

# PROPOSAL FOR THE AMENDMENT OF PART 12 OF THE CIVIL AVIATION REGULATIONS, 2011

## PROPOSER

South African Civil Aviation Authority  
Ikhaya Lokundiza 1  
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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 to the existing regulations.

### 1. Proposal for the Amendment of Part 1

1.1 Regulation 1.01.1 is hereby amended by:

- (a) the insertion after the definition of “background check” of the following definition:

“Balancing test” means the determination whereby the competent authority assesses competing public interests and decides which interest should prevail leading to the determination referred to in regulation 12.04.6”;

- (b) the insertion after the definition of “company” of the following definition:

**“Competent authority” means a court of law designated by the Executive responsible for accident and Incident investigation to administer a balancing test contemplated in regulation 12.04.6”;**

## **Proposal for the Amendment of Part 12**

1. It is hereby proposed to amend Part 12 of the regulations by the substitution for regulation 12.04.6 of the following regulation:

**“12.04.6 (1)** The following records shall not be made available for purposes other than accident or incident investigation, unless a **[court of law] competent authority determines through the administration of a balancing test and in a manner prescribed in Document SA-CATS 12,** that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or future investigation, taking into account all applicable law—“;”

### **MOTIVATION**

This proposal emanates from the ICAO finding 6.029, Annex 13 Standard 5.12 and Appendix 2, PQs 6.029 & 6.031 (CE 1) which provides for the protection of accident and incident investigation records and Attachment E which provides for the guidance for the determination of aircraft damage.