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LEGAL NOTICE NO. 145 OF 2013

CIVIL AVIATION AUTHORITY ACT, 2009
(Act No. 10 of 2009)

CIVIL AVIATION AUTHORITY (AIR NAVIGATION SERVICES)
REGULATIONS, 2013
(Under Section 104)

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PART I
PRELIMINARY

Title

1. These Regulations may be cited as the Civil Aviation Authority (Air Navigation Services) Regulations, 2013, and shall come into force on the date of publication in the Gazette.

Interpretation.

2. In these Regulations unless the context otherwise requires, words or expressions used in the Act have the same meaning as in these Regulations, and-

“accident” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards an aircraft with the intention of flying in that aircraft until the time that person disembarks and-

(a) a person is fatally or seriously injured as a result of-

(i) being in the aircraft;

(ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or

(iii) direct exposure to jet blast;

“accuracy” means a degree of conformance between the estimated or measured value and the true value;

“Act” means Civil Aviation Authority Act, 2009;

“aeronautical data” means a representation of aeronautical facts, concepts or instructions in a formalized manner suitable for communication, interpretation or processing;

“aeronautical information” means information resulting from the assembly, analysis and formatting of aeronautical data;

“aeronautical information circular (AIC)” means a notice containing information that does not qualify for the origination of a NOTAM or for inclusion in the AIP, but which relates to flight safety, air navigation, technical, administrative or legislative matters;

“aeronautical information service (AIS)” means a service established within the defined area of coverage responsible for the provision of aeronautical information or data necessary for the safety, regularity and efficiency of air navigation;

“AIP amendment” means permanent change to information contained in the AIP;

“AIP supplement” means temporary changes to the information contained in the AIP which are published by means of special pages;

“AIRAC” an acronym means, aeronautical information regulation and control signifying a system aimed at advance notification based on common effective dates of circumstances that necessitate significant changes in operating practices;

“assemble” means a process of merging data from multiple sources into a database and establishing a baseline for subsequent processing;

“aerodrome” means a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“aeronautical fixed service (AFS)” means a telecommunication service between specified fixed points provided primarily for the safety of air navigation and for the regular, efficient and economical operation of air services;

“aeronautical information publication (AIP)” means a publication issued by or with the authority of a State and containing aeronautical information of a lasting character essential to air navigation;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“air navigation services” includes air traffic management, communication, navigation and surveillance, meteorological services for air navigation, search and rescue and aeronautical information services;

“air navigation services facility” means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, any structures, mechanisms, lights, beacons, marks, communicating systems, or other instruments or devices used or useful as an aid to the safe taking off, navigation, and landing of aircraft and any combination of such facilities;

“air navigation services provider” means an independent entity established for the purpose of operating and managing air navigation services and empowered to manage and use the revenues generated to cover its costs;

“air traffic” means all aircraft in flight or operating on the manoeuvring area of an aerodrome;

“air traffic service” means a generic term meaning variously, flight information service, alerting service, air traffic control service (area control service, approach control service or aerodrome control service);

“air traffic control service” means a service provided for the purpose of preventing collisions between aircraft and on the manoeuvring area between aircraft and obstructions and expediting and maintaining an orderly flow of air traffic;

“Authority” means the Swaziland Civil Aviation Authority;

“authorised person” means a person authorized by the Authority either generally or in relation to a particular case or class of cases and any reference to an authorized person includes reference to the holder for the time being of an office designated by the Authority;

“certificate” means the certificate for the provision of air navigation services issued by the Authority under Part II of these Regulations;

“control area” means a controlled airspace extending upwards from a specified limit above the earth;

“controlled aerodrome” means an aerodrome at which air traffic control service is provided to aerodrome traffic;

“controlled flight means any flight which is subject to an air traffic control clearance;

“control zone” means a controlled airspace extending upwards from the surface of the earth to a specified upper limit;

“cyclic redundancy checks (CRC)” means a mathematical algorithm applied to the digital expression of data that provides a level of assurance against loss or alteration of data;

“data link communications” means a form of communication intended for the exchange of messages via a data link;

“data quality” means a degree or level of confidence that the data provided meets the requirements of the data user in terms of accuracy, resolution and integrity;

“flight crew member” means a licensed crew member charged with duties essential to the operation of an aircraft during a flight duty period;

“flight information centre” means a unit established to provide flight information service and alerting service;

“flight information region” means airspace of defined dimensions within which flight information service and alerting service are provided;

“flight information service” means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

“forecast” means a statement of expected meteorological conditions for a specified time or period, and for a specified area or portion of airspace;

“incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“integrated aeronautical information package” means a package which consists of the following elements-

- (a) AIP, including amendment service;
- (b) supplements to the AIP;
- (c) NOTAM and PIB;
- (d) AIC; and
- (e) checklists and lists of valid NOTAM;

“integrity aeronautical data” means a degree of assurance that an aeronautical data and its value has not been lost nor altered since the data origination or authorized amendment;

“international NOTAM office” means an office designated for the exchange of NOTAM internationally;

“meteorological office” means an office designated to provide meteorological service for international air navigation;

“NOTAM” means a notice distributed by means of telecommunication containing information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is essential to personnel concerned with flight operations;

“operator” means a person, organization or enterprise engaged in or offering to engage in an aircraft operation;

“printed communications” means communications which automatically provide a permanent printed record at each terminal of a circuit of all messages which pass over such circuit;

“runway” means a defined rectangular area on a land aerodrome prepared for the landing and take-off of aircraft;

“runway visual range (RVR)” means the range over which the pilot of an aircraft on the centre line of a runway can see the runway surface markings or the lights delineating the runway or identifying its centre line;

“rescue” means an operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety;

“search” means an operation normally coordinated by a rescue coordination centre or rescue sub-centre using available personnel and facilities to locate persons in distress;

“search and rescue service” means the performance of distress monitoring, communication, co-ordination and search and rescue functions, initial medical assistance or medical evacuation through the use of public and private resources, including cooperating aircraft, vessels and other craft and installations;

“traceability” means the ability to trace the history, application or location of that which is under consideration;

“validation” means the confirmation, through the provision of objective evidence, that the requirements for a specific intended use or application have been fulfilled; and

“verification” means the confirmation, through the provision of objective evidence, that specified requirements have been fulfilled.

Application

3. These Regulations shall apply to a person who wants to become, or is, an air navigation service provider but shall not apply to a person providing air navigation services in the course of the duties of that person for the military or any air navigation service provided by the military.

PART II

CERTIFICATION OF AIR NAVIGATION SERVICE PROVIDERS

Requirements for the provision of air navigation services

4. A person shall not provide air navigation services in the designated airspace, aerodromes and portions of the airspace over the high seas that lie within the designated airspace unless-

- (a) the person holds a certificate issued under these Regulations; and
- (b) the services are provided in accordance with the requirements prescribed by the Authority and procedures specified in the Manual of Air Navigation Service Operations (MANSOPs).

Application for certificate

5. A person applying for a certificate shall make the application in the form prescribed by the Authority and the form shall be accompanied by-

- (a) the manual of air navigation service operations (MANSOPs) of the applicant;
- (b) a written statement setting out the services and locations at which the services will be provided; and
- (c) the prescribed fee.

Issuance of certificate

6. (1) The Authority shall, before issuing a certificate, be satisfied that-

- (a) the personnel of the applicant are adequate in number and have the necessary competency and experience to provide the service;
- (b) the MANSOPs prepared and submitted with the application contains all the relevant information;
- (c) the facilities, services and equipment are established in accordance with these Regulations;
- (d) the operating procedures make satisfactory provision for the safety of aircraft;
- (e) an approved safety management system is in place;
- (f) the applicant has approved procedures to meet the requirements of the Civil Aviation Authority (Security) Regulations;
- (g) the applicant has financial capability to provide the service; and
- (h) the applicant has an insurance policy in force in relation to the services provided.

(2) Subject to sub-regulation (1), the Authority may set any other conditions that may be considered necessary.

(3) The issuance of a certificate shall be subject to compliance with these Regulations and any other condition that may be specified or notified by the Authority in accordance with a safety audit and inspection.

(4) The Authority may refuse to grant a certificate to an applicant and where the Authority refuses, it shall notify the applicant, in writing, of the reasons for the refusal, not later than fourteen days after making that decision.

Contents of the certificate

7. A certificate issued under these Regulations shall include among others, the following information-

- (a) the holder's name and physical address of its principal place of business;
- (b) a list of services covered by the holder's certificate; and
- (c) for each air traffic service-
 - (i) the location from which the service will be provided; and
 - (ii) if the service is to be provided within a particular airspace or controlled aerodrome designated to the provider by the Authority.

Validity of a certificate

8. A certificate shall be valid for a period of two years from the date of issue, unless suspended, cancelled or revoked in accordance with these Regulations.

Renewal of certificate

9. (1) A person applying for the renewal of a certificate shall submit an application in a form and pay the fee prescribed by the Authority.

(2) The application shall be submitted to the Authority not less than 60 days before the expiry of the certificate.

(3) The renewal of a certificate shall be subject to compliance with these Regulations and any other conditions that may be specified or notified by the Authority.

Surrender of certificate

10. (1) Subject to sub-regulation (2) and any conditions prescribed by the Authority, a holder of a certificate may surrender the certificate to the Authority at any time or when requested to do so by the Authority.

(2) A holder of a certificate who wishes to surrender the certificate shall give the Authority not less than 180 days notice in writing, before the date on which the certificate is to be surrendered.

(3) Upon expiry of the period in sub-regulation (2), an air navigation service provider shall not provide services unless authorized to do so by the Authority.

Amendment of certificate

11. (1) The Authority may amend a certificate upon-

- (a) application made by a holder of a certificate in the prescribed form; or
- (b) the Authority's initiative, where the Authority considers it necessary.

(2) A holder of a certificate applying to the Authority for amendment of a certificate under sub-regulation (1) shall be required to-

- (a) attach to the application form two copies of proposed amendments in the MANSOPs; and
- (b) pay the prescribed fee.

(3) Where the Authority initiates amendments under sub-regulation (1) the holder of a certificate shall be required to make amendments in the MANSOPs accordingly.

Display of certificate

12. (1) The holder of a certificate shall display the certificate, or a copy of the certificate, in a conspicuous place, generally accessible to the public at the holder's principal place of business.

