

PART 11

[Includes all amendments up to those published on 28 March 2003]

PROCEDURES : PROCEDURES FOR MAKING REGULATIONS, ISSUING TECHNICAL STANDARDS AND GRANTING EXEMPTIONS

LIST OF REGULATIONS

SUBPART 1 : GENERAL

11.01.1 Applicability

11.01.2 Issuing of aeronautical information circulars

SUBPART 2 : CIVIL AVIATION REGULATIONS COMMITTEE

11.02.1 Institution of the committee

11.02.2 Meetings of the committee

11.02.3 Subcommittees of the committee

11.02.4 Remuneration of members

11.02.5 Administration

SUBPART 3 : PROCEDURES FOR MAKING REGULATIONS AND ISSUING TECHNICAL STANDARDS

11.03.1 Submission of proposal

11.03.2 Processing and consideration of proposal

11.03.3 *[Deleted]*

11.03.4 Making of regulation

11.03.5 Issuing of technical standard

SUBPART 4 : PROCEDURES FOR GRANTING OF EXEMPTIONS

11.04.1 Application for exemption

11.04.2 Processing of application for exemption

11.04.3 Adjudication of application for exemption

11.04.4 Granting of exemption

11.04.5 Refusal of exemption

SUBPART 5 : NATIONAL AIRSPACE COMMITTEE

11.05.1 Institution of the committee

11.05.2 Meetings of the committee

11.05.3 Remuneration of members

11.05.4 Administration

SUBPART 1 - GENERAL

Applicability

11.01.1

- (1) This Part shall apply to -
 - (a) the institution of consultative structures by the Commissioner for the purposes of the Regulations;
 - (b) the procedures relating to -
 - (i) the introduction of any regulation to be made under section 22 of the Act;
 - (ii) the amendment or withdrawal of any regulation made under section 22 of the Act;
 - (iii) the introduction of any technical standard to be issued under section 22A of the Act; and
 - (iv) the amendment or withdrawal of any technical standard issued under section 22A of the Act; and
 - (c) the procedures relating to the application for, and the granting of, an exemption from any requirement prescribed in the Regulations.
- (2) The provisions of this Part dealing with the matters contemplated in sub-regulation (1)(c), shall apply *mutatis mutandis* in respect of applications for, and the granting of, exemptions in any other case envisaged in section 22(1)(u) of the Act.
- (3) This Part shall not apply in respect of -
 - (a) a particular case where the Commissioner finds compliance with any procedure prescribed in this Part to be impractical, unnecessary or contrary to the public interest; and
 - (b) any application for an exemption made in terms of regulation 92.00.3.
- (4) No regulation, technical standard or exemption shall be invalid merely because a requirement in this Part has not been complied with.

Publication of aeronautical information circulars 11.01.2

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

SUBPART 2 - CIVIL AVIATION REGULATIONS COMMITTEE

Institution of the committee

11.02.1

- (1) The Commissioner shall institute a Civil Aviation Regulations Committee to advise the Commissioner on proposals with regard to -
 - (a) the introduction of any regulation to be made under section 22 of the Act;
 - (b) the amendment or withdrawal of any regulation made under section 22 of the Act;
 - (c) the introduction of any technical standard to be issued under section 22A of the Act;
 - (d) the amendment or withdrawal of any technical standard issued under section 22A of the Act;
 - (e) any matter relating to civil aviation, including any such matter referred to it by the Commissioner.
- (2) The members of the committee shall consist of -
 - (a) a person designated by the Commissioner, as chairperson;
 - (b) the chairperson of each subcommittee established by the committee in terms of regulation 11.02.3; and
 - (c) such other persons appointed by those stakeholders recognised by the Commissioner.

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

Meetings of the committee

11.02.2

- (1) The committee shall hold meetings at such times and places as may from time to time be determined by the chairperson, but at least once a year.
- (2)
 - (a) The chairperson shall normally preside at every meeting of the committee.
 - (b) If the chairperson is absent from a meeting of the committee, the members present shall from among their number elect a person to preside at that meeting.
- (3) The procedures to be followed at meetings of the committee shall be determined by the chairperson.
- (4) The committee shall cause minutes to be kept of every meeting thereof.
- (5) The minutes referred to in sub-regulation (4), shall be kept at the offices of the Commissioner.

Subcommittees of the committee

11.02.3

- (1) The committee may, with the approval of the Commissioner, establish such subcommittees as it may deem necessary for the performance of its functions.
- (2) The membership of each subcommittee established in terms of sub-regulation (1) shall be unlimited.
- (3) The chairperson of the committee shall appoint a chairperson for each subcommittee so established.
- (4) Subject to the provisions of this Subpart, the committee shall, after consultation with the Commissioner, determine the procedures to be followed by a subcommittee in the performance of its functions.
- (5) The provisions of regulation 11.02.2 shall *mutatis mutandis* apply in respect of any meeting held by a subcommittee.

