

DEPARTMENT OF TRANSPORT

NO. R. 409

05 MAY 2017

CIVIL AVIATION ACT, 2009 (ACT NO. 13 OF 2009)

FIFTEENTH AMENDMENT OF THE CIVIL AVIATION REGULATIONS, 2017

I, Joe Maswanganyi, Minister of Transport hereby in terms section 155(1) of the Civil Aviation Act, 2009, (Act No. 13 of 2009), make the Regulations set out in the Schedule hereunder.

Mr Joe Maswanganyi, MP
Minister of Transport
Date:

SCHEDULE**CIVIL AVIATION ACT, 2009 (ACT NO.13 OF 2009)****FIFTEENTH AMENDMENT OF THE CIVIL AVIATION REGULATIONS, 2017****GENERAL EXPLANATORY NOTE:**

[] Words in bold type in square brackets indicate omissions from existing regulations.

_____ Words underlined with a solid line indicate insertions in existing regulations.

Definition

1. In this Schedule "the Regulations" means the Civil Aviation Regulations, 2011 published by Government Notice No. R. 425 of the 01st June 2012.

Amendment of regulation 1.01.1 of the Regulations

2. Regulation 1.01.1 is hereby amended by –
 - (a) the substitution for the definition of "accredited representative" of the following definition:

"accredited representative" means a person designated or accepted **[by the Director]** in terms of Regulation 12.01.6 on the basis of his or her qualifications or experience, for the purpose of participating in an investigation conducted by the Republic or another State;";
 - (b) the substitution for the definition of "advisor" of the following definition:

"advisor" means a person designated or accepted **[by the Director]** in terms of Regulation 12.01.7 on the basis of his or her qualifications or experience, for the purpose of assisting the accredited representative in the investigation of an accident or incident in the Republic or another State;";
 - (c) the substitution for the definition of "aircraft" of the following definition:

"aircraft" means an aircraft as defined in the Act. **[, including its engines, propellers, rotor, components, parts, equipment, instruments, accessories and materials];**";
 - (d) the substitution for the definition of "cause" of the following definition:

"cause" for purposes of Part 12, means **[any]** action, omission, event, condition or any combination thereof, which **[leads]** led to an accident or incident;";

- (e) the insertion after the definition of “Contracting State” of the following definition:

“contributing factors” means actions, omissions, events, conditions, or a combination thereof, which, if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident;”;

- (f) the substitution for the definition of “dangerous goods” of the following definition:

“dangerous goods” means articles or substances which are capable of posing significant risk to health, safety, **[or]** property or environment when conveyed by air and which are shown in the list of dangerous goods in the International Civil Aviation Organization Technical Instructions for the Safe Carriage of Dangerous Goods or which are classified according to those Instructions;”;

- (g) the substitution for the definition of “dangerous goods accident” of the following definition:

“dangerous goods accident” means an **[accident]** occurrence associated with and related to the conveyance of dangerous goods by air which results in fatal or serious injury to a person or major damage to property or environment;”;

- (h) the substitution for the definition of “dangerous goods incident” of the following definition:

“dangerous goods incident” means an incident, other than a dangerous goods accident, associated with and related to the conveyance of dangerous goods by air, and for the purposes of Part 92, includes injury to a person, property or environmental damage, fire, breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained or which seriously jeopardises the aircraft or its occupants;”;

- (i) the insertion after the definition of “disembarkation” of the following definitions:

“disinfection” means a procedure whereby health measures are taken to control or kill, by direct exposure to chemical or physical agents, infectious agents on a human or animal body, in or on affected parts of aircraft, baggage, cargo, goods or containers;

“disinsection” means a procedure whereby health measures are taken to control or kill insects present in aircraft, baggage, cargo, containers, goods and mail;”;

- (j) the substitution for the definition of “investigation” of the following definition:
- “investigation” [in relation to accidents and incidents]** for purposes of Part 12, means a process conducted for the purpose of accident prevention **[and]** which includes the gathering and **[evaluation]** analysis of information, the drawing of conclusions, including the determination of **[cause,]causes [probable cause or probable causes of an accident or the underlying cause or causes]** and/or contributing factors **[leading to an accident]**and, when appropriate, the making of safety recommendations**[in connections with aviation safety];**
- (k) the substitution for the definition of “investigator” of the following definition:
- “investigator”** for purposes of Part 12, means a person designated as such **[by the Director]** in terms of regulation 12.01.4 on the basis of his or her qualifications or experience, for the purpose of assisting the investigator in charge in an investigation;”;
- (l) the substitution for the definition of “investigator-in-charge” of the following definition:
- “investigator-in-charge”** means a person designated **[by the Director]** in terms of regulation 12.01.3 on the basis of his or her qualifications and charged with the responsibility for the organisation, conduct and control of and the reporting on the investigation of an accident or incident;”;
- (m) the insertion after the definition of “major repair” of the following definition:
- “mandatory continuing airworthiness information”** means a mandatory requirements for the modification, replacement of parts, or inspection of aircraft and amendment of operating limitations and procedures for the safe operation of the aircraft, which includes the information issued by a Contracting State in the form of airworthiness directives;”;
- (n) the insertion after the definition of “organisation” of the following definition:
- “organisation responsible for type design”** means an organisation that holds a type certificate, or equivalent document for an aircraft, engine or propeller type, issued by a Contracting State;”;
- (o) the substitution for the definition of “passenger” of the following definition:
- “passenger”** means a person, other than a crew member or supernumerary, who is carried on board an aircraft;”.
- (p) the insertion after the definition of “public air transport service” of the following definition:

“public health emergency of international concern” means an extraordinary event which is considered, as provided in these Regulations –
(a) to constitute a public health risk to States through the international spread of disease; and
(b) to potentially require a coordinated international response;”.

- (q) the substitution for the definition of “State of Manufacture” of the following definition:

“State of Manufacture” means **[the]** a State which has authority over **[the]** an organisation responsible for the final assembly of an aircraft, engine or propeller;”;

- (r) the insertion after the definition of “State of Occurrence” of the following definition:

“State of origin” means a State in the territory of which the cargo consignment is first loaded on an aircraft;”;

- (s) the insertion after the definition of “State of the Operator” of the following definition:

“state safety program” means an integrated set of regulations and activities aimed at improving aviation safety.

- (t) the insertion after the definition of “suitable aerodrome” of the following definition:

“supernumerary” means a person other than a flight crew member, a cabin crew member or a passenger, who is carried on board an aircraft and who is

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- (a) assigned to the flight by the air service operator as necessary for the safety of operations and has the required knowledge and abilities gained through selection and mandatory training; or
(b) an authorised officer, inspector, auditor or observer authorised by the Director or the air service operator to be on board to perform his or her duties;”;

- (u) the substitution for the definition of “type certificate” of the following definition:

“type certificate” means a document issued by a Contracting State to define the design of an aircraft, engine or propeller type and to certify that this design meets the appropriate airworthiness requirements of that State;
Note: In some Contracting States a document equivalent to a type certificate may be issued for an engine or propeller.

- (v) the insertion after the definition of “type certificate” of the following definition:

“type design” means a set of data and information necessary to define an aircraft, engine or propeller type for the purpose of airworthiness determination;”.

Amendment of regulation 1.01.2 of the Regulations

3. Regulation 1.01.2 is hereby amended by –

(a) the insertion after the abbreviation of “CBT” of the following abbreviation:

“CDFA” means continuous descent final approach;

(b) the insertion after the abbreviation of “ETOPS” of the following abbreviation:

“EVS” means enhanced vision system;

(c) the insertion after the abbreviation of FMS of the following abbreviation:

“FOP” means foreign operator’s permit;

(d) the insertion after the abbreviation of “HPA” of the following abbreviation:

“HUD” means head-up display;

(e) the insertion after the abbreviation of “MAWP” of the following abbreviation:

“MCAI” means mandatory continuing airworthiness information;

(f) the insertion after the abbreviation of “SPOT” of the following abbreviation:

“SSP” means state safety programme;”.

Amendment of regulation 1.02.1 of the Regulations

4. Regulation 1.02.1 is hereby amended by the addition after sub-regulation (3) of the following sub-regulation:

“(4) An air service operator engaged in international operation shall establish, taking into consideration human performance, a procedure for –

(a) operations in environments involving the use of non-SI alternatives of specific units of measurement; or

(b) transition between environments using different units of measurement.”.

Amendment of Part 12 of the Regulations

5. Part 12 of the Regulations is hereby amended by –
- (a) the substitution for the words “Executive Manager: Aircraft Accident and Incident Investigation” of the words “Executive responsible for aircraft accident and incident investigation” wherever it appears in the Regulations.
 - (b) the substitution for regulation 12.01.1 of the following regulation:

“Applicability

12.01.1 This Part applies to the procedures relating to the reporting and investigation of accidents and incidents other than accidents and incidents involving aircraft so designed to remain moored to the earth or to be kept in tow by vehicles or vessels moving on the surface of the earth.”;

- (c) the insertion of the following regulation after regulation 12.01.1:

“Independence of accident investigation”

12.01.1A (1) The Executive responsible for aircraft accident and incident investigation shall ensure independence of all investigations and that investigators have unrestricted authority over the conduct of investigations, consistent with the provisions of this Part.