(2) Where a copy of the certificate is displayed under sub-regulation (1), the holder of the certificate shall produce the original certificate to the Authority for inspection if requested to do so.

Transfer of certificate

13. A certificate issued under these Regulations shall not be transferable.

Suspension and revocation of certificates.

14. (1) The Authority may suspend provisionally, pending further investigation, any certificate issued under these Regulations, if it considers that-

- (a) a relevant provision of the Act or these Regulations, or a condition in the certificate, has not been, or is not being, complied with;
- (b) false or materially incorrect information was given to the Authority in the application for the certificate; or
- (c) it is in the public interest to do so.

(2) The Authority may, upon the completion of an investigation which shows sufficient ground to the Authority's satisfaction, suspend, vary or revoke any certificate issued under these Regulations.

(3) A holder or any person having possession or custody of any certificate which is suspended, revoked or varied under these Regulations shall surrender the certificate to the Authority within 14 days from the date of suspension, revocation or variation.

Register of certificate holders

15. (1) The Authority shall keep and maintain a register showing-

- (a) the name of the holder of the certificate;
- (b) date of issue or renewal of the certificate;
- (c) type of service offered by the holder of the certificate;
- (d) expiry date of the certificate;
- (e) date of revocation or suspension of the certificate, if any;
- (f) physical and postal address of the holder of the certificate; and.
- (g) any other particulars that may be prescribed by the Authority.

(2) Any changes in the particulars recorded under sub-regulation (1) shall be entered in the register by the Authority.

(3) The register shall be a public document and any person may obtain information contained in the register upon payment of the prescribed fee.

PART III

MANUAL OF AIR NAVIGATION SERVICES OPERATIONS

Requirements for the manual of ANS operations

16. (1) The manual of air navigation services (ANS) operations submitted shall be-

- (a) type written;
- (b) signed by the operator;
- (c) in a format that is easy to revise;
- (d) organized in a manner that facilitates the preparation, review and approval processes; and

- (e) in a system that records the current pages and any amendments, including a page for logging revisions.

(2) A holder of a certificate shall keep at least one approved copy of the manual at the principal place of business.

Contents of the manual of ANS operations

17. (1) A manual of air navigation service operations shall contain all information and instructions necessary to enable the personnel of an air navigation service provider perform their duties and in particular shall include-

- (a) services to be provided;
- (b) personnel requirements and their responsibilities;
- (c) training and performance assessment of staff and how that information is tracked;
- (d) safety management system and quality assurance;
- (e) contingency plans developed for part or total system failure;
- (f) compliance with the Civil Aviation Authority (Security) Regulations as required;
- (g) facilities and equipment and how they are installed and maintained;
- (h) fault and defect reporting;
- (i) maintenance of documents and records;
- (j) search and rescue responsibilities and co-ordination; facility operations and maintenance plan and procedure;
- (k) schedule of the proposed hours of service for the first 12 months of operation;
- (l) a summary of safety factors considered before seeking certification;
- (m) systems and procedures to ensure separation between controlled flights and active special use airspace; and
- (n) any other information requested by the Authority.

Amendment of the manual of ANS operations

18. (1) For the purpose of maintaining the accuracy of the information in MANSOPs, the holder of a certificate shall, whenever necessary, amend the manual.

(2) The Authority may issue a written directive requiring the holder of a certificate to alter or amend the manual.

(3) Notwithstanding sub-regulation (1), the holder of a certificate shall submit the proposed amendment to the Authority for approval before the manual is amended.

PART IV
AIR NAVIGATION SERVICES

Air navigation services facilities and standard systems

19. The Authority shall designate a service provider to-

- (a) provide in the designated portion of airspace, facilities for the provision of air navigation services;
- (b) adopt and put into operation the appropriate standard systems of communications procedures, codes, markings, signals, lighting and other operational practices and rules;
- (c) publish aeronautical maps and charts.

Approval of ANS facilities

20. A person shall not install and use air navigation service facilities in the designated airspaces and aerodromes without approval of the Authority.

Safety inspections and audit on ANS facilities

21. (1) The Authority shall carry out safety inspections and audits on air navigation facilities, services, documents and records of an air navigation service provider which may be necessary to determine compliance with these Regulations.

(2) An inspector of the Authority shall have unrestricted access to the facilities, installations, records and documents of an air navigation services and the air navigation meteorological service provider to determine compliance with these regulations.

(3) The safety inspections and audits shall be carried out as prescribed by the Authority.

Production of documents

22. A holder of a certificate shall, if requested by an authorized person, produce any relevant documents under the possession of that holder within seventy-two hours of that request.

ANS contingency plan

23.(1) A holder of a certificate shall develop and maintain contingency plans for implementation in the event of disruption or potential disruption of air navigation services in the airspace for which the holder is responsible.

(2) The holder of a certificate shall liaise with other air navigation service providers in adjacent or contiguous airspaces while developing contingency plans.

(3) The contingency plan shall include-

- (a) the actions to be taken by the certificate holder's personnel responsible for providing the service;
- (b) possible alternative arrangements for providing the service; and
- (c) the arrangements for resuming normal operations for the service.

Alternative designated service provider

24. The Authority may, when it considers it necessary in the public interest, appoint an alternative designated service provider to provide service in respect of a certificate suspended by the Authority for the duration of that suspension.

Designation of Airspace

25.(1) The Authority shall designate portions of the airspace or particular aerodromes for the provision of air traffic services.

(2) The Authority shall designate portions of the airspace or the particular aerodromes as follows-

- (a) flight information region;
- (b) control area;
- (c) control zone;
- (d) controlled aerodromes.

(3) In determining the need for the provision of air traffic services, the Authority shall take into consideration-

- (a) the types of air traffic involved;
- (b) the density of air traffic;
- (c) the meteorological conditions; and
- (d) any other factors which may be relevant.

(4) Upon application by the service provider for air traffic services to be provided, the Authority shall designate the service provider responsible for providing such services.

(5) The Authority shall publish the designation of a particular portion of the airspace in the relevant aeronautical publications.

Provision of air traffic services

26. The holder of a certificate shall-

- (a) apply for the portions of the airspace and the aerodromes which shall be provided with air traffic services; and
- (b) provide air traffic services that are prescribed by the Authority.

Coordination in air traffic services

27. An air traffic service provider shall, in carrying out its objectives, establish procedures for coordinating with air operators, military authorities, meteorological service providers and aeronautical information service providers by-

- (a) making available to the air operators information to enable them meet their obligations;
- (b) coordinating with the military authorities responsible for activities that may affect civil flights;
- (c) providing the most up to date meteorological information for aircraft operations;
- (d) providing timely and up to date information to meet the need for in-flight information.
- (e) exchanging and coordinating aeronautical information relating to the safety of air navigation between adjacent air traffic service units.

Responsibility for control

28. A holder of a certificate shall establish procedures to ensure responsibility of control of an aircraft and transfer of that responsibility as prescribed by the Authority.

Communication requirements

29. A holder of a certificate shall establish communication requirements as prescribed by the Authority.

Air Traffic Incidents

30. A holder of a certificate shall establish procedures for the notification, investigation, and reporting of air traffic incidents, which shall be made in a prescribed incident report form.

Aircraft in distress

31. A holder of a certificate shall-

- (a) make provision for assistance to aircraft in distress in the designated portion of airspace;
- (b) collaborate in coordinated measures when undertaking search and rescue for aircraft in distress.

Automatic recording of ATS data and communications

32. (1) A holder of a certificate shall-

- (a) make provision for the automatic recording of air traffic service data and communications; and
- (b) retain the recorded air traffic service data and communications for a period of at least thirty days.

(2) Subject to sub-regulation (1), the recorded air traffic service data and communications, if pertinent to accident and incident investigations, shall be retained for longer periods until it is evident that it is no longer required.

Safety management system

33. A holder of a certificate shall have a safety management system that complies with the requirements prescribed by the Authority.

Installation, operation and maintenance of CNS systems.

34. (1) The holder of a certificate shall ensure that the communication, navigation and surveillance systems are installed, operated, maintained, available and reliable in accordance with the requirements prescribed by the Authority.

(2) A person shall not perform a function related to the installation, operation or maintenance of any communication, navigation and surveillance system unless-

- (a) that person has successfully completed training in the performance of that function; and
- (b) the holder of a certificate is satisfied that the technical person is competent in performing that function.

Facility approval and flight inspection

35. (1) The Authority shall approve all the communication, navigation and surveillance facilities before their installation, use, decommissioning, upgrading or relocation in the designated airspace and aerodromes.

(2) A holder of a certificate shall ensure that the radio navigation aids prescribed by the Authority are available for use by aircraft engaged in air navigation and are subjected to periodic ground and flight inspection.

Provision of aeronautical information services

36. (1) A holder of a certificate shall-

- (a) receive, originate, collate, assemble, edit, format, publish, store and distribute aeronautical information concerning the designated airspace;
- (b) publish the aeronautical information as an integrated aeronautical information package;
- (c) ensure that the aeronautical information provided is adequate, of required quality and timely;
- (d) make available to aeronautical information services of other States any information necessary for the safety, regularity or efficiency of air navigation; and
- (e) designate the office to which all elements of integrated aeronautical information package originated by other states is addressed.

(2) The holder of a certificate shall, on request by other agencies provide, all information relating to the designated airspace.

(3) The conditions, requirements, rules, procedures and standards for the publication of aeronautical information in the-

- (a) aeronautical information circular;
- (b) aeronautical information publication and its amendments;
- (c) aeronautical information publication supplements;
- (d) notice to airmen (NOTAM),

as the case may be, shall be in accordance with the requirements of these Regulations.

(4) The aeronautical information publication amendments and supplements issued under the Aeronautical Information Regulation and Control (AIRAC) system shall be as prescribed by the Authority.

Production of aeronautical charts

37. (1) A holder of a certificate shall ensure the availability of the required charts containing accurate and adequate information including information relevant to the phase of flight.

(2) The aeronautical charts produced shall be maintained in a form prescribed by the Authority.

(3) The units of measurements used shall be as prescribed by the Authority.

Telecommunication requirements

38. (1) Each international NOTAM office shall be connected through the aeronautical fixed service (AFS) within the airspace for which it provides service, to-

- (a) area control centres and flight information centres;
- (b) aerodrome or heliport at which an information service is provided with pre-flight briefing and post-flight information.

(2) The connections shall provide for printed communications.

