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**GOVERNMENT NOTICE**

**DEPARTMENT OF TRANSPORT**

AVIATION ACT 1962

**PROPOSED AMENDMENT OF THE CIVIL AVIATION REGULATIONS**

Under Regulation 11.03.2.(1)(a) of the Civil Aviation Regulations, the Chairperson of the Regulations Committee hereby publishes for comment, the proposed amendments to the Civil Aviation Regulations, 1997, as set out in the Schedule. Any comments or representations on this proposed amendment should be lodged in writing with the Chairperson of the Regulations, Committee for attention: Mr. Levers Mabaso, Private Bag X193 Pretoria 0001, fax no. (012) 323-7007 or E-mail at [mabasoM@ndot.gov.za](mailto:mabasoM@ndot.gov.za) before or on 7 January 2000.

**SCHEDULE I**

**PROPOSER**

SOUTH AFRICAN CIVIL AVIATION AUTHORITY  
PRIVATE BAG X08  
WATERKLOOF  
0145

**1.1 PROPOSED AMENDMENT TO REGULATION 139.02.7 (INSERTION OF REGULATION 139.02.7(3))**

"The Aerodrome operator shall -

Establish a procedure to supplement existing Rescue and Fire Fighting Services on the airport, with -

- a. Additional Rescue and Fire fighting personnel and equipment to cater for an aircraft diverting to that airport, if that aircraft falls within a higher category than that of the airport. These additional services must be provided to at least the level required for that category of aircraft. These additional services must be available on the airport during landing and take-off for such aircraft.
- b. Make provisions to have medical equipment and medical personnel on standby and readily available until the aircraft has landed or taken off safely.
- c. For the provision of the required additional services, a written agreement with the Local Authority can be entered into.
- d. The technical standards to meet the above requirements, are those contained within the SA-CATS-AH."

**1.2 MOTIVATION**

As more and more incidents occur where aircraft with a higher category than that of which an airport is equipped for, has to divert to such airports, it is imperative that the required level of safety can be provided.

The provision of the proposed supplement, to the regulations, will safeguard the airport as well as the aircraft operators, with regards to insurance claims that may be instituted in the event of an accident or incident that may take place during such diversions. Insurance liability referred to, are those that may be connected to personal injuries, or the loss of life, or damage to property during an accident or incident that may occur during such diversions.

The addition of the proposed regulation will also safeguard the CAA from possible law suits that may emanate from it not taking the necessary precautions to ensure that the minimum safety requirements are being met and maintained by airport operators.

**1.3 NO CURRENT PROVISION EXISTS**

**SCHEDULE 2A**

## PROPOSER

SOUTH AFRICAN CIVIL AVIATION AUTHORITY  
PRIVATE BAG X08  
WATERKLOOF  
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## 2.1 PROPOSAL FOR THE AMENDMENT ON REGULATION 1 OF THE CAR (DEFINITIONS)

This proposal relates to the insertion of the following definitions.

PROPOSED AMENDMENT TO REGULATION 1.00.1 (INSERTION OF THE FOLLOWING DEFINITIONS)

### 2.1.1 ACCESS CONTROL

"**access control**" means the security procedure applied to ensure that only authorised persons, authorised vehicles and authorised items carried by such persons or transported in such vehicles, are allowed access into the premises, area or zone being controlled."

### 2.1.2 ACCOUNT CUSTOMER

"**account customer**" means a consignor who is:

- a. in possession of an established billing or credit account;
- b. who has previously shipped cargo with the **regulated agent** or aircraft operator; and
- c. whose business status has been verified by the **regulated agent** or aircraft operator within a given time frame."

### 2.1.3 AIR SIDE

"**air side**" means the movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is controlled."

### 2.1.4 AUTHORISED PERSON

"**authorised person**" means any person as defined in section I of the Civil Aviation Offences Act, 1972, No. 10 of 1972."

### 2.1.5 CARGO AREA

"**cargo area**" means the ground space and facilities provided for cargo handling including aprons, cargo buildings and warehouses, vehicle parks and roads associated therewith."