(2) An aircraft accident or incident investigation shall include –

- (a) the gathering, recording and analysis of all available information on the accident or incident;
 - (b) if appropriate, the issuance of safety recommendations;
 - (c) if possible, the determination of the cause and contributing factors;
and
 - (d) the completion of the final report.”;
- (d) the substitution for regulation 12.03.1 of the following regulation:

“Purpose of accident or incident investigation

12.03.1 The purpose of investigation of an aircraft accident or incident is to determine, in terms of the provisions of this Part, the facts of an accident or incident in the interest of the promotion of aviation safety and the reduction of the risk of aviation accidents or incidents, and not to establish blame or [legal] liability.”;

- (e) the substitution for sub regulation (1) of regulation 12.04.6 of the following sub regulation:

“Protection of accident and incident investigation records

12.04.6 (1) The following records shall not be made available for purposes other than accident or incident investigation [**investigations**], unless a court of law determines that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or future [**investigations**] investigation, taking into account all applicable law—

- (a) cockpit voice recordings, airborne image recordings and any transcripts from such recordings;
 - (b) all records in the custody of or control of the accident investigation authority including—
 - (i) all statements taken from persons by an investigator in the course of the investigation;
 - (ii) all records of communications between persons having been involved in the operation of the aircraft;
 - (iii) names, medical and private information regarding persons involved in the accident or incident;
 - (iv) recordings and [**transcriptions**] transcripts of recordings from air traffic control units;
 - (v) analysis of and opinions [**expressed in the analysis of**] made in the investigation about information, including information obtained from flight recorders and ATC recordings; and
 - (vi) a draft final report of an accident or incident investigation.”.
- (f) the insertion of the following regulations after regulation 12.04.7:

“Autopsy examinations

12.04.8 An investigator-in-charge shall ensure that a complete autopsy and toxicology examination of the fatally injured passengers, flight crew and cabin crew, if applicable, is conducted by a pathologist who is experienced in accident investigation.

Medical examinations

12.04.9 When considered necessary or appropriate following an accident or incident, the Executive responsible for aircraft accident and incident investigation shall arrange for medical examination of the crew, passengers and involved aviation personnel, by a suitably qualified physician.

Acts of unlawful interference

12.04.10 If in the course of an investigation it becomes known, or it is reasonably suspected, that an act of unlawful interference was involved, the investigator-in-charge shall immediately inform the Executive responsible for aircraft accident and incident investigation, Director, relevant aviation security authorities and the South African Police Service.

Coordination with judicial authorities

12.04.11 Subject to regulation 12.04.6, the Executive responsible for aircraft accident and incident investigation shall ensure that there is coordination between the investigator-in-charge and the relevant judicial authorities in the scene of an accident to ensure that the evidence which requires prompt recording and analysis for the investigation to be successful is secured.

Substitution of regulation 21.01.4 of the Regulations

6. The following regulation is hereby substituted for regulation 21.01.4 of the Regulations:

“Airworthiness directives

21.01.4 (1) The Director may, by notice, issue appropriate airworthiness directives in respect of a product if on reasonable grounds he or she believes –

- (a) that an unsafe condition exists in that product; and
- (b) the condition is likely to exist or develop in any other product of the same design.

(2) An owner or operator of an aircraft shall not operate the aircraft unless he or she complies with –

- (a) all applicable airworthiness directives issued by the Director; or
- (b) applicable airworthiness directives issued by the State of Design of the aircraft or product.

(3)(a) The Director may, on application, grant an owner or operator an exemption or recognise an alternative means of complying with the requirements specified in the airworthiness directive.

(b) The provisions of Part 11 apply, with the necessary changes, to an application referred to in this sub-regulation.

(4) If the Director issues an airworthiness directive for a product, a holder of any certificate for the product type, shall –

- (a) upon the request of the Director, submit appropriate design changes to the Director for approval; and
- (b) upon approval of the design changes, make the descriptive data covering the changes available to all operators of the product.

(5) The Director –

- (a) may consult with the State of Design prior to issuing an airworthiness directive; and
- (b) shall notify the State of Design as soon as practicable after issuing an airworthiness directive.

(6) The responsibilities of Contracting States in respect of continuing airworthiness of an aircraft, engine and propeller are prescribed in Document SA-CATS 21.”

Substitution of regulation 21.08.9 of the Regulations

7. The following regulation is hereby substituted for regulation 21.08.9 of the Regulations:

“[Form of certificate of airworthiness] Issue of certificate of airworthiness”

21.08.9 A certificate of airworthiness shall be issued on the prescribed form and shall contain the information as prescribed in Document SA-CATS 21.”.

Amendment of regulation 21.08.12 of the Regulations

8. Regulation 21.08.12 is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

“(2) Subject to the provisions of sub-regulation (1), a certificate of airworthiness shall remain valid for as long as –

- (a) the aircraft remains a South African registered aircraft with a standard or special category certificate of airworthiness; [and]
- (b) **[in respect of an aircraft with a standard or restricted category certificate of airworthiness,]** the aircraft is maintained in accordance with the regulations; and
- (c) the certificate of release to service for such aircraft is not rendered invalid by virtue of the provisions of regulation 43.04.3(3).”.

Substitution of regulation 24.01.6 of the Regulations

9. The following regulation is hereby substituted for regulation 24.01.6 of the Regulations:

“Airworthiness directives”

24.01.6 (1) The Director may, by notice, issue appropriate airworthiness directives in respect of a non-type certificated aircraft if on reasonable grounds he or she believes

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- (a) that an unsafe condition exists in that aircraft; and
- (b) the condition is likely to exist or develop in any other aircraft of the same design.

(2) An owner or operator of an aircraft shall not operate the aircraft unless he or she complies with –

- (a) all applicable airworthiness directives issued by the Director; or

(b) applicable airworthiness directives issued by the State of Design of the aircraft.

(3)(a)The Director may, on application, grant an owner or operator an exemption or recognise an alternative means of complying with the requirements specified in the airworthiness directive.

(b) The provisions of Part 11 apply, with the necessary changes, to an application referred to in this sub-regulation.

(4) If the Director issues an airworthiness directive in terms of sub-regulation (1), the holder of any certificate issued in terms of this part for the aircraft or its components shall –

(a) upon the request of the Director, submit appropriate design changes to the Director for approval; and

(b) upon approval of the design changes, if applicable, make the descriptive data covering the changes available to all operators of this product.”.

Amendment of regulation 43.04.1 of the Regulations

10. Regulation 43.04.1 is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

“(1) No person shall certify an aircraft or aircraft component for release to service after maintenance unless such person—

(a) is the holder of an AME licence with an appropriate rating issued in terms of Part 66 and is authorised by the holder of an AMO approval with an appropriate rating issued in terms of Part 145; or

(b) is authorised by the holder of an AMO approval with an appropriate rating issued in terms of Part 145, to certify maintenance within the scope of such approval: Provided that –

(i) such person meets the licencing requirements prescribed in Part 66 relating to age, knowledge, experience, training and skill; and

(ii) the AMO has established the competence of maintenance personnel in accordance with a procedure and to a level acceptable to the Director; or

(c) is authorised by the Director to certify an aircraft or aircraft component for release to service; or

(d) for maintenance carried out outside the Republic, holds a licence or equivalent authorisation issued by an appropriate authority acceptable to the Director, for the type of aircraft or aircraft component.”.

Amendment of regulation 43.04.3 of the Regulations

11. Regulation 43.04.3 is hereby amended by the substitution for sub-regulations (2) and (3) of the following sub-regulations:

“(2) When a certificate of **[airworthiness]** release to service becomes invalid due to an aircraft sustaining a defect not affecting the primary structure, the validity of the certificate is restored when the defect has been rectified and the necessary certification has been made.

(3) When a certificate of **[airworthiness]** release to service becomes invalid due to an aircraft sustaining a serious defect in an accident or incident that affects the serviceability of a Class I product, the certificate of **[release to service]** airworthiness shall be invalidated.”.

Substitution of regulation 91.07.33

12. The following regulation is hereby substituted for regulation 91.07.33:

“Head-up displays and [enhanced] vision systems

91.07.33 No owner or operator shall use **[a head-up display or enhanced vision system]** automatic landing systems, HUD or equivalent displays, EVS, SVS, or CVS, or any combination of these systems into a hybrid system for the safe operation of an aircraft, while operating in accordance with the IFR unless he or she meets the requirements specified in Document SA-CATS 91 and is approved to do so by the Director.”.

Insertion of regulations 91.07.36 and 91.07.37 in the Regulations

13. The following regulations are hereby inserted in Part 91 after regulation 91.07.35:

“Disinfection of aircraft

91.07.36 (1) An owner or operator of aircraft shall, as and when required by the Department of Health, ensure that an aircraft is disinfected according to the guidelines prescribed by the Department of Health.

(2) An owner or operator of an aircraft shall apply the following procedures when disinfecting the aircraft:

- (a) disinfection shall be limited solely to the container or to the compartment of the aircraft in which the passengers or cargo were carried;
- (b) disinfection shall be carried out where there is contamination or suspected contamination of surfaces or equipment of the aircraft by any bodily fluids including excreta;
- (b) disinfection shall be undertaken in accordance with procedures provided by the aircraft manufacturer and subject to any requirements or conditions issued by the World Health Organization;
- (c) the contaminated areas shall be disinfected with compounds possessing suitable germicidal properties appropriate to the suspected infectious agent;
- (d) disinfection shall be carried out expeditiously by cleaners wearing suitable personal protective equipment;

- (e) flammable chemical compounds, solutions or their residues likely to damage aircraft structure, or its systems, or chemicals likely to damage the health of passengers or crew, shall not be used for disinfection of aircraft;
- (f) when aircraft disinfection is required for animal health reasons, only those methods and disinfectants prescribed by the International Office of Epizootics shall be used.

Disinsection of aircraft

91.07.37 (1) An owner or operator of aircraft shall ensure that aircraft departing from the States listed in Document SA-CATS 91 is disinsected according to the guidelines prescribed in Document SA-CATS 91.

- (2) An owner or operator of aircraft shall –
 - (a) limit routine disinsection of aircraft cabin, flight deck, cargo and baggage compartment with an aerosol while passengers and crew are on board, to same aircraft operations originating in, or operating via, territories that are considered to pose a threat to public health, agriculture or environment;
 - (b) ensure a periodical review of the requirements of disinsection of aircraft and modify them, as appropriate, in the light of all available evidence relating to the transmission of insects in the aircraft;
 - (c) authorize or accept only those methods whether chemical or non-chemical or insecticides, which are recommended by the World Health Organization and which are considered efficacious;
 - (d) ensure that the procedures for disinsection are not injurious to the health of passengers and crew and that they result in minimum of discomfort to the passengers and crew.