(3) AFS shall comprise the systems and applications that are used for ground-ground communications in the international telecommunication service in accordance with the requirements of these regulations.

(4) For exchange of messages over the teleprinter circuits, the signals of the appropriate international telegraphic alphabet permitted shall be in accordance with the requirements of these regulations.

(5) For the purpose of sub regulation (3) “ground-ground” means point to point or point to multiple points.

Quality system

39. (1) A holder of a certificate shall-

- (a) establish and maintain a quality system of procedures, processes and resources in its aeronautical information services to implement quality management at each function stage; and
- (b) receive, originate, collate, assemble, edit, format, publish, store and distribute aeronautical information and data concerning the designated airspace responsible for air traffic services in accordance with its quality system.

(2) A quality system established under sub-regulation (1) shall take ensure that-

- (a) personnel are trained to acquire the skills, knowledge and competencies required to perform those functions;
- (b) procedures exist for traceability to its origin of data anomalies or errors, detected and corrected;
- (c) procedures exist for assurance and confidence that distributed aeronautical information or data satisfies stated requirements for data quality, traceability and timeliness;
- (d) publication resolution of aeronautical data shall be as prescribed by the Authority;
- (e) confidence level and integrity are as prescribed by the Authority;
- (f) the procedures for protection of electronic aeronautical data stored or in transit is monitored by the cyclic redundancy check (CRC) to assure integrity of data;
- (g) material issued as part of the integrated aeronautical information package is checked and coordinated with the responsible services before it is published;
- (h) procedures exist for validation and verification to ensure quality requirements and traceability of aeronautical data; and
- (i) procedures exist for the audit and remedial action for the compliance of the quality system.

Provision of search and rescue service

40. (1) The Authority shall designate an agency to coordinate and direct the prompt provision of search and rescue services within the designated airspace on a 24 hour basis.

(2) The designated service provider shall have in place a search and rescue manual approved by the Authority.

Provision of meteorological services for air navigation

41. (1) The Authority shall designate a service provider for the provision of meteorological services for air navigation.

(2) The service provider designated under sub-regulation (1) shall provide the following services in support of aviation-

- (a) make routine meteorological observations at regular intervals;
- (b) make special weather observations whenever specified changes occur in respect of surface wind, visibility, runway visual range, present weather, cloud and air temperature;
- (c) prepare and obtain significant weather forecasts information and maintain contact with regional specialized meteorological centres for the exchange of information on volcanic ash and tropical cyclones activity;
- (d) provide briefing, consultation and flight documentation to flight crew members and other flight operations personnel;
- (e) perform weather watch and monitoring, including the ability to detect and forecast hazards relevant to the aviation community, as prescribed by the Authority;
- (f) derive forecast and warning products to the requirements prescribed by the Authority for the pilot, air traffic service and air operators;
- (g) maintain a record of aeronautical climatologically information for supply to pilot, air traffic service and air operators and any other persons on request;
- (h) exchange aeronautical meteorological information with other aeronautical meteorological offices; and
- (i) supply information received concerning the accidental release of radioactive materials into the atmosphere within its area of responsibility to the air traffic service providers for dissemination.

(3) The conditions, rules, requirements, procedures or standards of the designation shall be prescribed by the Authority.

(4) A person shall not provide meteorological information service at an aerodrome or a portion of airspace except under conditions prescribed by the Authority.

Construction of flight procedures

42. A holder of a certificate shall develop visual and instrument flight procedures to be used by aircraft operating in the designated airspace and aerodrome as prescribed by the Authority.

Approval as procedure designer for air navigation services.

43. A person shall not design or publish visual and instrument flight procedures for use in the designated airspace and aerodromes unless that person has completed approved training in the construction of visual and instrument flight procedures.

Responsibilities of a holder of certificate.

44. A holder of a certificate authorized under regulation 42 shall carry out design work, review or amend visual and instrument flight procedures subject to any conditions specified in the certificate.

**PART V
EXEMPTIONS**

Requirements for application

45. (1) A person may apply to the Authority for exemption from any application of these Regulations.

(2) Unless in case of emergency, a person requiring exemption from any of these regulations shall make an application to the Authority at least sixty days from the proposed effective date, giving information as to-

- (a) name and contact address including electronic mail and fax if any;
- (b) telephone number;
- (c) a citation of the specific requirement from which the applicant seeks exemption;
- (d) a description of the type of operations to be conducted under the proposed exemption;
- (e) the proposed duration of the exemption;

- (f) an explanation of how the exemption would be in the public interest, that is, benefit the public as a whole;
- (g) a detailed description of the alternative means by which the applicant will ensure a level of safety equivalent to that established by the regulation in question;
- (h) a review and discussion of any known safety concerns with the requirement, including information about any relevant accidents or incidents of which the applicant is aware; and
- (i) if the applicant handles international operations and seeks to operate under the proposed exemption, an indication whether the exemption would contravene any provision of the standards and recommended practices of the International Civil Aviation Organization (ICAO).

(3) Where the applicant seeks emergency processing, the application shall contain supporting facts on the nature of the emergency.

(4) The Authority may deny, in writing, an application if it finds that the applicant has not justified the failure to apply for an exemption in time.

(5) The application for exemption shall be accompanied by the prescribed fee.

Review and publication

46. (1) The Authority shall review an application for accuracy and compliance with the requirements of Regulation 45 and if it appears satisfactory, it shall publish a detailed summary of the application for comments, within a prescribed time, in either-

- (a) the Gazette;
- (b) an aeronautical information circular; or
- (c) a daily newspaper with wide circulation.

(2) Where application requirements are not fully complied with, the Authority shall request the applicant in writing, to comply prior to publication or making a decision under sub- regulation (3).

(3) If the request is for emergency relief, the Authority shall publish the decision as soon as possible after processing the application.

Evaluation of the request

47. (1) Where the application requirements are satisfied, the Authority shall conduct an evaluation of the request to include-

- (a) determination of whether an exemption would be in the public interest;
 - (b) a determination, after a technical evaluation of whether the applicant's proposal would provide a level of safety equivalent to that established by the regulation, although where the Authority decides that a technical evaluation of the request would impose a significant burden on the Authority's technical resources, the Authority may deny the exemption on that basis;
 - (c) a determination of whether a grant of the exemption would contravene these Regulations; and
 - (d) a recommendation based on the preceding elements, of whether the request should be granted or denied, and of any conditions or limitations that should be part of the exemption.
- (2) The Authority shall notify the applicant by letter and publish a detailed summary of its evaluation and decision to grant or deny the request.
- (3) The summary referred to in sub-regulation (2) shall specify the duration of the exemption and any conditions or limitations of the exemption.
- (4) If the exemption affects a significant population of the aviation community of the State the Authority shall publish the summary in an aeronautical information circular.

PART VI GENERAL PROVISIONS

Drug and alcohol testing and reporting.

48.(1) Any person who performs any function prescribed by these Regulations directly or by contract under the provisions of these Regulations may be tested for drug or alcohol usage.

(2) Where the Authority or any person authorized by the Authority wishes to test a person referred to in sub regulation (1) for the percentage by weight of alcohol in the blood, or for the presence of narcotic drugs, marijuana, or depressant or stimulant drugs or substances in the body, and that person-

- (a) refuses to submit to the test; or
- (b) having submitted to the test, refuses to authorize the release of the test results,

the Authority may suspend or revoke the certificate of the holder that employs that person.

(3) In determining whether to suspend or revoke the certificate of the holder, the Authority shall consider all relevant factors, including-

- (a) whether the holder had knowledge of the drug or alcohol use;
- (b) whether the holder encouraged the person to refuse the drug or alcohol test;
- (c) whether the holder dismissed the person who failed or refused the drug test;
or
- (d) the position that person held with the holder.

(4) The Authority shall require the holder to show cause why the certificate should not be suspended, revoked or cancelled.

(5) A person who is convicted, whether in or outside the designated airspace, for any offence relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marijuana, or depressant or stimulant drugs or substances, shall be dismissed from the employment by the holder of certificate.

(6) The Authority may suspend or revoke the certificate of a holder that refuses to dismiss from its employment a person convicted under sub-regulation (3).

Change of name.

49. (1) A holder of a certificate issued under these Regulations may apply to change the name on the certificate.

(2) The holder shall include with the request the current certificate and a court order or other legal document verifying the name change.

(3) The Authority may change the licence, certificate or authorization and issue a replacement of the licence, certificate or authorization.

(4) The Authority shall return to the holder with the appropriate endorsement, the original documents specified in sub-regulation 2 and retain copies of the documents.

Change of address.

50. (1) A holder of a certificate issued under these Regulations shall notify the Authority of a change in the physical and mailing address within fourteen days.

(2) A person who does not notify the Authority of a change in physical address within the period specified in sub-regulation (1) shall not exercise the privileges of the certificate.

Replacement of documents.

51. A person may apply to the Authority in the prescribed form for replacement of documents issued under these Regulations if the documents are lost or destroyed.

Use and retention of documents and records.

52. (1) A person shall not-

- (a) use any certificate or exemption issued or required by or under these Regulations which has been forged, altered, revoked, or suspended, or to which that person is not entitled; or
- (b) forge or alter any certificate or exemption issued or required by or under these Regulations; or
- (c) lend any certificate or exemption issued or required by or under these Regulations to any other person; or
- (d) make any false representation for the purpose of procuring for that person or any other person the grant, issue, renewal or variation of any certificate or exemption;
- (e) mutilate, alter, render illegible or destroy any records or any entry made in the records, required by or under these Regulations to be maintained, or knowingly make, or procure or assist in the making of, any false entry in that record, or wilfully omit to make a material entry in such record.

(3) All records required to be maintained by or under these Regulations shall be recorded in a permanent and indelible material.

(4) A person shall not issue any certificate or exemption under these Regulations unless that person is authorized to do so by the Authority.

(5) A person shall not issue any certificate under sub-regulation (4) unless that person is satisfied that all statements in the certificate are correct, and that the applicant is qualified to hold that certificate.

Reports of violation.

53. (1) Any person who knows of a contravention of the Act, any amendment to the Act or any Regulations, rules, or orders issued under the Act shall report the contravention to the Authority.

(2) The Authority may determine the nature and type of any additional investigation or enforcement action that need to be taken.

Enforcement of directions

54. Any person who fails to comply with any direction given to that person by the Authority or by any authorized person under any provision of these Regulations shall be deemed for the purposes of these Regulations to have contravened that provision.

