

CIVIL AVIATION ACT, 1949

Air Transport (Licensing) Regulations, 1958

TABLE OF REGULATIONS

PART I—INTRODUCTORY

1. Citation and commencement.
2. Interpretation.

PART II—LICENCES FOR SCHEDULED JOURNEYS

3. Application of Part II.
4. Restriction of operation without licence.
5. Minister may grant licence.
6. Applications.
7. Publication of notice of applications.
8. Objections.
9. Enquiry may be held.
10. Short period licences.
11. Matters relevant to enquiry.
12. Period of licences.
13. Provisional licences may be granted.
14. In certain cases provisional licences shall be granted.
15. Publication of decisions.
16. Revocation and suspension.
17. Surrender of licence.
18. Fees.
19. Monthly returns by licence holders.

PART III—PERMITS FOR FLIGHTS OTHER THAN SCHEDULED JOURNEYS

20. Application of Part III.
21. Restriction on operation without permit.
22. Minister may grant permit.
23. Applications.
24. Revocation and suspension.

PART IV—GENERAL PROVISIONS

25. Conditions of all licences and permits.
26. Restriction on transfer or assignment.
27. No right of continuance.
28. Applicability to provisional licence.
29. Offences by a corporation.
30. Certain special and general exemptions.
31. Validity of previous acts.

FIRST SCHEDULE

Applications for licences for scheduled journeys.

SECOND SCHEDULE

Publication of decisions.

THIRD SCHEDULE

Revocation or suspension of a licence.

FOURTH SCHEDULE

Applications for permits for flights other than scheduled journeys.

L.N. 203 of 1958

CIVIL AVIATION ACT, 1949

Air Transport (Licensing) Regulations, 1958

Commencement : 18th December, 1958

In exercise of the powers conferred by section 13 of the Civil Aviation Act, 1949, as applied to Nigeria by Article 3 of the Colonial Civil Aviation (Application of Act) Order, 1952, the Governor-General, after consultation with the Council of Ministers and with the approval of the Secretary of State, has made the following regulations—

PART I.—INTRODUCTORY

1. These regulations may be cited as the Air Transport (Licensing) Regulations, 1958.

2. In these regulations, unless the context otherwise requires—

“air service” means any service performed by any aircraft for hire or reward :

Provided that a member of a club carried in an aircraft belonging to the club for the purpose of instruction shall not, if the instructor is also a member of the club, be deemed to be carried for hire or reward, notwithstanding that payment is made for such instruction or carriage ;

“licence” means a licence granted under regulation 5 ;

“Minister” means the Minister charged with responsibility for matters relating to civil aviation ;

“permit” means a permit granted under regulation 21 ;

“provisional licence” means a licence granted under regulation 13 or 14 of these regulations ;

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such a manner that the benefits thereof are available to members of the public from time to time seeking to take advantage of them.

PART II.—LICENCES FOR SCHEDULED JOURNEYS

3. This Part shall not apply to the carriage of passengers, mail or cargo by air for hire or reward upon journeys other than scheduled journeys.

4. (1) Subject to the provisions of these regulations, it shall not be lawful for any person to use any aircraft for the carriage in Nigeria of passengers, mail or cargo for hire or reward upon any scheduled journey between two places, of which any one is in Nigeria except under, and in accordance with the provisions of, a licence or a provisional licence granted under these regulations.

(2) Any person who uses any aircraft in contravention of the provisions of these regulations shall be liable in the case of a first offence to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, and in the case of a second or subsequent offence to a fine not exceeding five thousand pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

Citation.

Interpretation.

Application of Part II.

Restriction of operation without licence.

(3) The provisions of this regulation shall not apply in respect of the aircraft of any State, which is a party to the International Air Services Transit Agreement, signed at Chicago on the 7th December, 1944, which fly across Nigeria without landing or which land in Nigeria in accordance with the provisions of that Agreement.

5. (1) The Minister may grant to any person applying therefor a licence to carry passengers, mail or cargo by air for hire or reward on such scheduled journeys, and subject to such conditions, as may be specified in the licence.