(3) The Director shall provide to aircraft operators appropriate information, in plain language, for crew and passengers, explaining the provisions of this regulation, the reasons for and the safety of disinsection.

(4) When disinsection has been performed in accordance with procedures prescribed by the World Health Organization, the Director shall accept a certification on the General Declaration or, in the case of residual disinsection, the Certificate of Residual Disinfection.

(5) An owner or operator of aircraft shall keep records of the disinsection in the form of a Certificate of Residual Disinfection or certification on the General Declaration and such certificate shall be presented or made available to the appropriate authorities in the country of destination.

- (6) An owner or operator of aircraft shall ensure that –
 - (a) any insecticide or any other substance used for disinsection does not have a deleterious effect on the structure of the aircraft or its operating equipment;
 - (b) flammable chemical compounds or solutions likely to damage aircraft structure shall not be used to disinsect the aircraft.”.

Amendment of regulation 92.00.1 of the Regulations

14. Regulation 92.00.1 is hereby amended by –

- (a) the insertion in sub-regulation (1)(b) after paragraph (iii) of the following paragraph:

“(iv) processes cargo or mail for conveyance by air; and”;

- (b) the substitution for sub-regulation (2) of the following sub-regulation:

“(2) Subject to sub-regulation (3), this part does not apply to –

- (a) military aircraft;
- (b) military personnel who perform their official duties on board a military aircraft;
- (c) dangerous goods carried in an aircraft where such goods are intended –
- (i) to provide medical aid to a patient during a flight;
- (ii) to provide veterinary aid or a humane killer for an animal during a flight;
- (iii) for spraying, dusting or dropping in connection with agricultural, horticultural, forestry or pollution control operations; or
- (iv) for purposes of game and livestock management during a flight;
- (v) to provide, during flight, aid in connection with search and rescue operations;
- (d) articles and substances which would otherwise constitute dangerous goods but which are required to be on board the aircraft in accordance with operating regulations, the appropriate airworthiness requirements and the provisions of the operations manual concerned: Provided that articles and substances intended as replacements for such articles and substances, shall be conveyed in accordance with the requirements and standards identified in the Technical Instructions [as prescribed in Document SA-CATS 92]; and
- (e) **[articles and substances which would otherwise constitute dangerous goods but which are on board the aircraft for the specialised purposes as prescribed in Document SA-CATS 92; and**
- (f) **articles and substances intended for the personal use of passengers and flight crew members to the extent as prescribed in Document SA-CATS 92.]** articles and substances specified in the Technical Instructions and which are carried by passengers or flight crew and cabin crew members.”;

(3) The conveyance of the dangerous goods referred to in sub-regulation (2)(c) shall be carried out in accordance with the requirements and standards prescribed in the Technical Instructions.”.

Amendment of regulation 92.00.3 of the Regulations

15. Regulation 92.00.3 is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

“92.00.3 (1) The Director may, upon application in writing by any person referred to in regulation 92.00.1 (1) (b), exempt such person from the provisions of regulation 92.00.2 (b), in instances **[the case]** of –

- (a) extreme urgency;
- (b) other forms of conveyance being inappropriate; or
- (c) full compliance with the provisions of this part being contrary to **[aviation safety]** public interest,

Provided that the person satisfies the Director that in the conveyance, he or she will achieve an acceptable level of safety which is equivalent to the level of safety provided for in the Technical Instructions.”;

Amendment of regulation 92.00.8 of the Regulations

16. Regulation 92.00.8 is hereby amended by the addition in sub-regulation (1)(c) after item (jj) of the following item:

“(kk) mail personnel engaged in the acceptance, handling, storage, loading or transportation of mail intended to be transported by air.”;

Amendment of regulation 92.00.15 of the Regulations

17. Regulation 92.00.15 is hereby amended by-

(a) the substitution for subregulation (2) of the following subregulation:

“(2) The operator referred to in sub-regulation (1), shall provide information to the flight crew members and employees concerned to enable such flight crew members, cabin crew members and employees to carry out their duties with regard to the conveyance by air of dangerous goods, and such information shall be provided for in the operator’s operations manual and shall include the information as prescribed in Document SA-CATS 92.”; and

(b) the insertion of the following subregulation after subregulation (2):

“(3) The operator of an aircraft in which dangerous goods are to be conveyed shall include in the operations manual specific procedures and requirements related to retention of the NOTOC in a manner that such a document is accessible to the aerodrome of last departure and of the next scheduled arrival.”.

Amendment of regulation 92.00.34 of the Regulations

18. Regulation 92.00.34 is hereby amended by the deletion of sub-regulation (2).

Substitution of regulation 121.07.31 of the Regulations

19. The following regulation is hereby substituted for regulation 121.07.31 of the Regulations:

“Operations with head-up displays or [enhanced] vision systems

121.07.31 (1) No air service operator shall use **[a head-up display (HUD) or enhanced vision system (EVS)]** automatic landing systems, HUD or equivalent displays, EVS, SVS or CVS or any combination of those systems into a hybrid system for the safe operation of an aeroplane, unless the operator—

- (a) is authorised to do so in its operations specifications; and
- (b) complies with the **[HUD or EVS, as applicable,]** requirements prescribed in Document SA-CATS 121.

(2) An air service operator shall include **[the]** suitable operational procedures for use of such equipment in the operations manual referred to in regulation 121.04.2, which shall cover at least the following:

- (a) limitations;
- (b) operational credits as specified in Document SA-CATS 121;
- (c) flight planning;
- (d) ground and airborne operations;
- (e) crew resource management;
- (f) standard operating procedures; and
- (g) ATS flight plans and communication.”.

Repeal of regulation 121.07.41

20. Regulation 121.07.41 is hereby repealed.

Insertion of regulations 121.07.44 and 121.07.45 in the Regulations

21. The following regulations are hereby inserted in the Regulations after regulation 121.07.43:

“Carriage of supernumeraries

121.07.44 (1) An air service operator may establish procedures for the carriage of

supernumeraries: Provided that such procedures –

- (a) do not jeopardise aviation safety and security; and
- (b) are approved by the Authority.

(2) Subject to sub-regulation (1), an air service operator shall allow supernumeraries to board an aeroplane without being in possession of a valid passenger ticket.

(3) An air service operator shall enter the details of all supernumeraries on board a flight on the passenger manifest or general declaration, as applicable, as referred to in regulation 91.03.1 (a)(vi).

Seating of supernumeraries during flight

121.07.45 During take-off and landing, and whenever deemed necessary by the PIC in the interests of aviation safety, supernumeraries shall be seated at their assigned stations or seats.”.

Substitution of regulation 127.07.18 of the Regulations

22. The following regulation is hereby substituted for regulation 127.07.18:

“Operations with head-up displays, [enhanced] vision systems or night vision goggles

127.07.18 (1) No air service operator shall, where helicopters are equipped, use [a head-up display (HUD) or enhanced vision system (EVS) or night vision goggles] automatic landing systems, HUD or equivalent displays, EVS, NVG, SVS or CVS or any combination of those systems into a hybrid system for the safe operation of a helicopter, unless [the operator] —

- (a) an operator is authorised to do so in its operations specifications;
- (b) an operator complies with the automatic landing systems, an HUD or equivalent displays, EVS, SVS or CVS as applicable and requirements prescribed in Document SA-CATS 127;
- (c) the equipment meets the appropriate airworthiness certification requirements; and
- (d) an operator has carried out a safety risk assessment of the operations supported by the automatic landing systems, an HUD or equivalent display, EVS, SVS or CVS.

(2) An air service operator shall include [the] suitable operational procedures for use of such equipment in the operations manual referred to in regulation 127.04.2, which shall cover at least the following:-

- (a) limitations;
- (b) operational credits as specified in Document SA-CATS 127;
- (c) flight planning;
- (d) ground and airborne operations;
- (e) crew resource management;
- (f) standard operating procedures; and
- (g) ATS flight plans and communication.”.

Substitution of regulation 128.07.15 of the Regulations

23. The following regulation is hereby substituted for regulation 128.07.15:

“Operations with head-up displays [,enhanced] vision systems or night vision goggles

128.07.15 (1) No air service operator shall, where aeroplanes are equipped, use **[a head-up display (HUD) or enhanced vision system (EVS) or night vision goggles]** automatic landing systems, HUD or equivalent displays, EVS, NVG, SVS or CVS or any combination of those systems into a hybrid system for the safe operation of a helicopter, unless **[the operator]**—

- (a) the operator is authorised to do so in its operations specifications;
- (b) the operator complies with the automatic landing systems, an HUD or equivalent displays, EVS, SVS or CVS as applicable and the requirements prescribed in Document SA-CATS 128;
- (c) the equipment meets the appropriate airworthiness certification requirements; and
- (d) the operator has carried out a safety risk assessment of the operations supported by the automatic landing systems, an HUD or equivalent display, EVS, SVS or CVS.

(2) An air service operator shall include **[the]** suitable operational procedures for use of such equipment in the operations manual referred to in regulation 128.04.2, which shall cover at least the following:-

- (a) limitations;
- (b) operational credits as specified in Document SA-CATS 128;
- (c) flight planning;
- (d) ground and airborne operations;
- (e) crew resource management;
- (f) standard operating procedures; and
- (g) ATS flight plans and communication.”.

