



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

GENERAL NOTICE

No. 242 Proposed Civil Aviation Regulations: Part 185 - Administration: Offences..... 1

General Notice

MINISTRY OF WORKS, TRANSPORT AND COMMUNICATION

No. 242

1997

PROPOSED CIVIL AVIATION REGULATIONS : PART 185 - ADMINISTRATION : OFFENCES

The Ministry of Works, Transport and Communication recently initiated the project to update the current Namibian aviation legislation. There are two main reasons for updating the aviation legislation, namely, the current legislation does not adequately reflect the policies of Namibia for the aviation sector and does not reflect recent developments within SADC. The project further aims to enhance the safety of civil aviation by ensuring that the Namibian legislation complies with the minimum

standards prescribed by the International Civil Aviation Organization.

Part of the short-term legislative reform involves the updating of the regulations made under the Aviation Act, 1962 (Act 74 of 1962).

Due to the nature and extensive range of subjects which need to be regulated, this part of the project will be executed in phases and regulations will be published accordingly. The proposed structure of the Civil Aviation Regulations is set out in Schedule 1.

All the definitions for the proposed civil aviation regulations will be contained and published in Part 1.

The Director : Civil Aviation invites all interested parties to comment on the proposed structure of the Civil Aviation Regulations, as well as the proposed regulations on Offences set out in Schedule 2. The proposed regulations represent Part 185 of the proposed structure.

Comments or representations should be lodged in writing and should reach the Ministry not later than **90 days** from the date of publication of this notice. Correspondence should be addressed to:

The Director : Civil Aviation
Ministry of Works, Transport and Communication
Department of Transport
Private Bag 12003
WINDHOEK

Attention : Mr Louis Lourens
Telephone : 208-2159
Fax : 238-884

Upon expiry of the aforementioned 90 day period, all comments which have been received will be evaluated for possible incorporation into the proposed regulations on Offences and if necessary, a workshop will be held to finalise the proposed regulations.

SCHEDULE 1
NAMIBIAN CIVIL AVIATION REGULATIONS STRUCTURE

<p>DEFINITIONS</p> <p>Part 1 Definitions</p> <p>PROCEDURES</p> <p>Part 11 Procedures for making regulations, issuing technical Standards and granting exemptions</p> <p>Part 12 Aviation accidents and incidents</p> <p>Part 13 Enforcement procedures</p> <p>AIRCRAFT</p> <p>Part 21 Certification procedures for products and parts</p> <p>Part 34 Engine Emissions</p> <p>Part 36 Noise certification</p> <p>Part 43 General maintenance rules</p> <p>Part 47 Aircraft registration and marking</p> <p>PERSONNEL</p> <p>Part 61 Pilot licensing</p> <p>Part 63 Flight engineer licensing</p> <p>Part 64 Cabin crew licensing</p> <p>Part 65 Air traffic service personnel licensing</p> <p>Part 66 Aircraft maintenance engineer licensing</p> <p>Part 67 Medical requirements</p> <p>RULES OF THE AIR AND GENERAL OPERATING RULES</p> <p>Part 91 General operating and flight rules</p> <p>Part 92 Conveyance of dangerous goods</p> <p>Part 98 Operation of powered paragliders</p> <p>Part 100 Operation of gyroplanes</p> <p>Part 101 Operation of unmanned balloons, kites, rockets, pilotless and model aircraft</p> <p>Part 102 Operation of free balloons and airships</p> <p>Part 103 Operation of microlight aeroplanes</p> <p>Part 104 Operation of gliders</p> <p>Part 105 Parachuting operations</p> <p>Part 106 Operation of hang gliders</p>	<p>CERTIFICATED AIRCRAFT OPERATORS AND OTHER FLIGHT OPERATIONS</p> <p>Part 121 Air transport operations - large aeroplanes</p> <p>Part 127 Air transport operations - helicopter</p> <p>Part 133 Helicopters external load operations</p> <p>Part 135 Air transport operations - small aeroplanes</p> <p>Part 137 Agricultural aircraft operations</p> <p>Part 138 Emergency medical services operations</p> <p>ORGANISATIONS</p> <p>Part 141 Aviation training organisations</p> <p>Part 145 Aircraft maintenance organisations</p> <p>Part 147 Design organisations</p> <p>Part 148 Manufacturing organisations</p> <p>Part 149 Aviation recreation organisations</p> <p>AERODROMES AND HELIPORTS</p> <p>Part 139 Licensing</p> <p>Part 139 General standards</p> <p>AIR TRAFFIC SERVICES</p> <p>Part 172 Airspace and air traffic services</p> <p>AERONAUTICAL INFORMATION AND RELATED SERVICES</p> <p>Part 174 Meteorological information services</p> <p>Part 175 Aeronautical information services</p> <p>ADMINISTRATION</p> <p>Part 183 General</p> <p>Part 185 Offences</p> <p>Part 187 Fees</p>
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SCHEDULE 2

- 185.00.1 Offences
- 185.00.2 Presumptions and evidence

Offences

- 185.00.1** (1) Any person or organisation who -
- (a) hinders or obstructs an authorised officer, inspector or authorised person in the exercising 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 or a technical standard;
 - (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 or a technical standard;
 - (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 or a technical standard;

- (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 or a technical standard;
- (f) does or causes, or permits to be done, any act contrary to, or who fails to comply with, any provision of the Regulations or a technical standard, or a direction given or a prohibition made or a condition imposed 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 or a technical standard, of which he, she or it is not the holder;
- (h) unless otherwise authorised in the Regulations or a technical standard, permits a licence, rating, certificate, permit, approval, authorisation, exemption or other document issued under the Regulations or a technical standard, 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, air traffic service personnel member or aircraft maintenance engineer, 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; or
- (l) gives false information pertaining to the investigation of any aviation accident or incident,

shall be guilty of an offence.

(2) Any person who is convicted of an offence in terms of subregulation (1), shall be liable to the penalties prescribed in section 19 of the Act.

Presumptions and evidence

185.00.2 In criminal proceedings under the Regulations -

- (a) a written statement 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 or organisation shall, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein;

- (b) a copy of a licence, certificate, permit, approval, authorisation or exemption shall, upon the mere production thereof, be accepted as *prima facie* proof of the fact that the person or organisation 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; and
- (c) the certified extract from or a copy of any register maintained in terms of the Regulations shall, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein.