

PROPOSAL FOR THE AMENDMENT OF PART 91 OF THE CIVIL AVIATION REGULATIONS, 2011

PROPOSER

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PROPOSER'S INTEREST

The proposer has been established in terms of the Civil Aviation Act, 2009 (Act No. 13 of 2009), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

GENERAL EXPLANATORY NOTE

Words in **[bold and solid square bracket]** indicate deletions from the existing regulations.
Words underlined with a solid line indicate insertions in the existing regulations.

1. PROPOSAL FOR THE AMENDMENT OF PART 91

1.1 It is hereby proposed to amend Part 91 by:

- (a) the insertion after Subpart 10 of Part 91 of the following Subpart:

“SUBPART 11: AIRCRAFT INSURANCE AND REQUIREMENTS TO HOLD INSURANCE

Applicability

91.11.1 (1) This regulation applies to a person who is a registered air service operator registered in the Republic, or operating within the airspace of the Republic.

Obligation to maintain Insurance

91.11.2 (1) A registered air service operator shall not operate, or cause or permit any other person to operate, an aircraft unless there is in force a policy of insurance covering—

- (a) liability in respect of loss of or damage that is caused by an aircraft to property of third party on land or surface; and
- (b) liability in respect of commercial operations that is caused by an aircraft in respect of a death or bodily injury of a person that is caused by an aircraft to a person on land or surface.

Minimum 3rd party and passenger liability insurance coverage

91.11.3 (1) The insurance policy referred to in regulation 91.11.2 shall provide coverage for an amount not less than—

- (a) the minimum levels as prescribed in Document SA-CATS 91, taking into account the maximum take-off mass and category of an aircraft; and
- (b) any other requirements determined by the Director from time to time.

Minimum 3rd party and passenger liability insurance coverage amount

91.11.4 (1) A registered air service operator shall maintain an insurance policy as prescribed in Document SA-CATS 91.

Proof of insurance policy

91.11.5 (1) A registered air service operator shall maintain documentary evidence of the insurance policy required under this regulation and shall, upon request, produce such evidence to an authorised officer or inspector of the Authority.

(2) A certificate of airworthiness or certificate of registration shall not be issued or renewed unless satisfactory proof of compliance with this regulation has been furnished to the Authority.

(3) Proof and validity of the insurance policy are prescribed in Document SA-CATS 91.

Adequate alternative insurance policy

91.11.6 (1) The Director may, upon written application and on such conditions as may be determined, exempt any aircraft or class of aircraft from any provision of this regulation where it is demonstrated that adequate alternative arrangements for compensation or indemnity are in place”.”

MOTIVATION

This proposal emanates from the current Civil Aviation Act, 2009 and the Civil Aviation Amendment Act (CAAA), which was assented to by the President in March 2022. Before the CAAA can be proclaimed and brought into operation, certain provisions of the Civil Aviation Regulations must be amended to ensure alignment with the amended Act. In particular, this proposal seeks to give effect to section 8(5) of the Act by introducing a mandatory requirement for registered air service operators to maintain an insurance policy that provides passenger and third-party liability cover.