Substitution of Part 129 of the Regulations

24. The following Part is hereby substituted for Part 129 of the Regulations:

“PART 129: FOREIGN AIR OPERATORS**SUBPART 1: GENERAL**

- 129.01.1 Applicability
- 129.01.2 Requirements for scheduled foreign air operators
- 129.01.3 Age restriction of pilots
- 129.01.4 Language proficiency
- 129.01.5 Compliance with regulations
- 129.01.6 Damage to foreign aircraft

SUBPART 2: FOREIGN AIR OPERATOR OPERATING REQUIREMENTS

129.02.1 Compliance and safety and security standards

129.02.2 Surveillance of foreign air operator

SUBPART 3: DOCUMENTATION AND RECORDS

129.03.1 Documents to be carried on board

SUBPART 4: SECURITY AND CARRIAGE OF CARGO AND DANGEROUS GOODS

129.04.1 Requirements for carriage of cargo by air

129.04.2 Issuing of safety and security directives

129.04.3 Carriage of dangerous goods

SUBPART 1: GENERAL**Applicability**

129.01.1 This Part applies to –

- (a) operation into, out of, or over the Republic of an aircraft operated by a foreign air operator in a commercial air transport operation;
- (b) persons employed, or otherwise engaged by the foreign air operator referred to in paragraph (a), who perform functions essential to the operation of aircraft operated under this Part; and
- (c) persons, mail or cargo on board an aircraft operated under this Part.

Requirements for scheduled foreign air operations

129.01.2 (1) Subject to sub-regulation (2) no person shall operate an aircraft on a scheduled international commercial air transport operation in the Republic unless the person–

- (a) is the holder of an air operator certificate issued by an appropriate authority of a Contracting State; and
- (b) is the holder of such air services licence or permit as required in terms of the International Air Services Act, 1993 (Act No. 60 of 1993);

(2) A foreign air operator who is the holder of a valid authority issued in terms of the International Air Services Act, 1993, on or before 1 October 2010, authorising such foreign air operator to operate into or out of the Republic shall be deemed to have met the requirements of sub-regulation (1)(b).

(3) The Director shall recognize an air operator certificate issued by an appropriate authority of a Contracting State if the standards of such Contracting State are deemed to be equivalent to, or higher than, the standards in the Republic.

Age restriction of pilots

129.01.3 (1) A foreign air operator shall ensure that a pilot engaged in single pilot operations on aircraft operating commercial air transport operations in the Republic is less than 60 years of age.

(2) A foreign air operator shall ensure that, for aircraft engaged in multi-pilot crew commercial air transport operations in the Republic, if one pilot is between the ages of 60 and 65 years, the other pilot shall be less than 60 years.

Language proficiency

129.01.4 A foreign air operator shall ensure that flight crew operating aircraft in the Republic meet the language proficiency rating of level 4 for the English language and that such proficiency is endorsed in the crew member's licence.

Compliance with regulations

129.01.5 A foreign air operator shall ensure that all crew members operating within the territory of South Africa comply with all air traffic and flight rules and regulations in force in the Republic.

Damage to foreign aircraft

129.01.6 (1) When it appears to the Director that a foreign aircraft has been involved in an accident as defined in paragraph (b) of the definition of accident, or has sustained damage to a Class 1 product which caused the aircraft to no longer be considered safe to fly or airworthy according to the appropriate airworthiness requirements, the Director may ground the aircraft.

(2) The Director shall notify the relevant State of Registry or State of the Operator if he or she grounds a foreign aircraft in terms of this regulation.

(3) If an aircraft is grounded in terms of this regulation, the aircraft shall not be operated until –

- (a) such alterations or repairs have been effected which the Director considers necessary to render such aircraft airworthy;
- (b) the Director, after consultation with the State of Registry or State of the Operator, permits the aircraft to conduct a non-commercial air transport operation to an aerodrome at which it will be restored to an airworthy condition; or
- (c) the Director has lifted the grounding order.

SUBPART 2: FOREIGN AIR OPERATOR OPERATING REQUIREMENTS

Compliance and safety and security standards

129.02.1 (1) A holder of a South African FOP shall ensure that its flight and ground operations are conducted in accordance with the applicable parts of these Regulations, its FOP and operations specifications and the relevant parts of its operations manual.

(2) Where the Director has reason to believe that a holder of a FOP has, or may have, while operating within South African airspace, contravened any—

- (a) provision of these Regulations;
- (b) condition of its operating certificate or operations specifications attached thereto;
- or
- (c) provision of its operations manual,

the Director shall—

- (i) inform the foreign air operator of the alleged contravention and make such inquiry or investigation necessary to establish the facts of the case; and
- (ii) where Director is of opinion that in the interest of safety the situation so warrants, notify the State of the operator.

(3) Where the Director has reason to believe that the holder of FOP has or may engage in any act or activity that represents or could represent a safety or security hazard, the Director shall immediately notify the foreign air operator.

(4) A holder of FOP shall submit to any inquiry or investigation into alleged contraventions or safety issues, as referred to in sub-regulations (2) and (3).

Surveillance of foreign air operator

129.02.2 (1) A foreign air operator shall permit an authorised officer, inspector, or authorised person, to carry out safety and security inspections and audits of the permit holder's South African based equipment, facilities and personnel, as considered necessary to determine the operator's level of compliance with the requirements prescribed in this Part.

(2) A foreign air operator shall produce for inspection by an authorised officer, inspector, or authorised person, any documents, manuals, and records required to be kept in terms of this Part, which are related to flight operations, security and maintenance, within the period specified by the Director.

(3) Upon request from an authorised officer, inspector or authorised person, a PIC shall, within a reasonable time, produce to that person documentation, manuals and records required to be carried on board.

SUBPART 3: DOCUMENTATION AND RECORDS

Documents to be carried on board

129.03.1 A foreign air operator shall ensure that the originals or certified true copies of the following documents are carried on board the aircraft on each individual flight:

- (a) certificate of registration;
- (b) certificate of airworthiness or, for non-type certificated aircraft, an authority to fly;
- (c) appropriate licence of each crew member;
- (d) general declaration;
- (e) aircraft radio station licence;

- (f) if passengers are carried, passenger manifest, unless the information is included in the general declaration referred to in paragraph (d);
- (g) if cargo is carried, manifest and detailed declaration of the cargo;
- (h) if baggage is carried, baggage manifest bearing approval signature of the authorised person declaring that security measures have been observed;
- (i) certificate of release to service;
- (j) navigation log when a navigator is carried;
- (k) AFM, referred to in regulation 91.03.2, or an equivalent document, which shall include the statements referred to in section 5(1)(c) of technical standard 91.04.31, if flight in RVSM airspace is contemplated;
- (l) mass and balance report;
- (m) flight folio;
- (o) MEL, if applicable;
- (p) noise certificate, if such certificate has been issued for the type of aircraft;
- (q) list of visual signals and procedures for use by intercepting and intercepted aircraft;
- (r) if a flight in RVSM airspace is contemplated—
 - (i) valid RVSM licence endorsement; and
 - (ii) if applicable, valid RVSM operational approval for the particular RVSM airspace; and
- (s) licence to operate air services, FOP or equivalent document giving authority for the flight;
- (t) preflight security checklist onboard the flight completed at the last station of departure; and
- (u) approved declaration form with regards to all catering and supplies onboard the aircraft.

SUBPART 4: SECURITY AND CARRIAGE OF CARGO AND DANGEROUS GOODS

Requirements for carriage of cargo by air

129.04.1 (1) A foreign air operator engaged in the acceptance or handling of cargo intended for carriage by air shall comply with the security controls prescribed in Part 108.

(2) No foreign air operator shall carry unknown cargo.

(3) No foreign air operator may carry cargo by air unless a valid air waybill or other valid transport documentation accompanies it.

(4) A foreign air operator shall ensure that each consignment of known cargo is accompanied by a consignment security declaration in the manner prescribed in Document SA-CATS 108.

(5) A foreign air operator shall ensure that enhanced security measures, such as dual screening methods, are applied to high-risk cargo or mail.

(6) If so directed by the Director, a foreign air operator shall submit a cargo manifest in a form and manner prescribed by the Director.

(7) In accordance with the provisions for the submission of a cargo manifest, the Director may direct that—

- (a) a foreign air operator submits additional information as considered necessary;

- (b) a foreign air operator shall ensure that cargo is subjected to additional security controls;
- (c) a foreign air operator does not load the cargo shipment.

(8) A foreign air operator shall ensure that cargo is at all times safeguarded whilst on the ramp prior to loading on-board an aircraft.

(9) A foreign air operator shall ensure that all cargo consignments are visually inspected, prior to loading onto an aircraft, to ensure that they have not been tampered with.

(10) All cargo and mail shall be screened by a regulated agent within the territory of the Republic before being loaded on to an aircraft, unless—

- (a) the required security controls have been applied to the consignment by a regulated agent and the consignment has been protected from unauthorised interference from the time that those security controls were applied until loading onto the aircraft;
- (b) the required security controls have been applied to the consignment by a known consignor and the consignment has been protected from unauthorised interference from the time that those security controls were applied and until loading onto an aircraft; or
- (c) the cargo is exempt from screening and has been protected from unauthorised interference from the time that it became identifiable as air cargo until loading onto the aircraft.

(11) Where there is any reason to believe that a consignment to which security controls have been applied has been tampered with or has not been protected from unauthorised interference from the time that those controls were applied, the consignment shall be screened in accordance with the provisions of this subpart, before being loaded onto an aircraft.

(12) A foreign air operator shall treat all unaccompanied baggage as unknown cargo.

Issuing of safety or security directives

129.04.2 The Director may from time to time issue safety or security directives to foreign air operators where it is deemed necessary to improve standards of aviation safety and security.

Carriage of dangerous goods

129.04.3 (1) Subject to sub-regulation (2), no foreign air operator shall carry dangerous goods as cargo, except if the operator is the holder of an authorisation in terms of regulation 129.01.2 and as approved by the Director in the operations manual.

(2) The provisions of Part 92 shall apply, with the necessary changes, to the conveyance of dangerous goods by a foreign air operator.”.