### 2.1.6 CARGO BUILDING

"**cargo building**" means a building through which cargo passes between air and ground transport and in which processing facilities are located, or in which cargo is stored pending transfer to air or ground transport."

### 2.1.7 CARGO

"**cargo**" means any property, other than airline stores or accompanied baggage or hand baggage, carried on an aircraft from or to South Africa to domestic and international destinations."

### 2.1.8 CONSIGNMENT SECURITY DECLARATION

"**consignment security declaration**" means a document signed by a person nominated by a **known consignor or regulated agent** certifying that the consignments(s) to which the document refers is **known cargo** which has

- a. been secured in accordance with ICAO Standard 4.3.8 (Annex 17)
- b. been received in a secure condition and has been protected from unauthorized access since being taken into the companies custody."

### 2.1.9 CONSIGNOR

"**consignor**" means for the purpose of aviation security -

- a. the origination of the goods; or
- b. the place where the goods are prepared for carriage; or
- c. the place where the goods become identifiable as airfreight."

#### 2.1.10 CONSOLIDATED CARGO

"**consolidated cargo**' means a consignment of multi-packages which has been originated by more than one person each of whom has made an agreement for carriage by air with another person other than a scheduled air carrier."

#### 2.1.11 DIPLOMATIC BAGS

"**diplomatic bags**' means items referred to under Article 27(3) of the Vienna Convention on Diplomatic relations, 1961."

#### 2.1.12 FREIGHTER CLASS KNOWN CARGO

"**freighter class known cargo**' means cargo received either directly from an **account customer** or from an **account customer** via a **regulated agent** which, for carriage on a cargo only aircraft, may be regarded as **known cargo**."

#### 2.1.13 KNOWN CARGO

"**known cargo**' means:

- a. a consignment from a **known consignor** or a **regulated agent** to which the appropriate security controls have been applied; or
- b. a consignment of **unknown cargo** which has subsequently been subjected to appropriate security controls."

#### 2.1.14 KNOWN CONSIGNOR

"**known consignor**' means the originator of property for transportation by air for their own account and who has established business with a **regulated agent** or an airline on the basis of agreed criteria."

#### 2.1.15 REGULATED AGENT

"**regulated agent**' means an agent, freight forwarder or any other entity who conducts business with an operator and provides security controls that are accepted or required by the appropriate authority in respect of cargo, courier and express parcels or mail."

#### 2.1.16 SCREENING

"**screening**' means the application of technical or other means which are intended to detect weapons, explosives or other dangerous goods or devices which may be used to commit an act of unlawful interference."

#### 2.1.17 UNACCOMPANIED BAGGAGE

"**unaccompanied baggage**' means which baggage transported as cargo and may or may not be carried on the same aircraft with the person to whom it belongs."

#### 2.1.18 UNKNOWN CARGO

"**unknown cargo**' means cargo which cannot be classified as known cargo or freighter class known cargo as defined shall be classified as unknown Cargo and shall be subject to physical search or X-ray screening before acceptance for air transport."

## 2.2 MOTIVATION

These definitions are necessary in the light of the contents of the proposed Part 108 of the regulations contained in Schedule 2B hereto.

## 2.3 WORDING OF CURRENT DEFINITIONS

The definitions of the said expressions are not presently contained in the Regulations.

**SCHEDULE 2B****PROPOSER**

SOUTH AFRICAN CIVIL AVIATION AUTHORITY  
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**INSERTION OF PART 108 INTO THE CIVIL AVIATION REGULATIONS 1997****THE CARRIAGE BY AIR OF AIR CARGO, COURIER AND EXPRESS PARCELS.****108.08.1**

(1) Cargo, courier and express parcels carried on passenger and all cargo aircraft engaged on international and domestic flights shall be subjected to security controls by all companies engaged in the acceptance, storage and forwarding of cargo, courier and express parcel consignments.