Aeronautical fees

55. (1) The Authority shall notify in writing the fees to be charged in connection with the issue, renewal, extension or variation of any certificate, test, inspection or investigation required by or for the purpose of these Regulations, any orders, notices or proclamations made under these Regulations.

(2) Upon an application being made in connection with which any fee is chargeable in accordance with sub-regulation (1), the applicant shall be required, before the application is accepted, to pay the fee so chargeable.

(3) If, after payment is made, the application is withdrawn by the applicant or otherwise ceases to have effect or is refused, the Authority shall not refund the payment made.

PART VII

OFFENCES AND PENALTIES

Contravention of Regulations

56. A person who contravenes any provision of these Regulations may have the certificate or exemption revoked or suspended.

Penalties

57. (1) A person who contravenes any provision of these Regulations, orders, notices or proclamations made under these Regulations shall be liable, on conviction, to a fine not exceeding twenty thousand Emalangeni or to imprisonment for a period not exceeding five years or to both and, in the case of a continuing contravention, each day of the contravention shall constitute a separate offence.

(2) If it is proved that an act or omission of any person, which would otherwise have been a contravention by that person of a provision of these Regulations, orders, notices or proclamations made under these regulations was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission shall be deemed not to be a contravention by that person of that provision.

Appeal

58. A person aggrieved by any order made under these Regulations may, within twenty- one days of that order being made, appeal to the High Court against that order.

SCHEDULE (Regulation 56)

Regulation	Title
4	Requirements for the provision of air navigation services
12	Display of certificate
13	Transfer of certificate
14(3)	Suspension, cancellation and revocation of certificate
18(2)	Amendment of the manual of air navigation services operations
20	Approval of air navigation services facilities
21(2)	Safety inspection and audit on air navigation services
22	Production of documents
23	Air navigation services contingency plan
28	Responsibility for control
29	Communication requirements
30	Air traffic incidents
31	Aircraft in distress
32	Automatic recording of surveillance data and communications
33	Safety management system
34	Installation, operation and maintenance of communication, navigation and surveillance systems
35	Facility approval and flight inspection
36	Provision of aeronautical information services
37	Production of aeronautical charts
38	Telecommunication requirements
39	Quality system
40	Provision of search and rescue service

- 41 Provision of meteorological service for air navigation
- 42 Construction of flight procedures
- 43 Approval as a procedures designer for air navigation services.
- 48 Drug and alcohol testing and reporting.
- 49 Change of name.
- 50 Change of address.
- 52 Use and retention of documents and records.
- 54 Enforcement of directions

N. M. DLAMINI

MINISTER OF PUBLIC WORKS AND TRANSPORT

LEGAL NOTICE NO. 146 OF 2013

CIVIL AVIATION AUTHORITY ACT, 2009
(Act No. 10 of 2009)CIVIL AVIATION (AIRPORT CHARGES, FEES AND
TARIFFS REGULATIONS, 2013)
(Under Section 81)

In exercise of the powers conferred by Section 81 of the Civil Aviation Authority Act No. 10 of 2009, the Swaziland Civil Aviation Authority hereby issues the following Notice -

Citation.

1. This Notice may be cited as the Airport Charges, Fees and Tariffs Regulations Notice 2013, and shall come into force on the date of publication in the Gazette.

Regulatory fees and charges.

2. The regulatory fees and charges are set out as follows;

Aircraft Registration and Markings

Category	Regulation	Fees Payable	
a) Application for Registration of aircraft	5	i) aircraft not exceeding 5 700kg	E 500.00
		ii) Aircraft exceeding between 5 700kg up to 22 500 kg	E 800.00
		iii) Aircraft exceeding 22 500 kg	E 1600.00
		iv) Private aircraft not exceeding 5 700 kg	E230.00
		v) Private aircraft exceeding 5 700 kg	E 470.00
		vi) Aerial Work aircraft not exceeding 5 700 kg	E 680.00
		vii) Aerial work aircraft exceeding 5 700 kg	E 1400.00
		viii) Special Aircraft not exceeding 5 700 kg	E 640.00
		ix) Special aircraft exceeding 5 700 kg	E 1280.00

Category	Regulation	Fees	
b) Amendment /variation of a certificate of registration	19		E 350.00
c) Issuing of a duplicate/replacement certificate of registration	21		E 350.00
d) De-registration/Cancellation of a certificate	9		E 800.00
e) Validation of foreign certificates	26		E 1600.00
f) Change of ownership and issue of fresh certificate of registration	8	Change of ownership i) Aircraft not exceeding 5 700 kg	E 400.00
		ii) Aircraft exceeding 5 700 kg	E 500.00
g) Inspections for purposes of registration or compliance	18		Hourly rates are applicable
h) For allocation of special registration marks	(4) (c)		
		i) Aircraft not exceeding 5 700 kg	E 1600.00
		ii) aircraft exceeding 5 700 kg	E 2500.00
i) Re-registration of aircraft			Registration of aircraft rates applicable

Personnel Licensing

Category	Regulation	Fees
ISSUE OF LICENCES	3(a)	
a) Pilot licences		
i) Student pilot licence		E 200.00
ii) Private pilot licence		E 250.00
iii) Commercial pilot licence		E 300.00
iv) Airline transport licence		E 500.00
v) glider pilot licence		E 200.00
vi) Airship pilot licence		E 200.00
vii) Microlight pilot licence		E 305.00
viii) Free Balloon pilot licence		E 305.00

Category	Regulation	Fees
ix) Gyroplane pilot licence		E 305.00
b) Flight engineer licence	3(c)	E 400.00
c) Aircraft maintenance engineer licence	3(e)	E 500.00
d) Flight operations officer	3(f)	E 400.00
e) Flight radio telephone operator	3(g)	E 200.00
f) Cabin crew member certificate	3(h)	E 250.00
g) Ground instructor <ul style="list-style-type: none"> i) basic ii) advanced iii) instrument 		E 300.00 E 200.00 E 200.00
h) Validation and conversion of foreign and military licences and ratings <ul style="list-style-type: none"> i. Pilots ii. Flight engineer iii. Aircraft maintenance engineer 	13-20	E 500.00 E 400.00 E 400.00
I. Ratings <ul style="list-style-type: none"> i) pilots licences (category and class) ii) flight engineers iii) ground instructor iv) flight instructor v) instruments vi) air traffic controllers vii) aircraft maintenance engineers viii) aircraft (type and class) 		E 300.00 E 200.00 E 400.00 E 400.00 E 300.00 E 200.00 E 300.00 E 200.00
j) Duplicate or copy of documents	177	E 150.00
k) Renewal of licences, certificates ratings and authorizations		E 250.00
l) Authorizations <ul style="list-style-type: none"> i) category II operations ii) category III operations iii) flight examiner iv) flight engineer instructor v) type rating instructor vi) cabin crew member instructor vii) medical examiner viii) aviation repair specialists (ARS) 	5	E 450.00 E 550.00 E 300.00 E 200.00 E 400.00 E 400.00 E 400.00 E 500.00
m) Extension of medical certificates	11	E 1500.00
n) Testing requirements for pilot licences, ratings and authorisations <ul style="list-style-type: none"> i) Knowledge test ii) Practical test iii) Retesting/examination 	21-53	Normal exam fee plus travel & subsistence for Invigilator

Category	Regulation	Fees
o)Amendment/variation of documents	177	Hourly rates applicable
p)Inspection of licence	174	Hourly rates applicable
q)Medical examinations	135	Hourly rates applicable
r)Exemptions	185	Hourly rates applicable

CERTIFICATE OF AIRWORTHINESS

Category	Regulation	Proposed Fees for Swaziland	
On Application			
Application for issuance and validation of a type certificate		E 500.00	
a) Issue and Validation of type certificate	4		
		a)for aircraft not exceeding 5 700 kg	E 550.00 hourly rate (out of office)
		b) for aircraft exceeding 5 700 kg but below 22 250kg	E 550.00 hourly rate (out of office)
		c) for aircraft exceeding from 22 250 kg up to 45 000 kg	E 550.00 hourly rate (out of office)
		d) for aircraft exceeding 45 000kg	E 550.00 hourly rate (out of office)
Application for Issuance of a Production Certificate, and Amendment	5	E 1200.00 and hourly rate applicable (audits, validation of documents)	
b)Issue of supplemental type certificate	6	E 900.00	
c)Application for certificate of airworthiness • Certificate of airworthiness • Restricted certificate	7	See table below	
• Special flight permit		a)for aircraft not exceeding 5 700 kg	E 1 680.00
		b)for aircraft 5 700 kg exceeding but up to 22 500 kg	E 2 520.00
		c) for aircraft exceeding from 22 500 kg but up to 45 000 kg	E 3 380.00
		d)for aircraft exceeding 45 000 kg	E 3780.00

Category	Regulation	Proposed Fees for Swaziland	
• Export certificate of airworthiness		a) for aircraft below 5 700 kg	E 7 000.00
		b) aircraft exceeding 5 700 kg up to 22 500 kg	E 14 000.00
		c) aircraft exceeding 22 500kg up to 45 000 kg	E 35 000.00
		d) for aircraft exceeding 45 000 kg	E 42 000.00
		In the event that the aircraft is already outside Swaziland, the operator/owner shall also pay for fares, ground transport and inspectors subsistence allowances at SWACAA rates	
d) Amendments of documents -Restricted certificate -Special flight permit	44	E 500.00 E 300.00	
e) Inspections	25-32		
f) Issue of a noise certificate	33	E 450.00	
g) Inspections of document/examinations	50	E 350.00	
h) Replacements or duplicate copies of documents	45	E 840.00	
		E 1 680.00	
i) Renewals /extensions/ variations	50	Refer previous items	

NEW/REISSUE:

Weight	Standard Certificate of Airworthiness	Restricted Certificate of Airworthiness
0- 1 800 kg	3, 350.00	690.00
1 801 - 3 600 kg	4, 190.00	1,020.00
3 601 - 5 700 kg	5, 020.00	1,360.00
5 701 - 20 000 kg	6, 690.00	2,040.00
20 001 - 50 000 kg	10, 050.00	2,700.00
50 001 kg +	13, 390.00	4,080.00

AIR OPERATOR'S CERTIFICATION AND ADMINISTRATION (AOC)