Substitution of regulation 135.07.29 of the Regulations

25. The following regulation is hereby substituted for regulation 135.07.29 of the Regulations:

“Operations with head-up displays or [enhanced] vision systems

135.07.29 (1) No air service operator shall, where aeroplanes are equipped, use [a head-up display (HUD) or enhanced vision system (EVS)] automatic landing systems, a HUD or equivalent display, EVS, SVS or CVS or any combination of those systems into a hybrid system for the safe operation of an aeroplane, unless [the operator]—

- (a) the operator is authorised to do so in its operations specifications;
- (b) the operator complies with the automatic landing systems, an HUD or equivalent display, EVS, SVS or CVS as applicable and requirements prescribed in Document SA-CATS 135;
- (c) the equipment meets the appropriate airworthiness certification requirements; and
- (d) the operator has carried out a safety risk assessment of the operations supported by the automatic landing systems, an HUD or equivalent display, EVS, SVS or CVS.

(2) An air service operator shall include **[the]** suitable operational procedures for use of, and training requirements for such equipment in the operations manual referred to in regulation [121.04.2] 135.04.2, which shall cover at least the following:-

- (a) limitations;
- (b) operational credits as specified in Document SA-CATS 135;
- (c) flight planning;
- (d) ground and airborne operations;
- (e) crew resource management;
- (f) standard operating procedures; and
- (g) ATS flight plans and communication.”.

Substitution of Part 137 of the Regulations

26. The following Part is hereby substituted for Part 137 of the Regulations:

“PART 137: **AERIAL WORK [AGRICULTURAL] OPERATIONS**

SUBPART 1: GENERAL PROVISIONS

- 137.01.1 Applicability
- 137.01.2 Requirements for ratings of flight crew and competency of operations personnel
- 137.01.3 Requirements for commercial agricultural and commercial fire-fighting operations
- 137.01.4 Aircraft equipment
- 137.01.5 Communication systems

SUBPART 2: FLIGHT RULES

- 137.02.1 Dispensing agricultural or fire-fighting chemicals
- 137.02.2 Direction of turns at aerodrome
- 137.02.3 Heights of turns at aerodromes
- 137.02.4 Operation without position lights
- 137.02.5 Operation over populous areas
- 137.02.6 Operation over non-populous area
- 137.02.7 Fuel reserves

SUBPART 3: SPECIAL FLIGHT RULES

- 137.03.1 General
- 137.03.2 Maximum certificated mass
- 137.03.3 Take-off distance and flight path
- 137.03.4 Take-off flight path

SUBPART 4: COMMERCIAL OPERATIONS

- 137.04.1 Records
- 137.04.2 Remote base operations and dispatch centre
- 137.04.3 Commercial agricultural operations over populous areas
- 137.04.4 Quality management system
- 137.04.5 Operations manual

SUBPART 5: TRAINING

- 137.05.1 Training of flight crew and operations personnel
- 137.05.2 Training records

SUBPART 6: MAINTENANCE

- 137.06.1 Aircraft maintenance

SUBPART 1: GENERAL PROVISIONS**Applicability**

137.01.1 (1) This Part applies to –

- (a) aircraft engaged in commercial or non-commercial agricultural or fire-fighting operations within the Republic;
- (b) aircraft registered in the Republic and engaged in commercial or non-commercial international agricultural or international fire-fighting operations; [and]

- (c) persons acting as flight crew members of the aircraft operated in terms of this Part;
- (d) foreign-registered aircraft operated by an air service operator licensed in terms of the Air Services Licensing Act, 1990 or the International Air Services Act, 1993 and engaged in commercial agricultural or commercial fire-fighting operations; and
- (e) persons acting as operations personnel and fire-fighting personnel in respect of a fire-fighting operation conducted in terms of this Part.

(2) Unless the context otherwise indicates, **[agricultural operations shall be conducted in accordance with and in addition to the provisions of Part 91 and Part 121, Part 127 or Part 135, as the case may be.]** the provisions of Part 91, Part 96, Part 121, Part 127, Part 128 and Part 135 apply, with the necessary changes, to an aircraft operated in terms of this Part.

Requirements for ratings of flight crew and competency of operations personnel

137.01.2 (1) [The] A pilot of an aircraft engaged in an agricultural operation, shall hold –

- (a) a valid agricultural pilot rating issued in terms of **[Subpart 48]** Subpart 25 of Part 61 for the category of aircraft used; and
- (b) pest control operator's certificate issued in terms of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(2) A pilot of an aircraft engaged in commercial fire-fighting operations shall –

- (a) as a minimum, be a holder of a valid CPL with the appropriate category and type rating for the aircraft for the mission to be flown; and
- (b) have completed the relevant fire-fighting training as stipulated in the applicable operations manual.

(3) An operations manual of an operator engaged in commercial fire-fighting operations shall prescribe the minimum criteria for qualifications of pilots to be used for the fire-fighting operation.

(4) All operations personnel shall meet the qualifications, training and assessment requirements as prescribed in Document SA-CATS 137.

(5) For purposes of this Part, a fire-fighting personnel member shall be deemed to be an agent of an operator of the fire-fighting aircraft if that personnel member is assigned to flight duties by such operator, irrespective of whether such personnel member is remunerated or not.

Requirements for commercial agricultural and commercial fire-fighting operations

137.01.3 (1) [The] An operator of an aircraft engaged in commercial agricultural or commercial fire-fighting operations, shall not operate the aircraft unless such operator is the holder of a valid –

- (a) licence issued in terms of the Air Services Licensing Act, 1990, (Act No. 115 of 1990), or the International Air Services Act, 1993 (Act No. 60 of 1993); and
- (b) an air operator [operating] certificate and operations specifications issued in terms of Part 96, Part 121, Part 127, Part 128 or Part 135, as the case may be, subject to the exception prescribed in Document SA-CATS 137; or
- (b) a FOP issued in terms of the International Air Services Act, 1993.

(2) All commercial agricultural and commercial fire-fighting operations shall be conducted in terms of the procedures defined in the operator's operations manual.

(3) The procedures contained in the operations manual shall meet the applicable requirements prescribed in Document SA-CATS 137.

Aircraft equipment

137.01.4 [(1)] Each owner or operator of an aircraft engaged in an agricultural or fire-fighting operation shall ensure that the aircraft has, in addition to the equipment prescribed in Part 91, an approved and properly installed shoulder harness for each person on board.

(2) An operator of an aircraft engaged in fire-fighting operation shall ensure that the aircraft –

- (a) is in all respects suitable and serviceable to conduct the applicable operations as specified in the operations manual; and
- (b) is a purpose-built aircraft for fire-fighting operations and certified for that purpose by the manufacturer; or
- (c) is equipped with aerial fire-fighting equipment designed and approved for the aircraft type; or
- (d) if not designed and purpose-built for aerial fire-fighting operations, all modifications have been approved and certified by the Director.

Communication systems

137.01.5 An operator of an aircraft engaged in a fire-fighting operation shall not operate the aircraft unless it is equipped with means to establish two-way communication with the dispatch centre and other aircraft engaged in the same fire-fighting operation.

SUBPART 2: FLIGHT RULES

Dispensing agricultural or fire-fighting chemicals

137.02.1 (1) [The] A pilot of an aircraft dispensing an agricultural or fire-fighting chemical in an agricultural or fire-fighting operation, shall dispense the [agricultural] chemical only –

- (a) for its registered use; and
- (b) in accordance with the safety instructions of use limitations on its label.

(2) Notwithstanding the provisions of sub-regulation (1), A pilot may, if the operation is for agricultural experimental purposes –

- (a) under the supervision of a Government department conducting research in the field; or
- (b) in terms of a permit from the applicable authority controlling such chemicals, dispense the agricultural chemical as necessary for the particular experiment.

Direction of turns at aerodrome

137.02.2 (1) [The] A pilot of an aircraft performing an agricultural operation may turn in a direction other than that prescribed in Part 91, when approaching for a landing at, or after take-off from, an aerodrome if –

- (a) the aerodrome is used solely for agricultural operations; or
- (b) in any other case, the aerodrome displays the visual ground signal prescribed in Part 91 indicating that an agricultural operation is being conducted from that aerodrome.

(2) A pilot of an aircraft performing a fire-fighting operation may turn in a direction other than that prescribed in Part 91, when approaching for a landing at, or after take-off from, an aerodrome if the aerodrome is used solely for fire-fighting operations.

Height of turns at aerodromes

137.02.3 [The] A pilot of an aircraft performing an agricultural or fire-fighting operation may commence a turn after take-off from an aerodrome at an altitude other than that prescribed in Part 91 if –

- (a) the turn does not cause the aircraft to fly over a populous area, unless this is required in the interest of the safe operation of the aircraft; and
- (b) the aerodrome –
 - (i) is used solely for agricultural or fire-fighting operations, as applicable; or
 - (ii) has an aerodrome control service in operation and the turn is performed in accordance with air traffic control clearance; or
 - (iii) in any other case, displays the visual ground signal prescribed in Part 91 indicating that an agricultural or fire-fighting operation is being conducted from that aerodrome.

Operation without position lights

137.02.4 Notwithstanding the provisions of Part 91, [the] a pilot of an aircraft performing an agricultural operation may operate at night without aircraft position lights if –

- (a) it is in the interest of aviation safety to turn the lights off due to operating conditions;
- (b) prominent unlighted objects are visible for not less than 1 850 metres;
- (c) take-offs and landings at aerodromes with an aerodrome control service are performed in accordance with an air traffic control clearance; and

- (d) take-offs and landings at other aerodromes are not made while other aircraft operations requiring position lights are in progress at that aerodrome.