Remuneration of members

11.02.4

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

Administration

11.02.5

All administrative work as well as secretarial work, in connection with the performance of the functions of the committee, and any subcommittee established in terms of regulation 11.02.3, shall be carried out by officers and employees in the department designated for such purpose by the Director-General: Transport.

SUBPART 3 - PROCEDURES FOR MAKING REGULATIONS AND ISSUING TECHNICAL STANDARDS

Submission of proposal

11.03.1

- (1) Any interested person may submit to the committee referred to in regulation 11.02.1, a proposal on the introduction, amendment or withdrawal of a regulation or technical standard.
- (2) The proposal shall be submitted in writing and shall -

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

Processing and consideration of proposals

11.03.2

- (1) The chairperson of the committee referred to in regulation 11.02.1, shall put any received proposal on the agenda of the next meeting of the committee: Provided the agenda has not yet been closed, in which case it shall be put on the agenda of the subsequent meeting.
- (2) The chairperson of the committee shall notify the proposer in writing of the time and place of the meeting during which the proposal will be considered, to give the proposer the opportunity to motivate his or her proposal and to participate in the deliberations thereon in person or in support of a representative association, organisation or body, if he or she so wishes.
- (3) The committee shall give due consideration to the proposal and take a position thereon, if necessary after obtaining additional information and advice. If applicable, the committee shall have the agreed-upon position drafted in acceptable language, based upon the original proposal and subsequent deliberations.
- (4) The chairperson of the committee shall-
 - (a) Inform the proposer in writing of any decision by the committee in respect of his or her proposal, and should the decision have been a rejection, stating the reasons therefore; and
 - (b) Publish the proposed regulation or technical standard, amendment or withdrawal, as agreed upon by the committee following its deliberations referred to in sub-regulation (3), as proposed rule-making by notice in the Government Gazette if it relates to the regulations, and by notice in an AIC if it relates to the technical standards.
- (5) After publication of the notice referred to in sub-regulation (4)(b), any interested person may in writing, and within a period stated in the notice, but not less than 30 days from the date of publication of the notice, submit comments regarding the proposed regulation, technical standard, amendment or withdrawal in question, to the chairperson of the committee.
- (6) The chairman of the committee shall provide all members of the committee with a copy of any comment received within the period stated in the notice as soon as such comment has been received, or add such comments as an addenda to the agenda for the next meeting of the committee.
- (7) The committee shall at its next meeting give due consideration to any comments received within the period stated in the notice, confirm or revise its previous position in the light of the comments received, and make an appropriate recommendation to the Commissioner"

[Regulation substituted by the Thirteenth Amendment of the CAR 1997]

Consideration of proposal

11.03.3

[Regulation deleted by the Thirteenth Amendment of the CAR 1997]

Making of regulation

11.03.4

Subject to the provisions of section 22 of the Act, the Commissioner shall, if the Commissioner is satisfied and after considering the recommendation made by the committee in terms of regulation 11.03.3(2), that giving effect to the proposal

would be in the interests of aviation safety, submit the proposed regulation, amendment or withdrawal to the Minister for approval.

Issuing of technical standard

11.03.5

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

SUBPART 4 - PROCEDURES FOR GRANTING OF EXEMPTIONS

Application for exemption

11.04.1

- (1) An application for an exemption shall be made in writing to the Commissioner and shall -
 - (a) state the name and address of the applicant;
 - (b) state the requirement from which exemption is requested;
 - (c) explain the interests of the applicant in the exemption requested, including the nature and extent of the exemption requested and a description of each person or thing to be covered by the exemption;
 - (d) contain any information, views or arguments supporting the application;
 - (e) explain why the applicant believes that the exemption should be granted, as well as the extent to which the exemption may affect aviation safety; and
 - (f) include a summary of the application for purposes of publication in the AIC, which summary shall contain a reference to the requirement from which exemption is requested and a brief description of the general nature of the exemption requested.
- (2) An application for an exemption shall be -
 - (a) submitted at least 90 days, or such shorter period as the Commissioner may allow on good cause shown, before the proposed effective date of the exemption; and
 - (b) accompanied by the appropriate fee prescribed in Part 187.

Processing of application for exemption

11.04.2

- (1) Subject to the provisions of regulation 11.04.3(2), the Commissioner shall, as soon as practicable after the receipt of an application for an exemption referred to in regulation 11.04.1, publish by notice in the AIC the following particulars in respect of the application concerned:
 - (a) The reference number of the application;
 - (b) the full name of the applicant;
 - (c) a reference to the requirement from which exemption is requested;
 - (d) a brief description of the general nature of the exemption requested; and
 - (e) a reference to the date by which the representations referred to in sub-regulation (2) must be submitted to the Commissioner.
- (2) Any person may, after the publication of the notice referred to in sub-regulation (1) address in writing representations to the Commissioner against or in favour of the application concerned.

