

Statutory Instrument 69 of 2023.

**[CAP. 13:16**

Civil Aviation (Exemptions) Regulations, 2023

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IT is hereby notified that the Minister of Transport and Infrastructural Development in consultation with the Board has, in terms of section 79(1) as read with 79(2)(aa) of the Civil Aviation Act [*Chapter 13:16*], made the following regulations:—

*Title*

1. These regulations may be cited as the Civil Aviation (Exemptions) Regulations, 2023.

*Delegation of functions*

2. (1) The Minister hereby delegates to the Authority power to exempt partially or wholly the function referred to in section 79(2)(s) to the Director-General.

(2) The Director-General may exempt any person from the provisions of the Act only after he or she is satisfied that the exemption is necessary and shall report in writing such exemption to the Minister thereafter.

(3) In considering whether it is necessary to exempt a person or aircraft the Director General must have regard to—

- (a) the reasons for the required exemption;
- (b) any serious and imminent risk to air safety or security;
- (c) the existence of an equivalent level of safety;
- (d) any imminent danger to persons or property if the person or body is exempted; and
- (e) any information at his or her disposal.

*General Information*

3.(1) An applicant for an exemption shall submit an application in the prescribed form to the Authority.

(2) The application, shall contain the following—

- (a) name;
- (b) physical and mailing address;
- (c) telephone number;
- (d) email address; and
- (e) person designated as an agent of the applicant for all purposes related to the application where applicable.

*Description of proposal*

4. An application for exemption shall include the following information—

- (a) a citation of the specific requirement from which the applicant seeks relief;
- (b) specification of the types of operations that are to be conducted;
- (c) a detailed description of the proposed alternate requirement to meet an equivalent level of safety;
- (d) a specification of the proposed duration or schedule of events for which this relief will be needed;
- (e) a statement outlining the applicant's basis for seeking relief from compliance with the specified requirements and, if the relief is requested for a fixed period, a description of how compliance will be achieved at the end of this period;
- (f) a description of how the exemption sought is in the

public interest;

- (g) where the applicant seeks emergency processing, a statement of the supporting facts and reasons that it is an emergency;
- (h) risk assessment on the implementation of alternative means of compliance.

*Justification of proposal*

- 5. (1) The application must demonstrate that the alternative proposal—
  - (a) achieves a level of safety at least equal to that of the requirement of the cited provisions, or
  - (b) if a required safety level does not exist, is consistent with public interest.
- (2) The application must at least provide the following—
  - (a) information describing relevant incidents or accident experience of which the applicant is aware that relates to the application;
  - (b) a statement identifying any increased risk to safety or property that may result if the alternative proposal is granted and a description of the measures to be taken to address that risk; and
  - (c) substantiation that the argument for public safety and equivalent level of safety is valid.

*Processing application*

- 6.(1) After receipt of the application, the Authority shall—
  - (a) satisfy itself that the application and the information submitted is complete and accurate;

(b) conduct—

- (i) a review of the risk assessment; and
- (ii) a technical evaluation of the viability of the proposal; and
- (iii) a technical evaluation of the proposed alternative method of compliance including a determination if a grant of exemption would result in a significant difference with—
  - A. current ICAO Standards and Recommended Practices; or
  - B. a published and relevant international safety practice.

(3) The technical evaluation of the proposed alternative method of compliance referred to in subsection (1) shall include a determination on whether an equivalent level of safety is possible;

(2) Where the result of the risk assessment and technical evaluation is favourable the Authority shall—

- (a) where applicable, notify affected parties of the proposal, technical evaluation and recommended action to affected parties and consider their comments;
- (b) make a final decision on the proposal; and
- (c) issue the decision in writing to the applicant; and
- (d) where applicable notify the decision in final form to the affected parties.