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GENERAL NOTICE

Transport, Department of

General Notice

581 Aviation Act (74/1962): Proposed amendment to the Civil Aviation Regulations, 1997: For comments or representations

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GENERAL NOTICE

NOTICE 581 OF 2009

AVIATION ACT 1962, (ACT NO 74 OF 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. Jabulane Mashinini or Mr. Herman Wildenboer, Private Bag 73 Halfway House, 1685, fax: (011) 545-1201, or e-mail at sonjanim@caa.co.za or wildenboerh@caa.co.za, before or on 22 June 2009.

SCHEDULE 1

Proposer

South African Civil Aviation Authority
Ikhaya Lokundiza
Building 16
Treur Close
WaterFall Park
Bekker Street
Midrand

Explanation of interest of the Proposer

The Proposer administers the Aviation Act of 1962 (Act No. 74/1962) and the regulations and technical standards issued in terms thereof.

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.

**ALL THE PROPOSALS CONTAINED IN THE SCHEDULES
EMANATE FROM THE SOUTH AFRICAN CIVIL AVIATION
AUTHORITY**

**1.0 PROPOSAL TO AMEND REGULATION 47.00.5 OF THE
REGULATIONS**

1.1 It is hereby proposed to amend regulation 47.00.5 of the Regulations by the deletion in sub-regulation (2) –

- (a) of sub-paragraph (v) in paragraph (a);
- (b) of item (ff) of sub-paragraph (i) in paragraph (b); and
- (c) of item (dd) of sub-paragraph (ii) in paragraph (b).

1.2 CURRENT REGULATION

“the supporting documents from the South African Revenue Service issued in terms of section 38, 39 or 44 of the Customs and Excise Act, 1964, as prescribed in Document SA-CATS”.

1.3 MOTIVATION

The rationale for proposing the deletion of the provisions is due to the challenge in its implementation. The difficulty that the CAA faces is that the documents issued by SARS as prescribed in SA-CATS-ARM can only be issued to an aircraft that entered and operated within the South African airspace. The other challenge is that both the CAA and SARS are expected to prove, prior to issuing the DA550 (Customs Clearance document) and F178 (Bankers' clearance document) as to whether an aircraft has entered and operated in the South African airspace. The provision was inserted in the Regulations though a request by SARS to assist in tax evasion. The documents are requested when exporting an aircraft; however there are no SARS requirements for importing an aircraft into the Republic. As a result of these requirements, the registration process is prolonged while we are waiting for SARS to investigate the whereabouts of the operation of that particular aircraft. To date, we are not receiving cooperation from SARS in fast tracking the registration process, and thus result in receiving a growing concern from clients.

SCHEDULE 2

**2.0. PROPOSAL TO AMEND REGULATION 67.00.6 OF THE
REGULATIONS**

2.1 It is hereby proposed to amend regulation 67.00.6 of the Regulations by –

- (a) the substitution for sub-regulation (4) of the following sub-regulation:

“(4) Notwithstanding the provisions of sub-regulations (1), (2) and (3), a designated aviation medical examiner may –

- (a) if indications require that –
- (i) medical examinations or tests be performed at shorter intervals; or
 - (ii) additional examinations or tests be performed; or
- (b) when the safe performance of the duties essential to the operation of an aircraft operated by the holder of such medical certificate depends on compliance with any special limitation,

endorse the medical certificate with such requirement or limitation.”.

- (b) the addition after sub-regulation (4) of the following sub-regulation:

“(5) (a) The holder of a medical certificate may at least 15 days immediately preceding the date on which such medical certificate expires, apply to the Commissioner for the extension of such medical certificate.

(b) Notwithstanding the provisions of sub-regulations (1), (2) and (3), the Commissioner may, on such conditions as he or she considers necessary, extend the medical certificate for a period not exceeding 30 days.”.