Operation over populous areas

137.02.5 ~~[The]~~ A pilot of an aircraft ~~conducting~~ ~~[in]~~ an agricultural or fire-fighting operation over a populous area may, for the proper completion of the operation, fly below the minimum height prescribed in Part 91 if—

- (a) the operation is conducted on behalf of a Government department, ~~or an association of fire-fighters~~;
- (b) prior approval has been obtained from the Director and the operation is conducted in accordance with conditions and limitation determined by the Director; ~~and~~
- (c) the operation is conducted under the authority of an AOC ~~[operating certificate]~~ issued as contemplated in regulation 137.01.3(1)(b). ~~[and~~
- (d) **the holder of the operating certificate has complied with Regulation 137.04.3.]**

Operation over non-populous area

137.02.6 Notwithstanding the provisions of Part 91, ~~[the]~~ a pilot of an aircraft engaged in an agricultural or fire-fighting operation may, during or for the purposes of the operation, fly at any altitude and at any distance from an obstruction if—

- (a) the operation is not conducted over a populous area;
- (b) the operation is conducted without creating a hazard to persons or property on the ground; and
- (c) the altitude and distance for all approaches, turns and departures are necessary for the operation.

Fuel reserves

137.02.7 (1) Notwithstanding the provisions of Part 91, Part 96, Part 121, Part 127, Part 128 or Part 135, as applicable, ~~[the]~~ a pilot of an aircraft engaged in an agricultural operation shall ensure that the aircraft has 30 minutes flight time fuel reserve.

(2) Notwithstanding the provisions of Part 91, Part 96, Part 121, Part 127, Part 128 or Part 135, a pilot of an aircraft engaged in a fire-fighting operation shall ensure that the aircraft has the following minimum fuel reserves –

- (a) for aeroplanes, 20 minutes flight time; and
- (b) for helicopters, 10 minutes flight time.

SUBPART 3: SPECIAL FLIGHT RULES

General

137.03.1 This Subpart ~~[prescribed]~~ ~~prescribes~~ exceptions to the general operating and flight rules in Part 91, for ~~[the]~~ a pilot of an aeroplane issued with a restricted category

certificate of airworthiness in terms of Part 21, engaged in an agricultural or fire-fighting operation.

Maximum certificated mass

137.03.2 (1) Notwithstanding the provisions of Part 91 and Part 135 and subject to sub-regulation (2), **[the] a** pilot of an aircraft **[aeroplane]** engaged in an agricultural or fire-fighting operation, may take-off at a mass greater than the MCM specified in the aircraft **[aeroplane]** flight manual if the pilot complies with the requirements as prescribed in Document SA-CATS 137.

(2) Where there is a third-party risk as specified in Document SA-CATS 137, **[the] a** pilot shall determine the MTOM from the requirements prescribed in regulations 137.03.3 and 137.03.4.

Take-off distance and flight path

137.03.3 (1) Where there is a third party as specified in Document SA-CATS 137, **[the] a** pilot of an aeroplane engaged in an agricultural or fire-fighting operation shall, notwithstanding the provisions of Part 91 and subject to sub-regulation (2), ensure that the take-off distance available is greater than the take-off distance specified in the aeroplane flight manual, multiplied by a factor of 1.2.

(2) When calculating **[the] a** take-off distance, **[the] a** pilot shall take the following factors into account –

- (a) mass of the aeroplane at the commencement of the take-off run;
- (b) pressure altitude of the aerodrome;
- (c) ambient temperature at the aerodrome;
- (d) runway surface type and condition;
- (e) runway slope in the direction of take-off; and
- (f) not more than 50% of the headwind component or not less than 150% of the tailwind component.

(3) Where there is no third part at risk as specified in Document SA-CATS 137, **[the] a** pilot is not required, notwithstanding the provisions of Part 91, to comply with –

- (a) the take-off distance specified in the aircraft **[aeroplane]** flight manual; and
- (b) where applicable, the take-off flight path gradient specified in the aircraft **[aeroplane]** flight manual.

Take-off flight path

137.03.4 (1) Where there is a third-party risk as defined in Document SA-CATS 137, **[the] a** pilot of an aeroplane engaged in an agricultural or fire-fighting operation shall ensure that, notwithstanding the provisions of Part 91, the take-off flight path clears all obstacles by –

- (a) a vertical distance of at least 50 feet plus 0.025D; or
- (b) a lateral distance of at least 30 metres plus 0.1D,

where D is the horizontal distance travelled by the aeroplane from the end of the take-off distance available.

(2) When calculating compliance with sub-regulation (1), **[the]** a pilot shall take the following factors into account –

- (a) the take-off flight path shall begin at a height of 50 feet above the take-off surface at the end of the take-off distance required by regulation 137.03.3 (1) and (2) and end at a height of 500 feet above the take-off surface;
- (b) the aeroplane shall not be banked at an angle exceeding 20 degrees; and
- (c) obstacles which have a lateral distance greater than 150 metres from the planned flight path may be disregarded.

SUBPART 4: COMMERCIAL OPERATIONS

Records

137.04.1 (1) A holder of an AOC [operating certificate] for agricultural operations shall maintain the following records at the principal place of operation—

- (a) the name and address of each client;
- (b) the date of each agricultural operation;
- (c) the name and quantity of the material dispensed during each agricultural operation;
- (d) the name, address, licence number, and rating details of the pilot concerned;
- (e) the date on which an agricultural pilot rating was issued to the pilot concerned.

(2) Notwithstanding the provisions of these Regulations, a holder of an AOC for fire-fighting operations shall ensure that the following records are available and maintained in the dispatch centre referred to in regulation 137.04.2(2) —

- (a) the date and location of each fire-fighting operation;
- (b) the name and quantity of the material dispensed during each fire-fighting operation; and
- (c) the name of the PIC.

(3) The records referred to in sub-regulations (1) and (2) shall be retained for a period of **[not less than 12 months]** five years from the date on which the operation is completed.

Remote base operations and dispatch centre

137.04.2 (1) **[The]** A holder of an AOC [operating certificate] who operates an aircraft engaged in an agricultural operation, from a base other than the principal place of operation, for a period of 14 or more consecutive nights, shall appoint a base pilot who—

- (a) holds a valid agricultural pilot rating;
- (b) is responsible for the operations from that remote base; and
- (c) may be responsible for arranging work rosters and maintaining records.

(2) A PIC of an aircraft engaged in a fire-fighting operation shall ensure that he or she has contact with the relevant dispatch centre in the operational area to have knowledge of other aircraft and of dangerous situations in the operational area.

(3) The requirements applicable to the dispatch centre are prescribed in Document SA-CATS 137.

Commercial agricultural operations [Operations] over populous areas

137.04.3 **[The] A** holder of an **AOC [operating certificate]** who wishes to operate an aircraft engaged in an agricultural operation over a populous area shall—

- (a) prepare a plan of the operation, in conjunction with, and for the briefing of, all personnel and organisations involved in the operation, containing—
 - (i) consideration of obstructions to flight;
 - (ii) emergency landing capabilities of the aircraft used; and
 - (iii) **[and]** co-ordination necessary with the ATSU concerned;
- (b) give prior written notification to the local government in whose jurisdiction the operation is to be performed;
- (c) give notice of the operation to the public by an effective means;
- (d) ensure maximum safety to persons and property on the ground, consistent with the operation; and
- (e) ensure that the aircraft has, within the preceding 100 hours of time in service—
 - (i) had a mandatory periodic inspection; or
 - (ii) been inspected under a progressive inspection programme, in accordance with **[the regulations in]** Part 43.

Quality management system

137.04.4 An operator of an aircraft engaged in commercial operations under this Part shall have a QMS for the control and supervision of the operation.

Operations manual

137.04.5 (1) An operator of an aircraft engaged in commercial operations under this Part shall compile an operations manual in accordance with the provisions of this Part, for the use and guidance of flight crew and operations personnel, as applicable, setting out the manner in which such operator will perform the operation.

(2) An operator shall ensure that the operations manual referred to in Part 96, Part 121, Part 127, Part 128 and Part 135, as the case may be, includes the procedures as prescribed by this Part.

(3) An operator shall, prior to commencing commercial operations under this Part, submit in duplicate the operations manual to the Director for approval.

(4) If the Director is satisfied that the operator will comply with the provisions of this Part, the Director shall certify in writing on both copies of the operations manual that such

manual has been approved, and shall return one copy of the approved manual to the operator.

(5) An operator of an aircraft engaged in commercial operations under this Part shall submit in duplicate any amendment to the operations manual to the Director for approval.

(6) If the Director is satisfied that the operator will comply with the provisions of this Part, the Director shall certify in writing on both copies of the amendment to the operations manual that such amendment has been approved, and shall return one copy of the approved amendment to the operator.

(7) An operator shall at all times operate the aircraft in accordance with the approved operations manual and any approved amendment thereto.

(8) An operator shall —

- (a) ensure that those parts of the manual, which are required for the conduct of a flight, are easily accessible to the flight crew and operations personnel, as applicable;
- (b) make the operations manual available for the use and guidance of operations personnel, as applicable;
- (c) keep the operations manual up to date; and
- (d) keep the operations manual in a safe place.

SUBPART 5: TRAINING

Training of flight crew and operations personnel

137.05.1 (1) An operator of an aircraft engaged in fire-fighting operations shall ensure that each flight crew member and other operations personnel members, assigned to the fire-fighting operation, have successfully completed the initial or recurrent training, as the case may be, as prescribed in Document SA-CATS 137.

(2) Notwithstanding the provisions of sub-regulation (1), a person essential to the purpose of the flight, who is not trained in accordance with these Regulations, may be taken on a specific fire-fighting operation in addition to the regular fire-fighting personnel for the benefit of the specific operation.

(3) An operator shall ensure that all flight crew members and operations personnel and the person referred to in sub-regulation (2), as the case may be, who have not completed the training as referred to in sub-regulation (1), shall have a standard safety briefing pertaining to the aircraft to be used for the operation.

(4) Any training required under this Part shall be conducted in accordance with the training programme of an operator approved by the Director.

Training records

137.05.2 (1) An operator of an aircraft engaged in a commercial fire-fighting operation shall retain records of all training undertaken in terms of this Part by the flight crew and operations personnel in his, her or its employ, whether full-time or part-time.

