regulation 139.02.27 by the addition of sub-regulations (3):

“(3) The holder of an aerodrome licence shall provide the minimum clearance between an aircraft using the stand and any adjacent building, aircraft on another stand and other objects, as prescribed in Document SA-CATS-AH.”

### **9.1 CURRENT REGULATION**

#### **“Demarcation of routes on apron**

**139.02.27** (1) The holder of an aerodrome licence may be means of markings on the surface of an aerodrome or by notices, or by means of both such markings and notices demarcate routes on the apron for use by –

- (a) a person other than a person carried in an aircraft or in or on a vehicle;
- (b) an aircraft travelling on the surface of an aerodrome; or
- (c) a vehicle,

and such holder may similarly restrict any such route to use by such person or aircraft or vehicle for the purpose of movement in one direction only.

- (2) Save in an emergency no person –
- (a) other than a person carried in an aircraft or in or on a vehicle shall proceed on foot on the apron; or
  - (b) shall move an aircraft travelling on the surface of an aerodrome or a vehicle on the apron, except along an appropriate route demarcated in terms of sub-regulation (1).

### 9.3 MOTIVATION

The proposed amendment intends to assign apron minimum clearances to the license holder of an aerodrome.

## SCHEDULE 10

### 10.1 PROPOSAL TO INSERT REGULATION 139.02.31 IN THE REGULATIONS

It is hereby proposed to insert the following Regulation 139.02.31:

#### “Pavement

**139.02.31** (1) The licence holder shall make the determination of the bearing strength of a pavement on completion of construction of a runway.

(2) The licence holder shall, using codes as depicted in the Document SA-CATS-AH, report to the Commissioner the information relating to –

- (a) pavement type for aircraft code number (ACN) – pavement code number (PCN) determination;
- (b) sub-grade strength category;
- (c) maximum allowable tire pressure category; and
- (d) evaluation method.

(3) The criteria used to regulate the use of a pavement by an aircraft with an ACN higher than the PCN reported for that pavement shall be as prescribed in Document SA CATS-AH.

## **10.2 CURRENT REGULATION**

Does not exist.

## **10.3 MOTIVATION**

The proposed amendment intends to regulate the determination and reporting of pavement strength and to establish criteria for aircraft with a higher aircraft code number (ACN) wishing to use a pavement with a lower reported pavement code number (PCN).

## **SCHEDULE 11**

### **11.1 PROPOSAL TO AMEND REGULATION 139.03.19 OF THE REGULATIONS**

It is hereby proposed to amend regulation 139.03.19 by the addition of sub-regulation (3):

“(3) (a) The holder of the licence is accountable for the implementation of aeronautical studies, inclusive of technical analysis, risk assessment and proposed risk mitigation for any contemplated deviation of any applicable ICAO standard and recommended practice and the resultant outcome of such studies shall be presented to the Commissioner for approval.

(b) Any contemplated deviation referred to in paragraph (a) shall be approved by the Commissioner and published in the Aeronautical Information Publication, and any significant change shall be filed, by the Commissioner, with ICAO as a difference.”

### **11.2 CURRENT REGULATION**

Not in existence

### **11.3 MOTIVATION**

The proposed amendment intends to assign accountability to the license holder of an aerodrome in terms of aeronautical studies.

**PROPOSAL FOR THE AMENDMENT OF SA-CARS PART 94****1. PROPOSER**

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1685**

**2. PROPOSER'S INTEREST**

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

**3. PROPOSAL TO AMEND REGULATIONS 94. 01.1**

It is hereby proposed to amend the provisions of regulation 96.01.1 by the substitution for the said sub-regulation of the following sub-regulation:

**“Applicability**

- (1) This Part shall apply to –
  - (a) non-type certificated aircraft operated within the Republic;
  - (b) non-type certificated aircraft registered in the Republic;
  - (c) persons acting as flight crew members of non-type certificated aircraft registered in the Republic; and
  - (d) persons who are on board a non-type certificated aircraft operated in terms of this Part.
- (2) This Part contains for the various sub-groups of non-type certificated aircraft –
  - (a) operating and flight rules additional to; and
  - (b) exemptions from,

the operating and flight rules prescribed in Part 91, if any.

(3) The provisions of the various other Parts of these regulations shall apply *mutatis mutandis* to any non-type certificated aircraft unless specifically exempted by the provisions of this Part.

(4) Non-type certificated aircraft operated in terms of this Part are prohibited from providing a commercial air transport operation, as defined in Part 1 of the regulations. Although flying training is not considered to be a commercial air transport operation, any non-type certificate aircraft used in flight training shall be operated in terms of Part 96.

(5) Notwithstanding the provision of sub-regulation (4), non-type certificated aircraft operated in terms of this Part may be used for the training of its registered owner: Provided that the training is provided by an approved ATO and the airworthiness requirements in respect of a non-type certificated aircraft used in training are met. This proviso does not apply in respect of the conversion training, contemplated in sub-regulations 24.02.3(14) and (15).

### **3.1. MOTIVATION**

The proposal is required in order to comply with ICAO requirements.

### **3.4. CURRENT REGULATION**

#### **“Applicability**

(1) This Part shall apply to –

- (a) non-type certificated aircraft operated within the Republic;
- (b) non-type certificated aircraft registered in the Republic and operated outside the borders of the Republic;
- (c) persons acting as flight crew members of non-type certificated aircraft registered in the Republic; and
- (d) persons who are on board a non-type certificated aircraft operated in terms of this Part.

(2) This Part provides for operating and flight rules which are additional to those contained in Part 91.

(3) The provisions of the various other Parts of these regulations shall apply *mutatis mutandis* to any non-type certificated aircraft unless specifically exempted by the provisions of this Part.

(4) Non-type certificated aircraft operated in terms of this Part are prohibited from providing a commercial air transport operation, as defined in Part 1 of the regulations. Although flying training is not considered to be a commercial air transport operation, any non-type certificate aircraft used in flight training shall be operated in terms of Part 96.

(5) A non-type certificated aircraft, owned or made available to a voluntary association of people, may only be used by the members of such association – whether for free, for hire, or for remuneration – if such association operates in accordance with Part 96, even if the operation is not considered to be an air service as defined in the Air Services Licensing Act, 1990 (Act No. 115 of 1990).

(6) Notwithstanding the provision of sub-regulation (4), non-type certificated aircraft operated in terms of this Part may be used for the training of its registered owner: Provided that the training is provided by an approved ATO and the airworthiness requirements in respect of a non-type certificated aircraft used in training are met. This proviso does not apply in respect of the conversion training, contemplated in sub-regulations 24.02.3(14) and (15).

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