(2) All companies engaged in the acceptance, storage and forwarding of cargo, courier and express parcel consignments, intended for carriage on civil flights shall be listed with the South African Civil Aviation Authority. This will include but is not limited to an agent, freight forwarder or any entity who conducts business with an operator and provides security controls that are accepted or required by the appropriate authority in respect of cargo, courier and express parcels or mail.

(3) Each listed company shall have a security programme approved by the South African Civil Aviation Authority in respect of the acceptance, storage and forwarding of cargo, courier and express parcel consignments.

(4) Each listed company shall have a designated official responsible for security.

(5) The South African Civil Aviation Authority shall conduct inspections to ensure that the safety programme is being implemented and random checks of cargo, courier and express parcels, emanating from regulated agents shall be carried out as detailed in the National Aviation Safety Plan.

(6) The security programme referred to shall describe the current security procedures relating to cargo, courier and express parcels carried on passenger and all cargo aircraft engaged in international and domestic flights which shall also indicate reference to the requirements.

**THE DUTIES AND FUNCTIONS OF THE REGULATED AGENT****108.02.1 (1)**

The duties and functions of the regulated agent in respect of cargo, courier and express parcels carried on passenger and all cargo aircraft engaged on international and domestic flights are as follows;

- a. to establish and register the identity and the address of the consignor, and establish and record the credentials of the person who delivers the consignment as an agent of the consignor;
- b. to determine within reason, by random physical checks or screening that the contents of a consignment does not contain any prohibited articles as listed in standards 4.1.1 of the Fifth Edition of Annex 17 and reflect their description on the airwaybill and cargo manifest;
- c. to ensure that the consignments be safeguarded from unauthorised interference after the receipt, and thus that access to the cargo can be controlled;
- d. to ensure that the receipt, processing and handling of cargo be carried out by properly recruited and trained staff;
- e. to designate a person or persons responsible for the implementation, application and supervision of the required security controls;
- f. to Assure that, for the purpose of security controls, each consignment tendered to an airline or another regulated agent for air transportation be accompanied by documentation, either on the airwaybill or on a separate declaration, which provides the following information;
  - i. Name, address and identified details of the regulated agents concerned;
  - ii. Name and address of the consignor;
  - iii. Contents of the consignment;
- g. a regulated agent shall be subject to listing by the authority annually.

**108.01.1(2)**

The declaration to be signed by regulated agents shall be in the format as set out in Document SA-CATS-SEC.

**SECURITY CONTROLS****108.03.1**

Air cargo, courier and express parcels shall only be carried by air where the regulated agent, the airline or other appropriate body has applied the following security controls:

- a. Ensuring reception, processing and handling of cargo is performed by properly recruited and trained staff.
- b. Determining with in reason that the cargo does not contain any prohibited article as listed in standard 4.1.1 of Annex 17 by:
  - i. searching it by hand or physical check; or
  - ii. screening it by X-ray; or
  - iii. subjecting it to simulation; or
  - iv. applying other means both technical and biosensory (e.g. sniffers, trace detectors, dogs, etc.)
  - v. combination of above measures
  - vi. preventive measures.

**EXEMPTIONS****108.04.1**

(1) The security controls referred to in regulation 108.03.1 need not to applied in respect of

- a. Transshipment cargo, as in 108.05.1 below;
- b. Human remains;
- c. Live animals;
- d. Bona fide consignments of life-saving materials;
- e. Special nuclear materials;
- f. Diplomatic mail and
- g. High-value goods

(2) Consignments that are exempted from security controls have to be

- a. Clearly declared on shipping documents as such;
- b. Physically checked upon receipt for signs of tampering;
- c. Subject to documentary checks to establish their bona tides;
- d. Protected from unlawful interference;

**TRANSSHIPMENT CARGO****108.05.1**

Transshipment cargo arriving by air need not to be screened provided that it is protected against unauthorised interference at the transit point with suitable security procedures. Other transshipment cargo arriving from outside the transit state and not being submitted to security controls at the point of departure or en route should normally be screened in accordance with security controls and protected from unauthorised interference.