2.2 CURRENT REGULATION

- (4) Notwithstanding the provisions of sub-regulations (1), (2) and (3), a designated aviation medical examiner may –

- (a) indications require that –
- (i) medical examinations or tests be performed at shorter intervals; or
 - (ii) additional examinations or tests be performed; or

- (b) when the safe performance of the duties essential to the operation of an aircraft operated by the holder of such medical certificate depends on compliance with any special limitation, endorse the medical certificate with such requirement or limitation.

2.3 MOTIVATION

Sub-regulation (4) is amended to correct a topographical error and to make it clearer by the necessary indentation.

The addition of sub-regulation (5) is necessitated by the fact that the current regulation does not make provision for extension of medical certificates. This regulation will cater for applicants with exceptional circumstances who are unable to submit themselves for medical examination. The Institute for Aviation Medicine has to date been issuing medical extensions on behalf of the Commissioner.

SCHEDULE 3

3.0. PROPOSAL TO AMEND REGULATION 147.02.7 OF THE REGULATIONS

- 3.1 It is hereby proposed to amend Regulation 147.02.7 by the substitution for sub-regulation (1) of the following sub-regulation:

“(1) Subject to the provisions of sub-regulation (2), the Commissioner shall issue a design organisation approval to design products or changes thereto, if the applicant –

- (a) complies with the requirements prescribed in regulations 147.02.2 up to 147.02.7 inclusive; and
- (b) the senior personnel of the aviation training organisation required by regulation 147.02.4 have never held a senior position in a design organisation whose approval was cancelled by the Commissioner or the Minister as contemplated in regulation 147.01.5.”.

3.2 CURRENT REGULATION

“(1) Subject to the provisions of sub-regulation (2), the Commissioner shall issue a design organisation approval to design products or changes thereto, if the applicant complies with the requirements prescribed in regulations 147.02 to 147.02.5 inclusive.”.

3.3 MOTIVATION

Please the motivation provided in paragraph 5.3 below

SCHEDULE 4

4.0. PROPOSAL TO AMEND REGULATION 148.02.3 OF THE REGULATIONS

4.1 It is hereby proposed to amend Regulation 148.02.3 by the substitution for sub-regulation (1) of the following sub-regulation:

“(1) The Commissioner shall issue a manufacturing organisation approval if the applicant –

- (a) complies with the requirements prescribed in regulation 148.02.1; and
- (b) the senior personnel of the manufacturing organisation required by regulation 148.02.1 have never held a senior position in a design organisation whose approval was cancelled by the Commissioner or the Minister as contemplated in regulation 148.01.6.”.

4.2 CURRENT REGULATION

“(1) The Commissioner shall issue a manufacturing organisation approval if the applicant complies with the requirements of regulation 148.02.1.” .

4.3 MOTIVATION

Please the motivation provided in paragraph 5.3 below

SCHEDULE 5

5.0. PROPOSAL TO AMEND REGULATION 149.02.7 OF THE REGULATIONS

5.1 It is hereby proposed to amend Regulation 149.02.7 by the substitution for sub-regulation (1) of the following sub-regulation:

“(1) The Commissioner shall issue an aviation recreation organisation approval to undertake aviation recreation, if the applicant –

- (a) complies with the requirements prescribed in regulations 149.02.9 to 149.02.5 inclusive; and
- (b) the senior personnel of the aviation recreation organisation required by regulation 149.02.4 have never held a senior position in an aviation recreation organisation whose approval was cancelled by the Commissioner or the Minister as contemplated in regulation 149.01.6.”.

5.2 CURRENT REGULATION

“(1) The Commissioner shall issue an aviation recreation organisation approval to undertake aviation recreation, if the applicant complies with the requirements prescribed in regulations 149.02.2 to 149.02.5 inclusive.”.

5.3 MOTIVATION

The proposed amendments are intended to prevent the personnel of one organisation whose approval was cancelled, from forming another organisation and obtaining approval from the Commissioner. At the moment, the Regulations, except for a similar amendment to Part 145, are silent on the issue, and the CAA is obliged to consider an application for a new approval when an application is received, despite that it is obvious that the senior personnel thereof are re-establishing the organisation whose approval was cancelled.

SCHEDULE 6

6.0 PROPOSAL TO AMEND REGULATION 121.02.3 OF THE REGULATIONS

6.1 It is proposed to amend regulation 121.02.3 by the substitution for the said regulation of the following regulation:

(Text in italics and underlined indicates insertions made while words in square brackets indicate deletions)

“Flight and cabin crew member emergency duties

121.02.3 (1) The operator and, where appropriate, the pilot-in-command [of a large commercial air transport aeroplane] shall assign to each flight and cabin crew member concerned the necessary functions to be performed in an emergency or a situation requiring emergency evacuation.

(2) The functions referred to in sub-regulation (1) shall be such as to ensure that any reasonably anticipated emergency can be adequately dealt with and shall take into consideration the possible incapacitation of individual flight or cabin crew members.

(3) The operator shall prove to the satisfaction of the Commissioner that adequate emergency evacuation procedures to accomplish the evacuation as required by sub-regulation (4) have been adopted. The emergency evacuation procedures shall be demonstrated by the air operator's flight and cabin crew members and carried out in accordance with the requirements prescribed in Document SA-CATS-OPS 121.

(4) The operator shall carry out an emergency evacuation demonstration referred to in sub-regulation (3) when a new type or variant of aeroplane or new configuration of an existing aeroplane is introduced for use and has not been certified under a certification process acceptable to the Commissioner, as provided for in Document SA-CATS-OPS 121.

(5) No person may use an aircraft type and model in commercial air transport passenger-carrying operations unless the operator has first conducted, for the Authority, an actual full-capacity emergency evacuation demonstration for the configuration in 90 seconds or less.

(6) The Commissioner may approve a partial-capacity demonstration in lieu of a full-capacity demonstration where the operator can produce evidence that –

- (a) a satisfactory full-capacity emergency evacuation for the aircraft to be operated was demonstrated during the aircraft type certification or during the certification of another air operator; or
- (b) there is an engineering analysis, which shows that an evacuation is still possible within the 90 second standard, if the operator's aircraft configuration differs with regard to the number of exits or exit type or number of cabin crew members.

(7) Where the Commissioner has approved the partial evacuation demonstration referred to in sub-regulation (6) such demonstration shall be performed in the manner prescribed in Document SA-CATS-OPS 121.

(8) The emergency evacuation procedures referred to in sub-regulation (3) shall be contained in the operator's operations manual referred to in regulation 121.04.2 and shall form part of the air operator's emergency training programme.

(9) No operator shall assign and no flight or cabin crew member shall perform any emergency function unless such crew member has been trained to perform emergency functions in accordance with the requirements prescribed in sub-regulation (8)."

6.2 CURRENT REGULATION

“Flight crew member emergency duties

121.02.3 (1) The operator and, where appropriate, the pilot-in-command of a large commercial air transport aeroplane shall assign to each flight crew member concerned, the necessary functions to be performed in an emergency or a situation requiring emergency evacuation.

(2) The functions referred to in sub-regulation (1) shall be such as to ensure that any reasonably anticipated emergency can be adequately dealt with and shall take into consideration the possible incapacitation of individual flight crew members.

(3) The operator shall prove to the satisfaction of the Commissioner that the flight crew members are competent to perform such functions, by means of an emergency evacuation demonstration carried out in accordance with the requirements prescribed in Document SA-CATS-OPS 121.

(4) The operator shall carry out an emergency evacuation demonstration referred to in sub-regulation (3) when a new type or variant of aeroplane or new configuration of an existing aeroplane is introduced for use and has not been certified under a certification process acceptable to the Commissioner, as provided for in Document SA-CATS-OPS 121.

(5) No person may use an aircraft type and model in commercial air transport passenger-carrying operations unless the operator has first conducted, for the Authority, an actual full-capacity emergency evacuation demonstration for the configuration in 90 seconds or less.