(2) The records referred to in sub-regulation (1) shall be valid for a period of 12 months calculated from the last day of the month in which such training is given.

(3) An operator of an aircraft engaged in a commercial fire-fighting operation shall retain the records of each flight crew member and operations personnel for a period of at least 12 months calculated from the date on which the flight crew member or operations personnel has left the employ of such operator.

SUBPART 6: MAINTENANCE

Aircraft maintenance

137.06.1 Notwithstanding the provisions of Part 43, maintenance of aircraft involved in commercial fire-fighting operations shall be conducted according to the requirements prescribed in Part 135.”.

Substitution of Part 185 of the Regulations

27. The following Part is hereby substituted for Part 185 of the Regulations:

“PART 185: ENFORCEMENT

SUBPART 1: GENERAL

185.01.1 Administrative action

185.01.2 Offences

185.01.3 Presumptions against continuing offences, multiple offences and multiple administrative penalties

185.01.4 Evidence

SUBPART 2: ENFORCEMENT PROCESS

185.02.1 General

185.02.2 Notice of investigation

185.02.3 Penalty notice

185.02.4 Service of documents and records

185.02.5 Protection of information

185.02.6 General provisions regarding penalties

SUBPART 3: PENALTIES

- 185.03.1 Penalties
185.03.2 Administrative penalty

SUBPART 4: SUSPENSION, CANCELLATION, DOWNGRADE, ENDORSEMENTS AND APPEALS

- 185.04.1 Suspension, cancellation, downgrade or endorsement
185.04.2 Appeal against decision of authorised officers, authorised persons, inspectors and enforcement officers
185.04.3 Appeal against refusal, cancellation or endorsement of medical certificate or declaration of unfitness
185.04.4 Appeals against decisions of Director

SUBPART 1: GENERAL**Administrative action**

185.01.1 (1) Any person who commits an offence, or contravenes these Regulations, may be subjected to administrative or criminal action in terms of this Part.

(2) The Director shall establish a system for taking enforcement action against any person who has infringed or committed an offence in terms of the Act or these Regulations that is impartial and administratively fair.

(3) The Director shall publish, for the use and guidance of authorised officers, inspectors, authorised persons and enforcement officers, an enforcement procedure prescribing the manner in which enforcement actions, duties and responsibilities shall be exercised.

Offences

185.01.2 A person commits an offence if that person —

- (a) hinders or obstructs an authorised officer, inspector or authorised person in the exercise of his or her powers or the performance of his or her duties;
- (b) when called upon by an authorised officer, inspector or authorised person to do so, refuses or fails to give his or her name and address, or gives a false name or address;
- (c) obstructs or impedes any other person acting in the exercising or performance of any privileges, powers or duties conferred on such other person by or under the regulations;
- (d) makes or causes to be made, either orally or in writing—

- (i) any fraudulent, misleading or false statement for the purpose of obtaining any licence, rating, certificate, permit, approval, authorisation, exemption or other document in terms of the regulations;
- (ii) any fraudulent, misleading or false entry in any logbook, record or report which is required to be kept, maintained, made or used to show compliance with any provision of the regulations;
- (e) falsifies, counterfeits, alters, defaces or mutilates, or adds anything to, any licence, rating, certificate, permit, approval, authorisation, exemption or other document issued in terms of the regulations;
- (f) does or causes, or permits to be done or caused, any act contrary to, or fails to comply with, any provision of the regulations, or a direction given or a prohibition made or a condition imposed or a rule, order or directive made in terms thereof;
- (g) exercises a privilege granted by, or uses, any licence, rating, certificate, permit, approval, authorisation, exemption or other document issued under the regulations, of which he, she or it is not the holder;
- (h) unless otherwise authorised in the regulations, permits a licence, rating, certificate, permit, approval, authorisation, exemption or other document issued under the regulations, of which he, she or it is the holder, to be used, or a privilege granted thereby, to be exercised, by any other person;
- (i) operates or attempts to operate any aircraft in respect of which no valid certificate of registration and valid certificate of airworthiness have been issued;
- (j) commits any act, whether by interference with any flight crew member, ATS personnel member or AME, by tampering with any aircraft, or any part thereof, or by disorderly conduct or otherwise, which is likely to endanger the safety of any aircraft or its occupants;
- (k) without the permission of an aerodrome or heliport operator, enters any place within the boundaries of a licensed aerodrome or heliport which has been closed to the public;
- (l) gives false information pertaining to the investigation of any aviation accident or incident; and
- (m) contravenes any provision of the Act and these Regulations.

Presumptions against continuing offences, multiple offences and multiple administrative penalties

185.01.3 In determining the commission of an offence and the appropriate administrative penalty to be imposed, it shall be presumed that each non-compliance committed relying on the same or similar facts, or intent, constitutes a single offence such that only a single administrative penalty amount as specified in Table 1 or 2 shall be imposed for such offence committed.

Evidence

185.01.4 In criminal proceedings under the regulations—

- (a) a written statement certified and signed by the Director that a licence, rating, certificate, permit, approval, authorisation or exemption, as the case may be, has

- not been granted or issued to a specific person shall, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein;
- (b) a document certified by the Director to be a copy of a licence, certificate, permit, approval, authorisation or exemption and signed by the Director shall, upon the mere production thereof, be accepted as *prima facie* proof of the fact that the person whose name appears as the holder of the licence, certificate, permit, approval, authorisation or exemption, as the case may be, on that copy, was the holder of the licence, certificate, permit, approval, authorisation or exemption at the time when the offence was committed;
 - (c) a document certified to be an extract, by the Director or a copy signed by the Director, of any register maintained in terms of these Regulations shall, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein; and
 - (d) evidence supplied by an enforcement officer and obtained by the use of specialised equipment, such as weighing scales, video recorders, small hand-held recording devices, navigation and communication transceivers and secondary equipment, shall be proved in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) and common law rules relating to evidence.

SUBPART 2: ENFORCEMENT PROCESS

General

185.02.1 An enforcement officer may take administrative action which may result in the imposition of a penalty prescribed in Regulation 185.03.1 where it is established, on a balance of probabilities, that the conduct of a person or entity constitutes an offence and that such conduct was grossly negligent or wilful.

Notice of investigation

185.02.2 (1) An enforcement officer shall issue a notice of intended investigation to an alleged offender on the appropriate form which shall –

- (a) specify the nature of the alleged offence committed;
- (b) include evidence being relied upon pertaining to the alleged offence;
- (c) invite the alleged offender to make representations either orally or in writing on the allegations within 30 days of the issue or service of the notice.

(2) Following an investigation, an enforcement officer must inform the alleged offender of the outcome of such investigation, either by issuing a notice of no further action or by issuing the offender with a notice of appropriate penalty as prescribed in Regulation 185.03.1.

Penalty notice

185.02.3 (1) An enforcement officer shall issue a penalty notice on the appropriate form if he or she is satisfied, following an investigation, that the alleged offender has committed the offence.

- (2) A penalty notice shall –
- (a) specify the nature of the alleged offence committed;
 - (b) include evidence being relied upon pertaining to the alleged offence;
 - (c) specify the administrative penalty payable for the offence;
 - (d) invite the alleged offender to make representations either orally or in writing on the allegations or pay the monetary penalty within 30 days of the issue or service of the notice; and
 - (e) specify the rights and obligations pertaining to the notice.
- (3) If an alleged offender pays the administrative penalty referred to in sub-regulation (2)–
- (a) any liability of the alleged offender specified in the notice is considered as discharged; and
 - (b) the alleged offender shall not be regarded as having been convicted of an offence.

Service of documents and records

- 185.02.4** (1) Any notice served to an individual in terms of this subpart shall be served –
- (a) by giving it to an individual personally;
 - (b) by leaving it at, or by sending it per registered mail to the address of the place of residence or business of the individual last known to the Director or the enforcement officer;
 - (c) by giving it, at the place of residence or business of the individual last known to the Director or enforcement officer, to an individual who is, or is reasonably believed to be, above the age of 16 years and apparently an occupant of, or employed at the place; or
 - (d) by sending it to the last known email address of the individual.
- (2) Any notice served to an entity in terms of this subpart shall be served –
- (a) by sending it per registered mail to the head office, registered office, principal place of business or other postal address of the entity;
 - (b) by giving it to an individual who is, or is reasonably believed to be, an officer of, or in the service of the entity and above the age of 16 years, at the head office, registered office, principal office or other place of business of the entity; or
 - (c) by sending it to the last known email address of the entity or a representative of the entity.
- (3) The Director shall ensure that –
- (a) proper records of all enforcement actions taken in terms of this regulation are kept in the premises of the Authority; and
 - (b) copies of all notices issued, reports written and decisions taken in respect of any alleged offence and any investigation undertaken in terms of this Part are retained on the individual's or entity's file.

Protection of information

185.02.5 No information obtained under the voluntary reporting system prescribed in Part 140 shall be used against the person reporting such information in any enforcement action taken in terms of this Part.

General provisions regarding penalties

185.02.6 (1) Nothing in this Part—

- (a) prevents the service of a penalty notice on an individual or entity for repeating an offence;
- (b) limits the amount of the penalty that may be imposed by a court, subject to its punitive jurisdiction, on an individual or entity convicted of a prescribed offence; or
- (c) limits the Director in the exercise of any other powers granted to him or her elsewhere in these Regulations.

SUBPART 3: PENALTIES**Penalties**

185.03.1 The following penalties may be imposed on an offender following an investigation:

- (a) verbal counselling;
- (b) letter of warning;
- (c) remedial training;
- (d) administrative penalties; and
- (e) suspension, downgrade, endorsement or cancellation.

Administrative penalty

185.03.2 (1) An administrative penalty imposed in accordance with regulation 185.03.1 shall be commensurate with the severity of the offence and shall not exceed the amounts prescribed in Table 1 or 2, as applicable.