**AIR SERVICE OPERATORS RIGHT OF INSPECTION AND REFUSAL OF CARRIAGE****108.06. 1**

(1) Air service operators reserve the right to examine, or cause to be examined by its agent, the packaging and contents of all cargo, courier and express parcel consignments and to inquire into the correctness of sufficiency of information or documentation tendered in respect of any consignment.

(2) Carriers reserve the right, without assuming any liability, to refuse, delay or return any cargo, courier, express or mail consignments when circumstances so require or for security reasons, if it is believed that they may contain explosives or dangerous devices or would be transported in violation of applicable laws and regulations.

- (3) All shipments of a 'small parcel services' shall be X-rayed, physically searched or screened by other means prior to carriage.
- (4) Air service operators shall not accept cargo, courier or express parcel consignments for carriage by air unless they are known cargo or it has been physically or electronically screened by the airline. All unknown cargo must be physically searched, electronically screened or screened by other means.
- (5) Unaccompanied baggage shipped as cargo should be treated as originating from a regulated agent.

## **SECURITY SCREENING EQUIPMENT AND SECURITY SCREENING PERSONNEL**

### **108.07 1**

- (1) Any equipment used to screen cargo, courier or express parcel consignments must be capable of assisting its trained operator in the detection of explosives or dangerous devices.
- (2) The equipment used must be approved by the Authority as being suitable for the task and shall be maintained and serviced so as to meet manufacturers specifications as well as local health, safety and regulatory requirements.
- (3) Persons involved in the function of handling or screening of cargo, courier, express parcel or mail consignments either by physical, electronic or other means should be trained to a level of proficiency which will enable them to comply with the objectives of the National Aviation Safety Plan.
- (4) Officials responsible for training staff should verify that such proficiency has been attained.

## **MAIL**

### **108.08. 1**

- (1) Mail from postal authorities should be considered as cargo from a regulated agent.
- (2) The responsibility for the security screening and sealing of mail is that of the postal authorities.
- (3) Carriers must ensure that mail is received by their authorised personnel who will establish the identity of the person presenting the mail.
- (4) In order to minimise the possibility that explosives, incendiary, or other dangerous devices are placed on board an aircraft through airmail, the following measures should be considered;
  - a. Under Normal Conditions
    - i. visual inspection of mail bags to ensure they have not been tampered with;
    - ii. mail should be kept in locked or closed containers and maintained under surveillance to ensure that the mail cannot be tampered with or substituted;
    - iii. integrity of the mail sacks and seals should be verified upon receipt of the mail, again at the time of loading;
    - iv. controlled access to mail storage and loading areas by means of identification checks, as well as physical deterrents; and
    - v. surveillance of mail loading areas by all company personnel and the immediate notification to law enforcement personnel of persons or vehicles not adequately identified or authorised to be in the area.
  - b. Under Extreme Conditions
    - i. at times of high alert, measures additional to those used under normal conditions should be considered;
    - ii. Screen each piece of mail which could contain a dangerous device and deliver for flight only that mail which they can ensure is free from explosives, incendiary or other dangerous devices;
    - iii. Obtain assurance from the postal authorities that mail has been inspected for explosives, incendiary and other dangerous devices before bagging and delivery;
    - iv. Consider search of mail bags by postal authorities;
    - v. If equipment available, make use of X-ray equipment, pressure chamber (two cycles of compression/decompression) and delay mail for a variable period;

vi. Circumstances may suggest mail not be carried by air.

## CATERING SECURITY AND BONDED STOCKS

### 108.09. 1

- (1) Sabotage can be perpetrated through catering, stores and duty free goods placed on board aircraft.
- (2) If the threat warrants, a search of the galley before loading of supplies must be carried out.
- (3) The following measures must be taken
  - a. Catering and bonded stocks must be prepared within a secure facility and only authorised employees, appointed agents may place such commodities on board an aircraft.
  - b. Catering must be prepared in a secure environment and, where possible, be sealed with a tamper proof seal to prevent tampering and interference.
  - c. Catering equipment, material and laundry supplies may only be issued to authorised and appropriately identified persons.
  - d. Liquor stocks and other bonded items kept at airports and transit airports must be in bonded and stowed in secure storerooms. A proper record must be kept of stocks received and issued.
  - e. Liquor/duty free articles on board aircraft must be stored in secure lockable containers or trolleys.
  - f. Catering supplies may only be removed from an aircraft or facility by authorised employees, agent or representatives.