Category	Regulation	Fees
a)Application and issuance of an AOC i)5 701kg-20 000 kg ii)20 001kg-130 000 kg iii) Exceeding 130 000 kg	5-6	E 10 000.00 E 14 000.00 E 17 000.00
b)Renewal/extension/validation i)5 701 kg-20 000 kg ii)20 001kg-130 000 kg iii)Exceeding 130 000 kg	92	E 9 500.00 E 12 500.00 E 15 500.00
c)Amendment/variations	9, 90, 91	E 10.00 for every 100 kg
Inspections	11, 89	E 350.00 hourly rates (local) Outside Swaziland E 550.00 hourly rate
d)Permit for Transportation of dangerous goods	73	E 1 500.00
e)Approval of a wet lease	25	E 5 500.00
f) Approval of a dry lease	23	E 4 500.00

SECURITY REGULATIONS

Category	Regulation	Fees
a) Application for Identification cards i)Temporary ii)Permanent	38	Available in regulations E 150.00 E 300.00
b)Application for vehicle passes i)Permanent	38	E 200.00
c)Application for duplicate documents	47	E 400.00
d)Application for approval of security programme -aerodromes -Public air transport service operator -Regulated agent -catering operator	8, 10,15,16,17,20	E 800.00 E 800.00 E 600.00 E 600.00
Application for amendment of a security programme	13	
e)Application for carrying of firearms	62	E 350.00

APPROVED MAINTENANCE ORGANIZATIONS (AMOS)

a)IN SWAZILAND Application for issue of an AMO certificate and ratings	6, 11	E 1 275.00
-hourly rate for inspection time		E 350.00 hourly rates (local)
	For each additional item to be included in organisation	E 2 500.00 E 350.00 hourly rates (local)

Category	Regulation	Fees
b)OUTSIDE SWAZILAND Application/renewal		Outside Swaziland E 550.00 hourly rate.
- for issue of an AMO certificate and ratings		Outside Swaziland E 550.00 hourly rate.
-hourly rate for inspection time		Outside Swaziland E 550.00 hourly rate.
c)Renewal	8	Outside Swaziland E 550.00 hourly rate.
d)Amendments (on application)	10	E 590.00
e)Ratings	11	E 590.00
f)Assessment	22	E 350.00 hourly rates (local) Outside Swaziland E550.00 hourly rate.
g)Inspections	41	E 350.00 hourly rates (local) Outside Swaziland E 550.00 hourly rate.
h)Document Replacement	44	E 2.50 per page (black & white) E 4.75 per page (coloured)
i)Exemptions (application)	54	E 590.00 For exemptions to be considered within three working days – E 3000.00 <u>FOR EVALUATIONS:</u> E 350.00 hourly rates (local) Outside Swaziland E 550.00 hourly rate.
i)Variations/extension (on application)	49	E 590.00 Hourly rate apply
AERODROMES		
Category	Regulation	Fees
a)Application and issue of an aerodrome certificate and classes	9	In regulations
i)Category I		E 45 000.00
ii)Category II		E 35 000.00
iii)Category III		E 35 000.00
iv)Helipad		E 15 000.00
v)Balloon site		E 10 000.00

Category	Regulation	Fees
b)Amendments/Variations of licences ii)Category I ii)Category II	9	In regulations E 35 000.00 E 30 000.00
c)Inspections i)existing aerodromes ii)an existing helipad iii)an intended aerodrome site iv)an intended helipad site		In regulations E 30 000.00 E 10 000.00 E 40 000.00 E 20 000.00
d)Renewals i)Category I ii)Category II iii)Category III iv)Helipad v)Balloon site	9	In regulations E 40 000.00 E 35 000.00 E 30 000.00 E 10 000.00 E 10 000.00
e)Processing of aerodromes manuals and licensing applications		In regulations E 50 000.00
f)Issue of initial safety occupation certificate i)Hangars ii)Oil companies		In regulations E 5 000.00 E 8 000.00
g)Annual inspection/Renewal safety certificate i)Matsapha ii)Sikhuphe iii)Nhlangano		E100 000.00 E200 000.00 E 10 000.00
h)Operating certificate to airport staff i)issue ii)Renewal iii)Replacement		E 10 000.00 E 10 000.00 E 10 000.00
i)Obstacle limitation i) Consultation and clearance of site ii)Final inspection of obstacle iii)annual inspection of tower		E 35 000.00 E 35 000.00 E 35 000.00
j)Approval of a fire company providing services at aerodromes and airports annual		E 8 000.00

APPROVED TRAINING ORGANISATIONS (ATOS)

Category	Regulations	Fees
1. Application for ATOs certificate	5	E 2 200.00
2. Amendment	33,34	E 950.00 Hourly rate applicable for inspections
3.Renewal	8	E 2 200.00

Category	Regulation	Fees
4.Inspection	7,32	E 350.00 hourly rates (local) Outside Swaziland E 550.00 hourly rate. Note: Organisation to pay travel plus the airfares, ground transport, accommodation and inspectors per diem at SWACAA local rates
5.Replacement of documents	35	E 2.50 per page (black & white) E 4.75 per page (coloured)
6.Extensions,variations, validations and examinations	41	E 590.00 Hourly rate apply
7.Exemptions	45-48	E 590.00 For exemptions to be considered within three working days – E 3 000.00 <u>FOR EVALUATIONS:</u> E 350.00 hourly rates (local) Outside Swaziland E 550.00 hourly rate.

AERIAL WORK

Category	Regulation	Fees
1.Applications for Authorizations:	3,5,28,50,54,60,61, 63,64	
a)Agriculture Air Operations Certificate (AAOC) i)Private ii)Commercial		E 10 000.00 E 15 000.00
b)Rotorcraft external load operations certificate		E 15 000.00
c) Glider towing		E 950.00
d)Banner towing		E 950.00
e)Television, movie operations, aerial photography and aerial survey		E 15 000.00
f)Exhibition of flying		E 3 000.00
g)Traffic reporting		E 3 000.00
h)Sports reporting		E 3 000.00

Category	Regulation	Fees
i)Game viewing		E 3 000.00
j)Competitive motor vehicle operations		E 3 000.00
k)Fish spotting		E 3 000.00
2. Amendment of AAOC	6	Refer above
3.Renewal of Rotorcraft Certificate	27	Refer above
4.Amendment of rotorcraft certificate	33	Refer above
5.Inspections	67	Refer above
6.Amendments	68,69	Refer above
7.Replacement of documents	70	Refer above
8.Extensions,variations, validations	75	Refer above
9. Exemptions	80-83	Refer above

PARACHUTE OPERATIONS

Category	Regulation	Fees
1. Authorizations a)Student Jumper b)Jumper c)Jump Master d)Tandem Master e) Parachute Rigger	5, 13	E 160.00 E 160.00 E 160.00 E 160.00 E 160.00
2. Renewals a)Student Jumper b) Jumper c)Jump Master d) Tandem Master e) Parachute Rigger	11, 21	E 160.00 E 160.00 E 160.00 E 160.00 E 160.00
3. Validation of foreign authorizations	12	E 160.00
4.Examinations a) Knowledge test (former and current military parachute riggers)	17	Normal exam fee plus travel & subsistence for Invigilator
5. Application for a Parachute Operations Certificate	23 E 160.00	
6. Amendment of documents	24, 57, 58	E 160.00
7. Renewal of certificate	25	E 160.00
8.Inspections	53, 56,64	E 350.00
9. Replacement of documents	59	E 160.00
10.Extensions, variations etc	64	E 160.00

Category	Regulation	Fees
11.Exemptions	67-70	E 160.00
INSTRUMENTS AND EQUIPMENT		
Category	Regulation	Fees
Approval of instruments and equipment system or Category II operations	13	Hourly rates applicable
Approval of a maintenance programme for instruments and equipment system for Category II operations	14	Hourly rates applicable
Exemptions	94-97	Hourly rates applicable
OPERATION OF AIRCRAFT		
Category	Regulation	Fees
a) Approval of an equipment list	6	Hourly rates applicable
b) Approval of a minimum equipment list	7 (2)(a)	Hourly rates applicable
c) Approval of an aeroplane/rotorcraft flight manual	8 (a)	Hourly rates applicable
d) Approval of an operation manual	8 (b)	Hourly rates applicable
e) Examination of documents	11	Hourly rates applicable
f)Approval of a progressive inspection programme	21	Hourly rates applicable
g)Approval of Instrument flight rules (IFR) operations	28	Hourly rates applicable
h) Approval of a lower than approved aerodrome operating minima	75	Hourly rates applicable
i)Issuing or reissuing of a Minimum navigation Performance Specifications (MNPS) authorization	102 (2)	Hourly rates applicable
j)Issuing or reissuing of a Reduced Vertical Separation Minima (RSVM) authorization	102 (4)	Hourly rates applicable
k) Approval of aircraft manual for Category II and III	123 (a)	Hourly rates applicable
l) Authorization for deviation from Category II operations authorization	124	Hourly rates applicable
m) Approval of a security training programme	173	Hourly rates applicable
Approval of a crew resource management curriculum	174 (1)	Hourly rates applicable

Category	Regulation	Fees
Approval of an initial emergency equipment drills curriculum	175 (1)	Hourly rates applicable
Approval of an initial ground training curriculum (flight and cabin crew)	176 (1), 177 (1)	Hourly rates applicable
Approval of a competency check programme	178 (1)	Hourly rates applicable
Approval of initial flight operations training curriculum (operations officer and flight crew member)	179 (1), 180 (1)	Hourly rates applicable
Approval of initial specialized operations training curriculum	181 (1)	Hourly rates applicable
Approval of an aircraft differences training curriculum (crew member)	182 (1)	Hourly rates applicable
Approval of synthetic flight trainers programme	183 (a)	Hourly rates applicable
Approval of aircraft and instrument proficiency checks programme	184 (1)	Hourly rates applicable
Approval of flight engineer proficiency checks	188 (1) (a)	Hourly rates applicable
Approval of flight operations officer proficiency checks programme	189 (1)	Hourly rates applicable
Approval of a recurrent training and checking programme (operations manual) -flight crews -cabin crews -Flight operations officers -Check Pilot	197 (1) (b), 198 (1), 199 (1), 200 (1)	Hourly rates applicable
Authorizations -flight engineer -check pilot -Instructor or Synthetic flight trainer	2 203 200, 203, 205 202,206	Hourly rates applicable
Inspections of documents	238	Hourly rates applicable
Amendments (change of name and address)	239, 240	Hourly rates applicable
Replacement or issue of duplicate documents	241	Hourly rates applicable
Exemptions	252-255	Hourly rates applicable