Adjudication of application for exemption

11.04.3

- (1) The Commissioner shall, before deciding whether to grant or refuse an exemption, consider all representations which are received within the period specified in the notice published in terms of regulation 11.04.2(1).
- (2) Notwithstanding the provisions of sub-regulation (1), the Commissioner may consider an application and grant or refuse an exemption immediately after the receipt of the application, if the Commissioner is of the opinion that compliance with the procedures referred to in regulation 11.03.3 would defeat the object of such application.
- (3) The Commissioner may exempt an applicant from any requirement prescribed in the Regulations, if the Commissioner is satisfied that -
 - (a) the requirement has been substantially complied with and that further compliance is unnecessary; or
 - (b) events have occurred which make the requirement unnecessary or inappropriate in the particular case; and
 - (c) granting the exemption will not jeopardise aviation safety.

Granting of exemption

11.04.4

- (1) The Commissioner may grant an exemption under such conditions and for such period which the Commissioner may determine.
- (2) In the event of an exemption being granted for a period exceeding 90 days, the Commissioner shall, within 30 days from the date on which the exemption has been granted, publish the full particulars thereof in the AIC.

Refusal of exemption

11.04.5

- (1) If the granting of an exemption is refused, the Commissioner shall notify the applicant in writing of the refusal.
- (2) The notice referred to in sub-regulation (1) shall state the reasons for such refusal.

Exemption from regulation 21.08.1A

11.04.6

- (1) The Commissioner may, on application, exempt in writing any aircraft to which conditions determined by the Commissioner and contained in Document LS/1 dated 30 November 2000 are applicable, from the provisions of regulation 21.08.1A.
- (2) In respect of aircraft exempt from the provisions of regulation 21.08.1A, the requirements of Parts 21, 121, 127, 135 and 145 shall not apply as from the date that regulation 21.08.1A comes into force, until the repeal thereof insofar as the provisions contained in the mentioned Parts correspond with the provisions contained in the conditions in Document LS/1.
- (3) Where there are no provisions in Part 21, 121, 127, 135 and 145 that correspond with provisions in the Document LS/1, then the provisions of the Parts aforementioned shall be complied with.
- (4) If the conditions contained in Document LS/1 are not complied with at all times, any aircraft subject to these conditions, shall not be operated.

[Regulation inserted by the Ninth Amendment of the C.A.R 1997]

SUBPART 5 - NATIONAL AIRSPACE COMMITTEE

Institution of the committee

11.05.1

- (1) The Commissioner shall institute a National Airspace Committee to, based on proposals made by users and service providers, provide guidelines and recommendations to the Commissioner on -
 - (a) the designation of airspace and aerodromes referred to in regulation 172.02.1; and

- (b) any matter relating to current airspace structures and associated services provided or intended to be provided within such structures, or any amendment thereof, including any such matter referred to it by the Commissioner.
- (2) The members of the committee shall consist of -
 - (a) a person designated by the Commissioner, as chairperson; and
 - (b) such other persons appointed by those stakeholders recognised by the Commissioner.
- (3) The procedures to be followed and the criteria to be taken into account when the committee exercises the functions, shall be as prescribed in Document SA-CATS-ATS.

Meetings of the committee

11.05.2

- (1) The committee shall hold meetings at such times and places as may from time to time be determined by the chairperson, but at least once every three months.
- (2)
 - (a) The chairperson shall normally preside at every meeting of the committee.
 - (b) If the chairperson is absent from a meeting of the committee, the members present shall from among their number elect a person to preside at that meeting.
- (3) The procedures to be followed at meetings of the committee shall be determined by the chairperson.
- (4) The committee shall cause minutes to be kept of every meeting thereof.
- (5) The minutes referred to in sub-regulation (4), shall be kept at the offices of the Commissioner.

Remuneration of members

11.05.3

A member of the committee referred to in regulation 11.05.1 shall not receive any remuneration or allowance from the South African Civil Aviation Authority designated for such purpose by the Commissioner for Civil Aviation.

[Regulation substituted by the Sixteenth Amendment of the CAR, 1997]

Administration

11.05.4

All administrative work as well as secretarial work, in connection with the performance of the functions of the committee, shall be carried out by officers and employees in the South African Civil Aviation Authority designated for such purpose by the Commissioner for Civil Aviation.

[Regulation substituted by the Sixteenth Amendment of the CAR, 1997]