## ADDITIONAL SECURITY MEASURES IN CASE OF A SPECIFIC THREAT

### 108.09.1

1. The measures to be implemented to increase or decrease cargo and mail security measures should on increase or decrease be justified as set out in Document SA-CATS-SEC.

## CONSIGNMENT SECURITY DECLARATIONS

### 108.10.1(1)

- (1) Goods travelling as export cargo must have been security cleared prior to departure. This may take place at the point where the goods are initially prepared for carriage as air cargo (the known consignor), at the airline's transit shed, or at some point between. Once the integrity of the consignment has been established it may be deemed to be **known cargo** and should be certified as such.
- (2) In order to remain as known cargo, consignments must be kept secure within the custody of regulated agents (or aircraft operators) and their approved sub contractors. Known cargo that is passed to a non-regulated agent, a non-approved sub contractor, or that about which suspicions have been raised must be treated as unknown cargo. There must be an unbroken and verifiable trail of accountability, in which the consignment security declaration plays an important part.
- (3) As known cargo passes from one principal to another, so a new declaration must be made. The consignment security declaration covers the activities of the principal and their approved sub-contractors. For example, where known cargo is collected by an approved sub-contractor of a regulated agent, delivered to that agent's premises, then delivered to the aircraft operator by another approved sub-contractor, one consignment security declaration should be raised **by the regulated agent** to cover all three stages. The regulated agent is responsible for ensuring that their sub-contractors comply with the security requirements.
- (4) A consignment security declaration must be drawn up for each consignment of known cargo. It may be a separate document or may be incorporated into existing documentation. It must relate specifically to that consignment and should carry a unique means of reference, for example the airwaybill or invoice Number. Declarations must be signed and dated by a member of staff trained and authorised to do so.
- (5) Consignments, other than those specifically exempt from security controls, not covered by a valid consignment security declaration must be treated as **unknown cargo**.
- (6) Consignments presented as **unknown cargo** should not be covered by any security declaration. Declarations such as "this consignment may be considered to be unknown cargo" are unnecessary and cause confusion. Cargo must be treated as unknown unless certified as known cargo.

## APPROVAL

**108.1 1.1**

- (1) Approval for operating as a regulated agent in the Republic of South African has to be obtained from the Commissioner.
- (2) The approval referred to in subregulation (1) is renewable on an annual basis before the expiry date of the existing approval.
- (3) Such an approval shall only be issued on compliance with the relevant provisions of the Regulations.
- (4) An application for the said approval has to be accompanied by the fee as prescribed in Part 187.
- (5) Before the issuing of the said approval the Authority will inspect the operation of the applicant to ascertain whether it complies with the relevant provisions.
- (6) An inspection fee at the hourly rate as set out in regulation 187.00.22A is payable before issuing of the required approval.
- (7) The above provisions is applicable mutatis mutatis in respect of an application for the renewal of a granted approval.

**REQUIREMENTS****108.12.1**

- (1) The checklist for use in the vulnerability assessment of premises and procedures by regulated agents is contained in DOCUMENT SA-CATS-SEC.
- (2) The necessary components of a cargo security programme are contained in DOCUMENT SA-CATS-SEC.
- (3) The known cargo agreement has to comply with the format contained in DOCUMENT SA-CATS-SEC.

