

## **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 CAR 1997]*