Table 1:

<u>MAXIMUM ADMINISTRATIVE PENALTIES: NATURAL PERSONS</u>			
<u>REGULATION</u>	<u>1ST OFFENCE</u>	<u>2ND OFFENCE</u>	<u>3RD OFFENCE</u>
<u>185.01.2(a)</u>	<u>R5 000</u>	<u>R10 000</u>	<u>R16 000</u>
<u>185.01.2(b)</u>	<u>R5 000</u>	<u>R10 000</u>	<u>R16 000</u>
<u>185.01.2(c)</u>	<u>R5 000</u>	<u>R10 000</u>	<u>R16 000</u>

<u>185.01.2(d)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(e)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(f)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(g)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(h)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(i)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(j)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(k)</u>	<u>R5 000</u>	<u>R10 000</u>	<u>R16 000</u>
<u>185.01.2(l)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(m)</u>	<u>Discretionary</u>	<u>Discretionary</u>	<u>Discretionary</u>

Table 2:

MAXIMUM ADMINISTRATIVE PENALTIES: LEGAL PERSONS			
REGULATION	1ST OFFENCE	2ND OFFENCE	3RD OFFENCE
<u>185.01.2(a)</u>	<u>R16 000</u>	<u>R32 000</u>	<u>R64 000</u>
<u>185.01.2(b)</u>	<u>R16 000</u>	<u>R32 000</u>	<u>R64 000</u>
<u>185.01.2(c)</u>	<u>R16 000</u>	<u>R32 000</u>	<u>R64 000</u>
<u>185.01.2(d)</u>	<u>R24 000</u>	<u>R48 000</u>	<u>R96 000</u>
<u>185.01.2(e)</u>	<u>R24 000</u>	<u>R48 000</u>	<u>R96 000</u>
<u>185.01.2(f)</u>	<u>R24 000</u>	<u>R48 000</u>	<u>R96 000</u>
<u>185.01.2(g)</u>	<u>R40 000</u>	<u>R80 000</u>	<u>R160 000</u>
<u>185.01.2(h)</u>	<u>R40 000</u>	<u>R80 000</u>	<u>R160 000</u>
<u>185.01.2(i)</u>	<u>R40 000</u>	<u>R80 000</u>	<u>R160 000</u>
<u>185.01.2(j)</u>	<u>R24 000</u>	<u>R48 000</u>	<u>R96 000</u>
<u>185.01.2(k)</u>	<u>R16 000</u>	<u>R32 000</u>	<u>R64 000</u>
<u>185.01.2(l)</u>	<u>R10 000</u>	<u>R20 000</u>	<u>R32 000</u>
<u>185.01.2(m)</u>	<u>Discretionary</u>	<u>Discretionary</u>	<u>Discretionary</u>

(2) If any person fails to pay an administrative penalty imposed on that person in terms of this Part, within the specified period, the Director may, by civil action in a competent court, recover such administrative penalty from such person as prescribed in section 144 of the Act.

**SUBPART 4: SUSPENSION, CANCELLATION, DOWNGRADE,
 ENDORSEMENTS AND APPEAL****Suspension, cancellation, downgrade or endorsement**

185.04.1 (1) An authorised officer, inspector or authorised person may endorse, suspend, downgrade or vary a registration, certificate, approval, licence or authorisation issued under these Regulations, if —

- (a) immediate endorsement, suspension, downgrade or varying is necessary in the interests of aviation safety or security;
- (b) an authorised officer, inspector or authorised person is prevented by the holder of the registration, certificate, approval, licence or authorisation from carrying out any safety or security inspection or audit or from performing any of the functions that the authorised officer, inspector or authorised person is permitted to perform in terms of the Act and these Regulations; or
- (c) it is evident that the holder of the registration, certificate, approval, licence or authorisation does not comply with the relevant requirements prescribed in the regulations, after such holder has been given at least 14 days within which to comply therewith.

(2) A notice of endorsement, suspension, downgrade or varying must be given in writing, and must comply with the provisions of section 117 of the Act.

(3) An authorised officer, inspector or authorised person who has endorsed, suspended, downgraded or varied a registration, certificate, approval, licence or authorisation must, within 7 days, submit a report in writing to the Director with a proof that a copy thereof has been submitted to the person concerned, stating the reasons why, in his or her opinion, such registration, certificate, approval or authorisation should be cancelled.

Appeal against decisions of authorised officers, authorised persons, inspectors and enforcement officers

185.04.2 (1) A person whose rights have been detrimentally affected by an administrative action taken by an inspector, authorised officer, authorised person or enforcement officer in terms of the Act or this Part, may, after payment of the fee prescribed in Part 187, appeal against such a decision.

(2) An appeal in terms of sub-regulation (1) must be lodged with the Director within 30 days after the furnishing of reasons for the decision.

(3) The Director must within three days of receiving such appeal in writing confirm, amend or withdraw the decision.

(4) The Director must within 14 days furnish written reasons to the appellant for any decision taken in terms of sub-regulation (3).

(5) Any person aggrieved by a decision taken in terms of sub-regulation (3) may appeal against such decision within five days of receipt of the reasons referred to in sub-regulation (3) to an appeal committee contemplated under section 122 of the Act.

(6) In adjudicating the appeal contemplated in sub-regulation (3) the Director may afford the appellant—

- (a) a reasonable opportunity to make representations;
- (b) the opportunity to present and dispute information and arguments; and
- (c) the opportunity to appear in person.

(7) The Director may on good cause shown condone any non-compliance with the time period contemplated in sub-regulation (2).

(8) (a) If the Director sets aside any decision of an authorised officer, authorised person, inspector or enforcement officer, the fee referred to in sub-regulation (1) must be refunded to the appellant.

(b) If the Director varies any such decision, he or she may direct that the whole or any part of such fees be refunded to the appellant.

(9) An appeal lodged in terms of this section does not suspend the decision of the authorised officer, authorised person, inspector or enforcement officer.

Appeal against refusal, cancellation or endorsement of medical certificate or declaration of unfitness

185.04.3 (1)(a) An applicant for, or a holder of any class of medical certificate who feels aggrieved by—

- (i) a decision by the designated body or institution to cancel his or her medical certificate;
- (ii) a decision by a DAME, declaring him or her unfit or temporarily unfit;
- (iii) any endorsement made by the designated body or institution on his or her medical certificate; or
- (iii) any endorsement made by a DAME on his or her medical certificate.

may appeal against such decision or endorsement to the Director on the payment of the fees prescribed in Part 187.

(b) An appeal referred to in sub-regulation (1) must be lodged on the appropriate form within 60 days—

- (i) after receipt of the reasons for the decision; or
- (ii) after the applicant became aware of such decision or endorsement.

(2) An appeal lodged in terms of this regulation must be considered and decided by the Director assisted by at least two medical practitioners, one of whom must have experience in aviation medicine.

(3) An appeal lodged in terms of sub-regulation (2) must be considered and decided by the within 60 days of receipt thereof.

(4) After considering an appeal the Director may confirm the decision in respect of which the appeal was lodged or give such other decision as the Director may consider equitable.

(5) The Director must within 14 days furnish written reasons to the appellant for any decision taken in terms of sub-regulation (4).

(6) A person appealing in terms of sub-regulation (1) is entitled to legal representation.

(7) The Director may on good cause shown condone any non-compliance with the time period referred to in sub-regulation (1).

(8) An appeal lodged in terms of this regulation does not suspend the decision or endorsement in respect of which the appeal is lodged.

Appeals against decisions of Director

185.04.4 (1) Any person aggrieved by a decision taken by the Director referred to in sub-regulations (2)(a) to (e) may lodge an appeal with the appeal committee established in terms of section 122 of the Act, against such decision within 30 days after receipt of the reasons for the decision.

(2) Any person or entity, as the case may be, may appeal against—

- (a) a decision or decisions taken in terms of sections 98(5) and 118(3) of the Act;
- (b) a decision by the Director to—
 - (i) refuse such person's application for exemption, registration, licence, certificate, approval or authorisation, or to designate one or more Persons as inspectors, authorised officers or persons in terms of the Act;
 - (ii) issue, subject to any condition or restriction, such person's exemption, registration, licence, certificate, approval or authorisation in terms of the Act; or
 - (iii) suspend, cancel, endorse or vary such person's exemption, registration, licence, certificate, approval or authorisation in terms of the Act;
- (c) a decision taken in regard to the designation or withdrawal of a designation as inspectors, authorised officers or authorised persons contemplated in section 88 (1) of the Act;
- (d) a decision refusing to lift the grounding order as contemplated in section 115 (2) of the Act;
- (e) any decision taken in terms of section 130 of the Act; or

- (f) the issuance, amendment or withdrawal of technical standards for civil aviation in terms of section 163.

Substitution of regulation 187.02.1 of the Regulations

28. The following regulation is hereby substituted for Regulation 187.02.1 of the Regulations:

“Liability to pay civil aviation authority passenger safety charge

187.02.1 (1) A civil aviation authority passenger safety charge amounting to R20.23 shall be payable by **[aircraft]** chargeable passengers departing on an aircraft from an aerodrome within the Republic **[of South Africa]** on a scheduled public air transport or part of a flight to a destination within or outside the territory of the Republic **[republic of South Africa]**.

(2) The civil aviation authority passenger safety charge shall be included in the price payable in respect of the air ticket concerned.

(3) Value added tax is not payable on the civil aviation authority passenger safety charge.

(4) The following passengers are not chargeable passengers for civil aviation authority passenger safety charge:

- (a) a passenger who is not older than two years;
- (b) a passenger carried for purposes only of inspecting matters relating to the aircraft or the crew; and
- (c) a passenger who is in transit and does not disembark from an aircraft after such aircraft has landed and who remains on board such aircraft until such aircraft takes off.

(5) The provisions of sub-regulation (1) do not apply to a supernumerary.

Short title and commencement

29. This Amendment is called the Fifteenth Amendment of the Civil Aviation Regulations, 2017 and shall come into operation 30 days after publication in the Government Gazette.