**TRAINING****108.03. 1(1)**

- (1) It shall be the responsibility of
  - a. operators of all airlines operating in the Republic of South Africa; and
  - b. the management of all licensed airports in the Republic of South Africa

to ensure that its personnel who are involved in the performing of duties and the screening of functions relating to security which in respect of paragraph (a) will include all airline staff, security supervisions and security managers and in respect of paragraph (b) managers and supervisions involved in the performance of duties and the exercising of functions relating to security undergo the required training.

- (2) The nature, contents and scope of the training to be received by the categories mentioned above is to be in accordance with Document SA-CATS-SEC.
- (3) In order for an aviation security trainer or instructor to provide the necessary training or instruction the requirements as set out in Documents SA-CATS-SEC are to be complied with.

**5.1 MOTIVATION FOR INSERTION OF PART 108 INTO THE CIVIL AVIATION REGULATIONS, 1997.**

**2.2.1** As a Contracting State, to the CHICAGO CONVENTION South Africa implements the standards of the International Civil Aviation Organisation (ICAO). Annex 17 is incorporated into South African Legislation under section 22A(3) of the Aviation Act, 1962 (Act No 74 of 1962) as well as the "Security Manual of Safeguarding Civil Aviation Against Acts of Unlawful Interference (Doc 8973/5) (restricted)" approved and published by decision of the council of the International Civil Aviation Organisation in paragraph 139.02.2 of Technical Standards "Document SA-CATS-AH" (139.02.2).

**2.2.2** It is necessary to draw the attention to the following paragraphs of Annex 17 to the said Convention.

Paragraph 4.3.6

Each Contracting State shall ensure the implementation of measures at airports serving international civil aviation to protect cargo, baggage, mail, stores and operators' supplies being moved within an airport and



intended for carriage on an aircraft to safeguard such aircraft against an act of unlawful interference.

Paragraph 4.3.8

Each Contracting State shall establish measures to ensure that cargo, courier and express parcels and mail intended for carriage on passenger flights are subjected to appropriate security controls.

Paragraph 4.3.9

Each Contracting State shall establish measures to ensure that operators do not accept consignments of cargo, courier and express parcels or mail for carriage on passenger flights unless the security of such consignments is accounted for by a regulated agent or such consignments are subjected to other security controls to meet the requirements of paragraph 4.3.8.

**2.2.3** This Programme outlines security measures that an agent, freight forwarder or any other entity who conducts business with an operator agrees to apply to meet the requirements of the CAA as the "Authority" as defined in section 11 of the South African Civil Aviation Authority Act No.40, 1998 when arranging for the transportation of cargo by air to domestic or international destinations.

**2.3** The purpose of this programme is to prevent or deter the introduction of explosives or incendiary devices as an act of sabotage in INTERNATIONAL and DOMESTIC air cargo, to establish measures to ensure that consignments checked in as baggage by couriers for carriage on passenger and cargo flights are subjected to specific security controls, to establish measures to ensure the implementation of measures at airports serving international and domestic civil aviation to protect cargo, baggage, mail, stores and operator's supplies being moved within an airport and intended for carriage on an aircraft to safeguard such aircraft against an act of unlawful interference and to establish measures to ensure that cargo, courier and express parcels and mail intended for carriage on passenger and cargo flights are subjected to appropriate security controls. This is achieved by security measures, personnel identification requirements and the establishment of an audit trail which clearly documents all stages of handling and origins of particular items of domestic and international air cargo.

**SCHEDULE 3**

**PROPOSER**

SOUTH AFRICAN CIVIL AVIATION AUTHORITY  
PRIVATE BAG X08  
WATERKLOOF  
0145

**3.1 PROPOSED INSERTION OF REGULATION 187.00.11B INTO THE REGULATIONS**

"Fees relating to Part 108 187.00.11B The following fees shall be payable upon application -

- a. for an approval to operate as a regulated agent ..... R 500,00
- b. for the renewal of an approval to operate as a regulated agent ..... R 500,00

**MOTIVATION**

In Part 108 provision is made for the payment of a fee in respect of an application for an approval to operate as a cargo forwarder as well as in respect of a renewal application.

**CURRENT PROVISION**

No current provision in respect of the relevant fees exists.