Minister
may grant
licence.

(2) The Minister may attach such conditions to any licence as he may think fit having regard to the nature and circumstances of the application therefor.

(3) It shall be a condition of every licence that—

(a) the holder of the licence and any person having a financial interest in the business of the holder of the licence shall refrain from stipulating that any other person shall—

(i) refuse booking facilities to any other holder of a licence ;

(ii) shall grant such facilities to such other holder only on onerous terms ; and

(b) the holder of the licence shall perform all such reasonable services as the Minister may from time to time require in regard to the conveyance of mails (and of any persons who may be in charge thereof) upon journeys made under the licence. The remuneration for any such services shall be such as may be from time to time determined by agreement between the Minister and the holder of the licence :

Provided that any dispute, difference or question which may arise as to the remuneration to be paid to the licence-holder in respect of such services or as to the rights, duties or liabilities of the licence-holder or the Minister hereunder or otherwise in relation to any of the matters aforesaid shall in default of agreement be referred to arbitration in pursuance of the provisions of the Arbitration Ordinance.

Cap. 13.

6. Applications for licences shall be made in the form and manner, and shall contain the particulars prescribed in the First Schedule hereto. Every applicant shall furnish to the Minister such further information as the Minister may reasonably require.

Applications,
First
Schedule.

7. The Minister shall cause to be published in the Gazette such particulars of any applications for licences received by him as he may consider necessary and shall specify a date, not less than twenty-eight days after the publication of the notice, by which any representations or objections from any person with a genuine interest in the application can be made to the Minister as prescribed under regulation 8.

Publication
of notice of
applications.

8. (1) Every representation or objection with regard to the application for a licence shall be in writing and must be signed by the objector, or, if the representation or objection is made by any corporate body it shall be signed by any person duly authorised in that behalf by such body.

Objections.

(2) Every representation or objection shall state the specific grounds on which it is based and shall specify any conditions which it may be desired to attach to the licence if granted.

(3) A copy of every such representation or objection shall be sent by the person making the same to the applicant for the licence at the same time as it is sent to the Minister, and the Minister shall be under no obligation to entertain any representation or objection received after the date prescribed in the published notice of application.

Enquiry may be held.

9. The Minister may, for the purpose of determining an application for a licence or an amendment to an existing licence, cause an enquiry to be held by persons appointed by him, and shall cause an enquiry to be held if the applicant, or any person who has duly made a representation or an objection, requires the Minister to do so. The persons appointed to hold such enquiry shall be in no way associated with or interested in the applicant or any objector to an application and shall make such recommendations to the Minister as they think fit. The Minister, when deciding to grant, amend, revoke or renew a licence, shall take such recommendations into consideration. Not less than fourteen days notice of the time and place of any enquiry under this regulation shall be given to the applicant and any person who has duly made a representation or an objection, and such persons shall be entitled to be heard at the enquiry.

Short period licences.

10. Where an application is made to the Minister for a licence to remain in force for a period not exceeding 30 days and he is satisfied that it is in the public interest that the application should be determined with expedition, he may determine the application and grant a licence accordingly; and the provisions of this Part as to the publication of particulars of applications, the making of objections and representations, and the holding of enquiries at the instance of the applicant or an objector shall not in that case apply.

Matters relevant to enquiry.

11. The persons appointed to hold an enquiry under these regulations shall have regard to the co-ordination and development of air services generally with the object of ensuring the most effective service to the public while avoiding uneconomical overlapping, and generally to the interests of the public, including those of persons requiring or likely to require facilities for air transport as well as those of persons providing such facilities, and in particular to the following matters—

- (a) the existence of other air services in the area through which the proposed services are to be operated;
- (b) the demand for air transport in that area;
- (c) the degree of efficiency and regularity of the air services, if any, already provided in that area, whether by the applicant or by other operators;
- (d) the period for which such services have been operated by the applicant or by other operators;
- (e) the extent to which it is probable that the applicant will be able to provide a satisfactory service in respect of safety, continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency;
- (f) the financial resources of the applicant;
- (g) the type of aircraft proposed to be used;
- (h) the remuneration and general conditions of employment of aircrew and other personnel employed by the applicant, and there shall be taken into consideration any objections or representations duly made in accordance with the provisions of these regulations.