RULES OF THE AIR AND AIR TRAFFIC CONTROL

Category	Regulation	Fees
Application for approval for flying unmanned balloons	3 (a)	Hourly rates applicable
Approval for flights of balloons, kites, airships, gliders and parascending parachutes	21(h)	Hourly rates applicable

COMMERCIAL AIR TRANSPORT BY FOREIGN OPERATORS

Category	Regulation	Fees
Application fee for a Foreign Operator's Permit; a) Fire-fighting b) Aerial Work		15 000.00 10 000.00
Inspection of documents	5	Hourly rates applicable
Approval/validation of a foreign operations specifications document	6	Hourly rates applicable
Approval of transportation of dangerous goods	20 (a) (i)	Hourly rates applicable
Inspections of documents	25	Hourly rates applicable
Exemptions	33-35	Hourly rates applicable
Amendments, duplication and re-issue of documents		Refer to charges for same under Air Operator's Certificate

TARIFFS FOR AIRPORTS AND AIR NAVIGATION SERVICES CHARGES

3. The airport and air navigational fees and charges are set out as follows;

Category	Charges
Landing Charges	
Aircraft mass	
Up to 500kg	E 24.00
1000kg	E 48.00
1500kg	E 60.00
2000kg	E 88.00
2500kg	E 94.00
3000kg	E 163.00
4000kg	E 175.00
5000kg	E 301.00
6000kg	E 316.00
7000kg	E 331.00
7500kg	E 346.00
8000kg	E 357.00
9000kg	E 481.00
10000kg	E 605.00

Category	Charges
For each additional 1000 kg or part thereof	E 45.59
15000kg	E 705.00
20000kg	E 755.00
30000kg	E 805.00
35000kg	E 855.00
40000kg	E 905.00
50000kg	E 955.00
70000kg	E 991.00
100000kg	E 1 352.00
150000kg	E 501.00
200000kg	E 619.00
250000kg	E 788.00
275000kg	E 956.00
300000kg	E 1 125.00
350000kg	E 1 294.00
400000kg	E 1 463.00
Over 400 000kg	E 1 463.00 plus E 180.00for each 10 000kg above 400 000kg
PARKING CHARGES	
First 4 hours free then charge per 24hrs or	
Aircraft Mass	
Up to 500 kg	E 5.00
1000 kg	E 10.00
1500 kg	E 15.00
2000 kg	E 19.00
2500 kg	E 25.00
3000 kg	E 38.00
4000 kg	E 53.00
5000 kg	E60.00
6000 kg	E67.00
7000 kg	E 74.00
8000 kg	E 81.00
9000 kg	E 88.00
10000 kg	E 137.00
15000 kg	-
20000 kg	-
25000 kg	-
30000 kg	E170.00
50000 kg	E 213.00
70000 kg	E 340.00
75000 kg	-
100000 kg	E 425.00
Over 100 000kg	E 425.00 plus E 45.00for every additional 100 000kg
PASSENGER SERVICE CHARGES: per departing passenger two years of age and above	
Regional flights	E 100.00
International flights	E 238.00

Category	Charges
SECURITY CHARGE: per departing passenger	
International flights	E 11.00
AIR NAVIGATION CHARGES: basis of maximum take off mass in kilograms	
Variable Cost	E 24.00
Business sustaining cost	E 98.00
Fixed Cost	E 91.00
En-route Charges	E 44.00 minimum per flight

N. M. DLAMINI

MINISTER OF PUBLIC WORKS AND TRANSPORT

LEGAL NOTICE NO. 147 OF 2013

CIVIL AVIATION AUTHORITY ACT, 2009
(Act No. 10 of 2009)

CIVIL AVIATION AUTHORITY (AIRCRAFT ACCIDENT AND
INCIDENT INVESTIGATION) REGULATIONS, 2013
(Under Section 104)

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PART I

PRELIMINARY

Title

1. These Regulations may be cited as the Civil Aviation Authority (Aircraft Accident and Incident Investigation) Regulations, 2013, and shall come into force on the date of publication in the Gazette.

Interpretation.

2. In these Regulations unless the context otherwise requires, words or expressions used in the Act have the same meaning as in these Regulations, and-

“accident” means an occurrence associated with the operation of an aircraft which takes place between the time when a person boards the aircraft with the intention of flight until such time when the person disembarks, in which-

(a) a person is fatally or seriously injured as a result of-

- (i) being in the aircraft;
- (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
- (iii) direct exposure to jet blast; or

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

(b) the aircraft sustains damage or structural failure which-

- (i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and
- (ii) would normally require major repair or replacement of the affected component; or

except for engine failure or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear door, windcreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or

(c) the aircraft is missing or is completely inaccessible.

“accredited representative” means a person designated by a State, on the basis of the qualifications of that person, for the purpose of participating in an investigation conducted by another State. Where the State has established an accident investigation authority, the designated accredited representative would normally be from that authority;

“advisor” means a person appointed by a State, on the basis of the qualifications of that person, for the purpose of assisting its accredited representative in an investigation;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air, other than reactions of the air against the earth’s surface, and includes all flying machines, aeroplanes, gliders, seaplanes, rotorcrafts, airships, balloons, gyroplanes, helicopters, ornithopters and other similar machines but excludes state aircraft;

“air traffic service” means air traffic services and includes flight information service, alerting service, air traffic advisory service, air traffic control service, area control service, approach control service and aerodrome control service;

“Authority” means the Swaziland Civil Aviation Authority;

“causes” means actions, omissions, events, conditions, or a combination of actions, omissions, events or conditions which led to the accident or incident. The identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability;

“chief investigator” means the chief investigator appointed under regulation 6;

“Contracting State” means any State which is a party to the Convention on International Civil Aviation (Chicago Convention, 1944);

“flight recorder” means any type of recorder installed in an aircraft for the purpose of complementing accident and incident investigation;

“incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“investigator” means an investigator of accidents appointed under regulation 6;

“investigation” means a process conducted for the purpose of accident prevention which includes gathering and analysis information, drawing conclusions, including the determination of causes and, when appropriate, making safety recommendations;

“investigator-in-charge” means a person charged, on the basis of the qualifications of that person, with the responsibility for organizing, conducting and controlling an investigation into a specific accident or incident;

“Minister” means the Minister responsible for matters relating to civil aviation;

“non-contracting State” means any State which is not a party to the Chicago Convention;

“operator” means a person, organization or enterprise engaged in or offering to engage in aircraft operation;

“owner”, in relation to an aircraft which is registered, means the registered owner of the aircraft, and in the case of an aircraft which is not registered, the person who has effective control of the aircraft;

“pilot-in-command”, means the pilot designated by the operator, or in the case of general aviation, the owner, as being in command and charged with the safe conduct of a flight;

“preliminary report” means communication used for the prompt dissemination of data obtained during the early stages of the investigation;

“safety recommendation” means a proposal of the investigator in charge, based on information derived from the investigation, made with the intention of preventing future accidents or incidents;

“serious incident” means an incident involving circumstances indicating that an accident nearly occurred;

“serious injury” means an injury which is sustained by a person in an accident and which-

- (a) requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was sustained;
- (b) results in a fracture of any bone (except simple fractures of fingers, toes or nose);
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;

- (d) involves injury to any internal organ;
- (e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or
- (f) involves verified exposure to infectious substances or injurious radiation;

“State of design” means the State having jurisdiction over the organization responsible for the aircraft type design;

“State of manufacture” means the State having jurisdiction over the organization responsible for the final assembly of the aircraft;

“State of occurrence” means the State in the territory of which an accident or incident occurs;

“State of the operator” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence;

“State of registry” means the State on whose register the aircraft is entered; and

“State aircraft” means-

- (a) aircraft in the military service of Swaziland or any other state and aircraft that are commanded by members of the military forces of Swaziland or any state who are detailed for the purpose of commanding that aircraft; and
- (b) aircraft used by the customs or police service of Swaziland or any other state.

Application

3. These regulations shall apply to any accident or incident arising out of or in the course of air navigation which occurs to any civil aircraft in or over Swaziland or elsewhere to aircraft registered in Swaziland.

PART II INVESTIGATIONS

Objective of investigation

4. (1) The objective of the investigation of an accident or incident under these Regulations shall be the prevention of accidents and incidents.

(2) Subject to sub-regulation (1), the purpose of an investigation shall not be to apportion blame or liability.

(3) An investigation shall include-

- (a) gathering, recording and analysing all available information and evidence on the accident or incident;
- (b) if appropriate, the issuance of safety recommendations;
- (c) if possible, the determination of the causes; and

(d) in the case of an accident or serious incident, the compilation of the final report.

(4) The format of the final report shall be as specified in the Schedule and may be adapted to the circumstances of the accident or incident.

Manual of accident and incident investigation

5. (1) The Authority shall have in place a manual of aircraft accident and incident investigation.

(2) The manual shall contain information and instructions necessary to enable investigators to perform their duties.

Investigators of accidents

6. (1) For the purpose of carrying out aircraft accident and incident investigations, the Minister may appoint investigators of accidents by notice in the Gazette.

(2) The Minister shall appoint a Chief Investigator and a Deputy Chief Investigator from among the persons appointed under sub-regulation (1).

(3) The Chief Investigator may delegate any of the powers and obligations under these Regulations to the Deputy Chief Investigator.

Obligation to investigate

7. (1) Subject to sub-regulation (7), the Chief Investigator shall cause an investigation to be carried out into an accident or serious incident in the following circumstances-

- (a) where the accident or serious incident occurs in Swaziland;
- (b) where the accident or serious incident occurs in any non-contracting State which does not intend to carry out an investigation of the accident or serious incident and involves a Swazi aircraft or an aircraft operated by a Swazi operator;
- (c) where the accident or serious incident involves a Swazi aircraft or an aircraft operated by a Swazi operator and the investigation has been delegated by another Contracting State by mutual arrangement and consent; or
- (d) where the accident or serious incident occurs in a location which cannot be definitely established as being in the territory of any State and involves a Swazi aircraft.

(2) In the event of an accident or incident involving a civilian aircraft and a military or State aircraft, investigation shall be conducted in accordance with these regulations, with the military or the State being a party to investigation.