(6) A full-capacity actual demonstration may not be required, if the operator provides a written petition for deviation with evidence that –

- (a) a satisfactory full-capacity emergency evacuation for the aircraft to be operated was demonstrated during the aircraft type certification or during the certification of another air operator; and
- (b) there is an engineering analysis, which shows that an evacuation is still possible within the 90 second standard, if the operator's aircraft configuration differs with regard to the number of exits or exit type or number of cabin crew members.”.

6.3 MOTIVATION (APPLICABLE TO SCHEDULE 7.0 ALSO)

1. These amendments seek to more clearly designate the duties and responsibilities of all crew members with respect to emergency situations. In line with international best practice and the ICAO Standards and Recommended Practices relating to providing reasonable care to the travelling public in emergency situations, revision of the regulations is desirable to provide increased clarity with respect to the requirements for flight and cabin crew to perform

emergency duties, under the direction of an air operator or the pilot-in-command as appropriate.

2. The amendment also seeks to clarify the Commissioner's discretion in applying required safety standards to non-standard aircraft configurations especially after modifications have been carried out, or other operational situations that should warrant higher safety standards.

3 These regulations and the technical standard amplify the minimum cabin crew requirements for passenger carrying flights and provide the criteria for the demonstrations necessary to establish the air operator's ability to ensure a successful emergency passenger evacuation.

4. To clarify that the purpose for the evacuation demonstration relates to an operator's emergency procedures more specifically than it does to crew competency.

SCHEDULE 7

7.0 PROPOSAL TO AMEND REGULATION 121.02.5 OF THE REGULATIONS.

7.1 It is proposed to amend regulation 121.02.5 by the substitution for the said regulation of the following regulation:

(Text in italics and underlined indicates insertions made)

"Cabin crew member complement

121.02.5 (1) No air operator may operate an aeroplane with a certificated passenger seating capacity of more than 19 in a passenger carrying service unless one or more cabin crew members have been assigned to duty. Notwithstanding the actual number of passengers on board the aeroplane, the minimum number of cabin crew members assigned to a flight shall be as prescribed in Document SA-CATS-OPS 121.

(2) Where, in consideration of the size, complexity and physical layout of the aeroplane, the Commissioner is of the opinion that it would be in the interest of safety, he or she may, notwithstanding the aeroplane certificated seating capacity, –

(a) require one or more cabin crew members licensed in terms of Part 64 to be assigned to duty; or

(b) require the operator to demonstrate a capability to provide an equivalent level of safety as would be achieved by paragraph (a).

(3) Cabin crew members shall give priority to the performance of duties relating to the safety of passengers as may be assigned by the air operator or the pilot-in-command.

(4) In unforeseen circumstances, the operator may reduce the required minimum number of cabin crew members: Provided that -

(a) the number of passengers has been reduced in accordance with the procedures specified in the operations manual referred to in regulation 121.04.2; and

(b) a report is submitted to the Commissioner after completion of the flight. “.

7.2. CURRENT REGULATION

“Cabin crew member complement

121.02.5 (1) If the certificate of airworthiness of a large commercial air transport aeroplane requires the carrying of one or more cabin crew members, the operator of the aeroplane shall not, when carrying one or more passengers, operate such aeroplane without carrying the minimum number of cabin crew as prescribed in Document SA-CATS-OPS 121.

(2) Cabin crew members are carried for the purposes of performing duties relating to the safety of passengers and other duties assigned by the operator or the pilot-in-command.

(3) In unforeseen circumstances, the operator may reduce the required minimum number of cabin crew members: Provided that –

(a) the number of passengers has been reduced in accordance with the procedures specified in the operations manual referred to in regulation 121.04.2; and

(b) a report is submitted to the Commissioner after completion of the flight.”.

7.3 MOTIVATION

Please the motivation provided in paragraph 6.3 above.