12. The Minister may grant licences to remain in force for such period as he may in each case determine, commencing on the date on which the licence is expressed to take effect:

Period of licences.

Provided that if, on the date of the expiration of a licence, an application to the Minister is pending for the grant of a new licence in substitution for an existing licence held by the applicant, the existing licence shall continue in force until the application is granted or refused.

13. The Minister may if he thinks fit, pending the determination of an application for a licence, grant to the applicant a provisional licence which shall remain in force until the application is determined.

Provisional licences may be granted.

14. Where a person has, within one month of the date when the provisions of these regulations as to applications for licences come into operation, duly applied for a licence authorising him to perform such journeys as may be necessary to enable him to continue to operate any air service and satisfied the Minister that he was immediately before that date operating that service the Minister shall grant to the applicant a provisional licence authorising him to continue to operate that service, and such provisional licence shall remain in force—

In certain cases provisional licences shall be granted.

(a) if the application is granted, until the date from which the licence is expressed to take effect; or

(b) if the application is refused, for a period of 3 months from the date of the decision of the Minister.

15. The Minister shall cause to be published in the manner prescribed in the Second Schedule such particulars of his decisions on applications for licences and of his decisions to revoke or suspend a licence as are prescribed in the Second Schedule.

Publication of decisions. Second Schedule.

16. (1) Subject to the provisions of paragraph (2), the Minister may revoke or suspend a licence if—

Revocation and suspension

(a) the holder of the licence has, since the licence was granted, been convicted of an offence against regulation 4 or 21; or

(b) where the holder of the licence is a body corporate, any officer of that body corporate, has, since the licence was granted, been convicted, in his capacity as such officer, of an offence against regulation 4 or 21; or

(c) the holder of the licence has failed to comply with any condition subject to which the licence was granted; or

(d) it is demonstrated to the satisfaction of the Minister that an air service operated under these regulations is being so operated as to contravene any air navigation regulation for the time being in force.

(2) Before revoking or suspending any licence under sub-paragraph (c) or (d) of paragraph (1), the Minister shall give to the holder of the licence such notice as is prescribed in the Third Schedule specifying the grounds upon which it is proposed to revoke or suspend the licence, and shall not revoke or suspend the licence unless he is satisfied, after the holding of an enquiry if the holder of the licence (by such notice and in such form as is prescribed in the said Third Schedule) requires him to do so, that, owing to the frequency of the failure on the part of the holder to comply with conditions or to the failure having been wilful, the licence should be revoked or suspended.

Third Schedule

(3) The expression "officer" in this regulation means a Director, General Manager, Secretary or other similar officer, and includes any person who, with the authority of the body corporate, acts as such officer.

Surrender of licence.

17. A licence may at any time be surrendered by the holder to the Minister for cancellation. If, during the currency of a licence, the holder applies to the Minister for a new licence in substitution for the current licence, he shall, if a new licence is granted, surrender the current licence for cancellation on the date from which the new licence is expressed to take effect.

Fees.

18. (1) There shall be paid in respect of every licence a fee of £10 in respect of each year or part of a year of the term for which the licence is expressed to remain in force.

(2) There shall be paid in respect of any provisional licence granted under regulation 13 or 14 a fee of £2.

(3) No refund of any fee paid in respect of the grant of a licence shall be made, whether on the surrender of the licence or otherwise, save where a licence is surrendered before its normal date of expiry upon the grant of a new licence authorising a service over the same route, in which case there shall be refunded the sum of £10 for each full year of the unexpired period of the licence but the holder shall in addition to the normal fee for the new licence pay an additional fee of £2.