(3) The Chief Investigator may, when the Chief Investigator expects to draw air safety lessons from it, cause an investigation to be carried out into an incident which occurs-

- (a) in Swaziland; or
- (b) outside Swaziland involving a Swazi aircraft or an aircraft operated by a Swazi operator.

(4) The Chief Investigator may designate any investigator as investigator-in-charge for the purpose of carrying out an investigation referred to in sub-regulations (1), (2) or (3).

(5) Without prejudice to the power of an investigator-in-charge under regulation 14, the Chief Investigator, in consultation with the investigator-in-charge, may appoint any person as an advisor to assist an investigator-in-charge in carrying out an investigation under these Regulations.

(6) In any case where the Chief Investigator is of the view that more than one investigator is needed to carry out an investigation, the Chief Investigator may appoint more investigators, one of whom shall be designated deputy investigator-in-charge, to assist the investigator-in-charge.

(7) The Chief Investigator may, with the approval of the Minister, delegate the task of carrying out an investigation into an accident or a serious incident to another Contracting State or accident investigation authority by mutual arrangement and consent.

(8) Where the Chief Investigator delegates the task of carrying out an investigation, the Chief Investigator shall facilitate investigation carried out by the investigator-in-charge appointed by the Contracting State conducting the investigation.

(9) Where the Chief Investigator is of the opinion that it would be desirable for public notice to be given that an investigation is taking place, the Chief Investigator may do so in a manner that the Chief Investigator may consider fit.

(10) The notice referred to in sub-regulation (9) may, if the Chief Investigator thinks appropriate, state that any person who desires to make representations concerning the circumstances or causes of the accident or incident may do so orally or in writing within a time to be specified in the notice.

Notification of accidents and incidents

8. (1) Where an accident or a serious incident occurs

(a) in Swaziland; or

(b) outside Swaziland which involves a Swazi aircraft or an aircraft operated by a Swazi operator,

the relevant person shall, as soon as practicable after that person becomes aware of the accident or serious incident notify any of the following persons by the quickest means of communication available-

(i) the Chief Investigator

(ii) the nearest air traffic service; or

(iii) the police,

indicating the place where the accident has occurred.

(2) The relevant person shall, not later than 24 hours after becoming aware of the accident or serious incident send a written notice to the Chief Investigator stating-

- (a) in the case of an accident, the identifying abbreviation "ACCID" or, in the case of a serious incident, the identifying abbreviation "INCID";
- (b) the manufacturer, model, nationality and registration marks and serial number of the aircraft;
- (c) the name of the owner, operator and lessee, if any, of the aircraft;
- (d) the name of the pilot-in-command of the aircraft and the number and nationality of the crew and passengers on board the aircraft at the time of the accident or serious incident;
- (e) the date and local time or coordinated universal time (UTC) of the accident or serious incident;
- (f) the last point of departure and the next point of intended landing of the aircraft;
- (g) the position of the aircraft with reference to some easily defined geographical point and the latitude and longitude;
- (h) in the case of an accident, the number of crew members, passengers or other persons respectively killed or seriously injured as a result of the accident;
- (i) a description of the accident or serious incident and the extent of damage to the aircraft so far as is known;
- (j) the physical characteristics of the area in which the accident or serious incident occurred and an indication of access difficulties or special requirements to reach the site;
- (k) the identification of the person sending the notice and where the accident or serious incident occurred outside Swaziland;
- (l) the means by which the investigator-in-charge and the accident investigation authority of the State of occurrence may be contacted; and
- (m) the presence and description of dangerous goods on board the aircraft, if any.

(3) Where an incident, other than a serious incident, occurs in Swaziland or outside Swaziland which involves a Swazi aircraft or an aircraft operated by a Swazi operator, the relevant person or lessee of the aircraft shall send to the Chief Investigator, any information that is in the possession or control of that person with respect to the incident.

(4) In this regulation, "relevant person" means-

- (a) the pilot-in-command, operator, or the owner of the aircraft at the time of the accident or serious incident; or
- (b) where the accident or serious incident occurs on or adjacent to an aerodrome in Swaziland, the owner or operator of the aerodrome.

Action to be taken upon receipt of notification

9. (1) Where an accident or a serious incident occurs in Swaziland involving a civil aircraft, the Chief Investigator shall-

- (a) with the least possible delay and by the quickest means of communication available, forward a notification of the accident or serious incident containing information referred to in regulation 8 as may be available-
 - (i) to a contracting state that is the State of registry, the State of the operator, the State of design or the State of manufacture; and
 - (ii) if the aircraft is of a maximum certificated take-off mass of more than 2,250 kg, to the International Civil Aviation Organization;
- (b) inform the States referred to in paragraph (a) either in the communication forwarding the notification or as soon as practicable-
 - (i) whether, and the extent to which an investigation may be conducted or is proposed to be delegated to another Contracting State; and
 - (ii) the means by which the Chief Investigator and the investigator-in-charge may be contacted;
- (c) as soon as it is practicable to do so, provide the States referred to in paragraph (a) with any other information referred to in regulation 8 which becomes subsequently available to the Chief Investigator and any other known relevant information pertaining to the accident or serious incident.

(2) Upon receipt of a notification of an accident or a serious incident which occurs outside Swaziland involving a Swazi aircraft or an aircraft operated by a Swazi operator, the Chief Investigator shall-

- (a) acknowledge receipt of the notification;
- (b) where the State of occurrence, the State of registry or the State of the operator which is investigating the accident or serious incident is a Contracting State, provide the State with the following information with the least possible delay-
 - (i) any relevant information regarding the aircraft and flight crew involved in the accident or serious incident; and
 - (ii) if Swaziland is the State of the operator, details of any dangerous goods on board the aircraft;
- (c) inform the State referred to in paragraph (b)-
 - (i) whether the Minister intends to appoint or has appointed an accredited representative; and
 - (ii) if the accredited representative has been appointed and may be travelling to the State in which the investigation is being carried out, the contact details and the expected date of arrival of the accredited representative in that State.

Parties to Investigation

10. (1) The investigator-in-charge shall designate parties to participate in the investigation.

(2) The Parties shall be limited to those persons, government agencies, companies, and associations whose employees, functions, activities, or products were involved in the accident or incident and who can provide suitable qualified technical personnel to actively assist in the investigation.

(3) Other than the Authority, no other entity shall have the right to participate in the investigation, save as provided under regulation 7.

(4) The participants shall be under the direction of the investigator-in-charge through their respective party representatives and party coordinators and a party may lose party status if they do not comply with their assigned duties and activity proscription or instructions or if they conduct themselves in a manner prejudicial to the investigation.

Accredited representatives

11. (1) Where an investigation into an accident or a serious incident is being carried out by an investigator-in-charge under these Regulations, each of the following States that is a Contracting State shall be invited to appoint an accredited representative to participate in the investigation and one or more s, to assist the accredited representative-

- (a) the State of registry;
- (b) the State of the operator;
- (c) the State of manufacture;
- (d) the State of design; and
- (e) a State which has provided information, facilities or experts to the investigator-in-charge in connection with the investigation.

(2) An accredited representative shall participate in all aspects of an investigation under the control of the investigator-in-charge and shall be entitled, in particular, to-

- (a) visit the scene of the accident;
- (b) examine the wreckage;
- (c) obtain witness information and suggest areas for questioning witnesses;
- (d) have full access to all relevant evidence as soon as possible;
- (e) receive copies of all pertinent documents;
- (f) participate in readouts of recorded media;
- (g) participate in off-scene investigative activities including component examinations, technical briefings, tests and simulations;

- (h) participate in investigation progress meetings, including deliberations related to analysis, findings, causes and safety recommendations; and
- (i) shall be entitled to make submissions in respect of various aspects of the investigation.

(3) Notwithstanding sub-regulation (2), participation of the accredited representative of a Contracting State referred to in sub-regulation 1 may be limited to matters in respect of which that State has provided information, facilities or experts to the investigator-in-charge in connection with the investigation.

(4) A Contracting State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens may, upon request to the investigator-in-charge, appoint an expert to participate in the investigation.

(5) An expert appointed under sub-regulation (4) may-

- (a) visit the scene of the accident;
- (b) have access to the relevant factual information;
- (c) participate in the identification of victims;
- (d) assist in questioning surviving passengers who are citizens of the expert's State; and
- (e) receive a copy of the final report.

(6) An advisor assisting an accredited representative shall participate in the investigation under the accredited representative's supervision and to the extent necessary to make the accredited representative's participation effective.

(7) The accredited representative, the advisor of the accredited representative and the expert appointed under sub-regulation (4) shall-

- (a) provide the investigator-in-charge with all relevant information available to them; and
- (b) not disclose any information on the progress and findings of the investigation without the express consent in writing of the investigator-in-charge.

Observers

12. A representative of a State or an air accident investigation authority from a State other than the States specified in Regulation 11 may on request and with written permission of the Chief Investigator, in consultation with the investigator-in-charge, participate in an investigation as an observer.

Appointment of accredited representative, advisor and expert by Minister

13. (1) The Minister may appoint an accredited representative to participate in the investigation into an accident or incident which occurs in another Contracting State and one or more s to assist the accredited representative where Swaziland-

- (a) is the State of registry, State of the operator, State of manufacture or State of design of the aircraft involved in the accident or incident; or
- (b) has, at the request of the Contracting State conducting the investigation, provided information, facilities or experts to the State in connection with the investigation.

(2) The Minister may appoint an expert to participate in the investigation into an accident which occurs in another Contracting State where Swaziland has a special interest in the accident by virtue of fatalities or injuries to citizens of Swaziland.

(3) The accredited representative and, to the extent specified by the Chief Investigator, and appointed by the Minister under sub-regulation (1) may, for the purposes of the investigation in which they are participating, under the control of the investigator-in-charge exercise all or any of the rights and powers of the investigator-in-charge specified in regulation 14.

(4) The Minister may, if the Minister considers it appropriate, authorize the Chief Investigator to exercise the Minister's power under sub-regulation (1) either generally or in any particular case.

Powers of investigators and advisors

14. (1) Where the whole or any part of the investigation is carried out in Swaziland an investigator-in-charge shall have the access rights and powers specified in sub-regulations (2) and (3) to carry out an investigation into an accident or incident in the most efficient way and within the shortest period possible.