Monthly returns by licence holders

19. (1) Every holder of a licence shall make a monthly return in writing to the Minister, giving, in respect of the month to which the return relates, the particulars set out in the annexure to the licence with regard to all air services authorised by the licence.

(2) The return shall be sent to the Minister not later than two months after the expiration of the month to which the return relates.

PART III.—PERMITS FOR FLIGHTS OTHER THAN SCHEDULED JOURNEYS

Application of Part III

20. This Part shall not apply to the carriage of passengers, mail or cargo by air for hire or reward on scheduled journeys.

Restriction on operation without permit.

21. (1) Subject to the provisions of these regulations, it shall not be lawful for any person to use any aircraft for the provision in Nigeria of any air service except under, and in accordance with the conditions of, a permit granted by the Minister.

(2) Any person who uses any aircraft in contravention of the provisions of this regulation shall be liable on conviction in the case of a first offence to a fine not exceeding two hundred and fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, and in the case of a second or subsequent offence to a fine not exceeding two thousand pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

(3) The provisions of this regulation shall not apply in respect of any journey performed on the authority of Article 5 of the Convention on International Civil Aviation signed at Chicago on the 7th December, 1944, if the aircraft performing the journey flies across Nigeria without landing or lands in Nigeria for non-traffic purposes only, but shall apply in respect of any such journey if the aircraft performing the journey takes on or discharges passengers, cargo or mail in Nigeria.

22. (1) The Minister may grant to any person applying therefore a permit to use aircraft for the provision in Nigeria of such air services (other than such a service as is referred to in paragraph (1) of regulation (4) for such period and on such conditions as may be specified in the permit.

Minister may grant permit.

(2) The Minister may attach such conditions to any permit as he may think fit having regard to the nature and circumstances of the application therefor.

23. Applications for permits shall be made in the manner and shall contain the particulars prescribed in the Fourth Schedule hereto. Every applicant shall furnish to the Minister such further information as the Minister may reasonably require.

Applications. Fourth Schedule.

24. (1) The Minister may revoke or suspend any permit if—

Revocation and suspension.

(a) the holder of the permit has, since the permit was granted, been convicted of an offence against regulation 4 or 21 ; or

(b) where the holder of the permit is a body corporate, any officer of that body corporate has, since the permit was granted, been convicted, in his capacity as such officer, of an offence against regulation 4 or 21 ; or

(c) the holder of the permit has failed to comply with any condition subject to which the permit was granted.

(2) The expression "officer" in this regulation means a Director, General Manager, Secretary or other similar officer and includes any person who, with the authority of the body corporate, acts as such officer.

PART IV.—GENERAL PROVISIONS

25. It shall be a condition of every licence or permit that the requirements of any law or instrument having the force of law, for the time being in force in Nigeria, relating to air navigation or air transport shall be complied with at all times during the currency of the licence or permit in connection with all journeys made under the licence or permit.

Conditions of all licences and permits.

26. A licence or permit shall not be capable of being transferred or assigned ;

Restriction on transfer or assignment.

Provided that in the event of the death, incapacity, bankruptcy, sequestration or liquidation of the holder of a licence or permit, or of the appointment of a receiver or manager or trustee in relation to the business of the holder of a licence or permit, the person for the time being carrying out that business shall, if within fourteen days of his commencing so to do he makes application to the Minister for a new licence or permit, be entitled to provide the air services authorised by the existing licence or permit subject to the conditions thereof, until the application is determined.

27. Nothing in these regulations shall confer upon the holder of a licence or permit or upon any other person any right to the continuance of any benefits arising from the provisions of these regulations or from any licence or permit granted thereunder or from any conditions attached to any such licence or permit.

No right of continuance.

28. Any reference to a licence in paragraphs (2) and (3) of regulation 5, or regulations 19, 25, 26 or 27 of these regulations shall be construed as including reference to a provisional licence.

Applicability to provisional licence.

Offences by
a corporation.

29. Where an offence against these regulations has been committed by a body corporate, every person who, at the time of the commission of the offence was a Director, General Manager, Secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Certain
special and
general
exemptions.

30. Subject to the provisions of paragraph (3) of regulation 21 nothing in these regulations shall apply to—

(a) either the British Overseas Airways Corporation or the British European Airways Corporation in respect of such journeys on such routes as the Governor-General may specify;

(b) any air transport operator, whose principal place of business is in a country other than—

(i) the United Kingdom; or

(ii) a territory for whose foreign relations Her Majesty's Government in the United Kingdom is responsible;

in respect of journeys performed by such operator in accordance with the provisions of any agreement for the time being in force between Her Majesty's Government in the United Kingdom and the Government of that country;

but the said Corporations and air transport operators shall on request by the Minister supply to the Minister in respect of scheduled journeys such particulars as may be necessary to enable the Minister to decide upon recommendations made to him under regulation 9.

Validity
of previous
acts.
Regulations
20 of 1950.
(1950 Ann.
Vol. p. 444)

31. Any licence, provisional licence or permit granted and any requirement, agreement or recommendation made and any other thing done under the provisions of the Air Services (Licensing) Regulations having effect immediately prior to the coming into operation of these regulations shall continue to have effect and shall be deemed for all purposes to have been granted, made or done under the provisions of these regulations.

FIRST SCHEDULE

(reg. 6)

APPLICATIONS FOR LICENCES FOR SCHEDULED JOURNEYS

Applications for licences shall be made in writing to the Minister and shall be addressed to—

Permanent Secretary,
Ministry of Communications and Aviation,
Lagos.

2. Every application for a licence shall be signed by the person applying for the licence and if made by any corporate body shall be signed by a person duly authorised in that behalf by such body.

3. Every application for a licence shall be sent to the Minister so as to reach him on a date not less than eight weeks before the date on which it is desired that the licence shall take effect:

Provided that the Minister may, in his discretion, accept and deal with any application for a licence received by him after the prescribed date.

4. Application for licences shall contain the following initial particulars—

- (a) Name and address of applicant.
- (b) Places between which passengers or goods are to be carried.
- (c) Places at which intermediate landings are to be made for the purpose of loading or landing passengers or goods.
- (d) Times and frequency of the service.
- (e) Number and types of aircraft proposed to be used on the service.
- (f) Whether the service is to carry passengers, goods or both.
- (g) Maximum fares to be charged to passengers in respect of any journey or portion of a journey for which separate fares are charged.
- (h) Date on which the service is to commence.
- (i) Period for which the licence is desired.
- (j) Particulars of any insurance policy held or proposed by the applicant to cover third party risks in respect of the proposed service.
- (k) Particulars of other services operated by the applicant at the time of the application or immediately prior to that time.
- (l) Particulars of working arrangements with other companies.
- (m) Particulars of the applicant's business and an audited copy of the last published accounts.

5. On receipt of the application, the Minister shall be entitled to request the applicant to supply such further information as he may reasonably require.

SECOND SCHEDULE

(Reg. 15)

PUBLICATION OF DECISIONS

Particulars of the decisions of the Minister

- (1) on applications for licences, and
 - (2) to revoke or suspend a licence
- shall be published, by notice in the Gazette and such notices shall contain respectively the undermentioned particulars—

(i) *Application*

- (a) Name and address of applicant.
- (b) A reference to the Gazette in which notice of the application was published.
- (c) Such particulars as will enable the application to be identified.
- (d) An indication whether the licence was granted as applied for, granted with modifications (the modifications to be stated) or refused.

(ii) *Revocation or Suspension*

- (a) Name and address of applicant.
- (b) Such information as will enable the licence to be identified including places between which passengers or goods are to be carried.

- (c) Places at which intermediate landings are to be made for the purpose of loading or landing passengers or goods.
- (d) Date from which revocation or suspension takes effect and, in the case of suspension, the period of suspension.
- (e) The grounds on which the licence is revoked or suspended.

THIRD SCHEDULE

(Reg. 16)

REVOCATION OR SUSPENSION OF A LICENCE

The notice to be given by the Minister to the holder of a licence specifying the grounds upon which it is proposed to revoke or suspend the licence shall be not less than 28 days' notice in writing and any request by the holder of the licence that an enquiry shall be held shall be sent to the Minister so as to reach him within 7 days from the date of such notice.

FOURTH SCHEDULE

(Reg. 23)

APPLICATIONS FOR PERMITS FOR FLIGHTS OTHER THAN SCHEDULED JOURNEYS

Applications for permits under PART III shall be made in writing or by telegram to the Minister and shall be addressed to—

The Permanent Secretary,
Ministry of Communications and Aviation,
Lagos.

2. Applications for permits shall contain the following initial particulars—

- (a) Name of operator.
- (b) Type of aircraft and registration marks.
- (c) Date and time of arrival at, and departure from, the airport or airports concerned.
- (d) Place or places of embarkation or disembarkation, as the case may be, of passengers and freight.
- (e) Purpose of flight and number of passengers and for nature and amount of freight.
- (f) Name, address and business of charterer, if any.

MADE at Lagos this 17th day of December, 1958.

M. JENKINS,
Deputy Secretary to the Council of Ministers

EXPLANATORY NOTE

As a consequence of the revocation of the West African Territories (Air Transport) Order in Council, 1946 to 1954, it becomes necessary to prescribe new regulations in respect of licensing air services under the Civil Aviation Act, 1949. These regulations carry out such purpose and differ little from Regulations 20 of 1950 which they supersede, but they apply only to Nigeria. Powers formerly exercised by the Authority will in future be exercised by the Minister concerned.

L.N. 204 of 1958

WEST AFRICAN TERRITORIES (AIR TRANSPORT)
ORDERS IN COUNCIL, 1946 TO 1956

Air Services (Licensing) (Revocation) Regulations, 1958

Commencement : 18th December, 1958

In exercise of the powers conferred by the West African Territories (Air Transport) Orders in Council, 1946 to 1956, the West African Air Transport Authority, with the approval of the Secretary of State, has made the following regulations—

1. These regulations may be cited as the Air Services (Licensing) (Revocation) Regulations, 1958.

2. The Air Services (Licensing) Regulations are hereby revoked.

MADE by the West African Air Transport Authority, Lagos, 18th December, 1958.

H. C. BRILLIANT,
Secretary

Citation.

Revocation.
Regulations
No. 20 of
1950.
(1950 Ann.
Vol. p. 444)

EXPLANATORY NOTE

These regulations revoke the Air Services (Licensing) Regulations which have been superseded by new regulations made under the Civil Aviation Act 1949.

L.N. 205 of 1958

STAMP DUTIES ORDINANCE (CHAPTER 209)

Stamp Duties (West African Airways Company (Nigeria) Limited)
Resolution, 1958*Commencement : 18th December, 1958*

RESOLVED, That, in accordance with section 114 of the Stamp Duties Ordinance, the duty chargeable under the heads "Capital Duties" and "Conveyance or Transfer on Sale" in the Schedule to that Ordinance in respect of the formation of a company known as the West African Airways Company (Nigeria) Limited and the transfer of assets to that Company from the West African Airways Corporation be reduced to a total sum of £10,000.

DATED this 28th day of November, 1958.

B. ADE. MANUWA,
Clerk of the House of Representatives

L.N. 206 of 1958

JURY ORDINANCE (CHAPTER 97)
Jury Exemption (Lagos) (No. 3) Notice 1958
Commencement : 18th December, 1958

In exercise of the powers conferred by section 6 of the Jury Ordinance the Governor-General gives the following notice :—

Citation
and
application.

1. This notice may be cited as the Jury Exemption (Lagos) (No. 3) Notice, 1958, and shall apply in relation to service as a juror in any court established in and for Lagos.

Exemption.

2. The members of the staff of the Federal Government Printing Department are hereby declared to be exempted from service as jurors.

GIVEN at Lagos the 4th day of December, 1958.

A. F. F. P. NEWNS,
Secretary to the Governor-General