(2) The investigator-in-charge shall have-

- (a) free and unhindered access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;
- (b) powers to secure and preserve the scene of the accident;
- (c) immediate and unrestricted access to and use of the contents of the flight recorders, air traffic service records and any other recordings;
- (d) access to the results of examination of the bodies of victims or tests made on samples taken from the bodies of the victims;
- (e) immediate access to the results of examinations of the persons involved in the operation of the aircraft or tests made on samples taken from the persons; and
- (f) free access to any relevant information or records held by the owner, the operator, the operator's maintenance contractors and sub-contractors, the lessee, the designer or the manufacturer of the aircraft and by the authorities for civil aviation or airport operation or air traffic service.

(3) The investigator-in-charge may-

- (a) by summons under the hand of the investigator-in-charge-
 - (i) call and examine any person that the investigator-in-charge considers appropriate;

- (ii) require that person to answer any question or furnish any information or produce any books, papers, documents and articles which the investigator-in-charge may consider relevant; and
- (iii) retain any books, papers, documents and articles until the completion of the investigation;
- (b) take statements from all persons that the investigator-in-charge considers fit and require each of those persons to make and sign a declaration of the truth of the statement made by that person;
- (c) on production, if required, of the credentials of the investigator-in-charge, enter and inspect any place, building or aircraft which in the opinion of the investigator-in-charge is necessary to be entered and inspected for the purposes of the investigation;
- (d) on production, if required, of the credentials of the investigator-in-charge, remove, test, take measures for the preservation of or otherwise deal with any aircraft other than an aircraft involved in the accident or incident where it appears to the investigator-in-charge to be necessary for the purposes of the investigation;
- (e) take possession of, examine, remove, test or take measures for the preservation of any object or evidence that the investigator-in-charge considers necessary for the purposes of the investigation;
- (f) order the immediate listing of evidence and removal of debris or components for examination or analysis purposes;
- (g) order the readout of the flight recorders;
- (h) in the case of a fatal accident, require a complete autopsy examination of fatally injured flight crew, and, when necessary, passengers and cabin crew by a pathologist, and if a pathologist experienced in the investigation of aircraft accidents is available, by that pathologist;
- (i) where appropriate, require the medical and toxicological examination of the crew, passengers and aviation personnel involved in the accident or incident by a medical practitioner, and if a medical practitioner experienced in the investigation of aircraft accidents is available, by that medical practitioner;
- (j) require the crew, passengers and aviation personnel involved in the accident or incident to undergo any other tests including a breathalyzer test within reasonable time for the purposes of the investigation; and
- (k) seek any advice or assistance as the investigator-in-charge considers necessary for the purposes of the investigation.

(4) The investigator-in-charge may delegate to the deputy or any other investigator the rights and powers vested in the investigator-in-charge in sub-regulations (2) and (3), where the whole or any part of the investigation is carried out in Swaziland.

(5) Without prejudice to the generality of sub-regulation (3), the investigator-in-charge may, in consultation with the Chief Investigator request another Contracting State to provide any information, facilities or experts as the investigator-in-charge may consider necessary for the purposes of an investigation.

Form and conduct of investigations

15. (1) An investigation shall not be open to the public.

(2) The extent of investigations and the procedure to be followed in carrying out investigations required or authorized under these Regulations shall be determined by the Chief Investigator taking into account-

- (a) the objective of the investigation set out in these Regulations;
- (b) the lessons expected to be drawn from the aircraft accident or incident for the improvement of safety; and
- (c) the complexity of the investigation.

(3) Where, in the course of an investigation into an accident or a serious incident, it becomes known or is suspected that an act of unlawful interference was involved, the investigator-in-charge shall, after consultation with the Chief Investigator and the Minister-

- (a) immediately inform the police; or
- (b) take steps to ensure that the aviation security authorities of other Contracting States concerned are informed of the fact.

Assistance to survivors and families

16. (1) The Chief Investigator shall ensure assistance to the survivors and to the families of victims and survivors of an accident which is the subject of an ongoing investigation by-

- (a) communicating all relevant information in time-
- (b) facilitating their entry into and exit from the country and the repatriation of victims;
- (c) coordinating assistance efforts by the government, airlines and humanitarian and other organizations.

(2) The Chief Investigator shall develop instructions for better implementation of sub-regulation (1).

Investigation reports

17. (1) Where an investigation is carried out into an accident or serious incident involving-

- (a) an aircraft of a maximum certificated take-off mass of more than 2,250 kg; or
- (b) an aircraft of a maximum certificated take-off mass of 2,250 kg or less;

and, when airworthiness or matters considered to be of interest to other Contracting States are involved, the investigator-in-charge shall, unless an accident data report has been sent within 30 days of the accident, send a preliminary report within that period to each of the Contracting State that is the-

- (i) State that instituted the investigation;
- (ii) State of registry or the State of occurrence, as appropriate;
- (iii) State of the operator;
- (iv) State of design;
- (v) State of manufacture;
- (vi) State that provided relevant information, significant facilities or experts; and
- (vii) the International Civil Aviation Organization, where the aircraft is of a maximum certificated take-off mass of more than 2,250 kg.

(2) The investigator-in-charge shall as soon as possible after the completion of an investigation into an accident-

- (a) send a copy of the draft of the final report to all the Contracting States that participated in the investigation and in the case of an investigation conducted under Regulation 7, requesting for their significant and substantiated comments on the report; and
- (b) if any comments are received within 60 days of the date of the transmission of the letter or any longer period that may be agreed upon, amend the draft final report to include the substance of the comments received, as considered appropriate or, if desired by the Contracting State that provided the comments, append the comments to the final report.

(3) Subject to sub-regulation 2, if no comments are received and no extension of time has been agreed upon with the Contracting State to whom the final report was sent, it shall be issued and sent to-

- (i) Contracting States referred to in sub-regulation (1);
- (ii) a Contracting State that has suffered fatalities or serious injuries to its citizens; and
- (iii) the International Civil Aviation Organization, where the accident involves an aircraft of a maximum certificated take-off mass of more than 5,700 kg;
- (iv) send the accident data report to the International Civil Aviation Organization, where the accident involves an aircraft of a maximum certificated take-off mass of more than 2,250 kg.

(4) The investigator-in-charge shall, where an investigation is carried out into a serious incident involving an aircraft of a maximum certificated take-off mass of more than 5,700 kg, send to the International Civil Aviation Organization after the completion of the investigation into the incident-

- (a) the final report of the incident, if the final report has been released; and
- (b) the incident data report.

(5) The Chief Investigator may from time to time issue a list of incidents to be regarded as serious incidents for the purposes of these Regulations.

(6) The final report shall be submitted by the Chief Investigator to the Minister before dissemination to any State under these Regulations.

Release of the final report

18. (1) The Minister shall release the final report of the investigation of an aircraft accident or serious incident within twelve months from the date of the occurrence of accident or incident.

(2) Where it is not possible to release the report as provided in sub-regulation (1), the Minister may release interim reports periodically but not later than on each anniversary of the occurrence detailing the progress of the investigation and any safety issues raised.

Publication of reports

19. (1) The Chief Investigator shall, with the approval of the Minister, cause the report of an investigation into an aircraft accident or serious incident to be made public after the expiry of thirty days.

(2) The Chief Investigator shall cause the final report to be made public upon the expiry of sixty days after its presentation under regulation 18.

(3) The final report shall be made public within fourteen days after it has been sent out to the relevant Contracting States referred to under these regulations.

(4) A person shall not circulate, publish, disclose or give access to any draft report or any part of its contents or any documents obtained during an investigation of an aircraft accident or incident unless the report has already been published by the Chief Investigator.

Incident reporting systems

20. (1) There shall be established by the Minister-

- (a) a mandatory incident reporting system to facilitate collection of information on actual or potential safety deficiencies; and
- (b) a voluntary incident reporting system to facilitate the collection of information that may not be captured by a mandatory incident reporting system.

(2) An incident reporting system established under sub-regulation (1) shall be non-punitive and afford protection to the information and to the sources of the information.

(3) Sub-regulation (1) shall not apply in cases where there is evidence that the occurrence was caused by an act considered, in accordance with the law, to be conducted with intent to cause damage, or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or wilful misconduct.

(4) Information gathered through an incident reporting system shall not be put to inappropriate use.

(5) A person seeking public disclosure of the information referred to in sub-regulation (4) shall apply to the court for an order for the release and for this purpose shall satisfy the court that the disclosure-

- (a) is necessary to correct conditions that compromise safety or to change policies and regulations;
- (b) does not inhibit its future availability in order to improve safety;
- (c) complies with applicable privacy laws; and
- (d) shall be made in a de-identified, summarized or aggregate form.

(5) For purposes of this regulation "inappropriate use" refers to the use of safety information for purposes different from the purposes for which it was collected, namely, aviation safety.

Accident and incident database

21. (1) The Chief investigator shall establish an accident and incident database for the purposes of analyzing safety information received.

(2) The Chief Investigator may disseminate information received under sub-regulation (1) to users of the aviation system within and outside Swaziland in order to facilitate the free exchange of information on actual and potential safety deficiencies.

Safety recommendations

22. (1) The Chief Investigator or the investigator-in-charge may, at any stage of an investigation carried out under these Regulations-

- (a) recommend to the appropriate authorities, including those in other Contracting States, any preventive action that the investigator-in-charge considers necessary to be taken promptly to enhance aviation safety; and
- (b) address, when appropriate, any safety recommendation arising out of the investigation to the accident investigation authorities of the other Contracting States concerned and to the International Civil Aviation Organization.

(2) The Chief Investigator shall communicate to relevant persons or authorities the recommendations referred to in sub-regulation (1) or those received from another Contracting State.

(3) Any person or authority in Swaziland to whom a recommendation is communicated to under sub-regulation (2) shall, without delay-

- (a) take that recommendation into consideration and, where appropriate, act upon it;
- (b) send to the Chief Investigator-

- (i) full details of the measures, if any, that person or authority has taken or proposes to take to implement the recommendation and, if the measures are to be implemented, the schedule for the implementation; or
- (ii) a full explanation on why no measures shall be taken to implement the recommendation; and
- (c) give notice to the Chief Investigator if at any time any information provided to the Chief Investigator under paragraph (b) concerning the measures the person or authority proposes to take or the schedule for securing the implementation of the recommendation is rendered inaccurate by any change of circumstances.

(4) A recommendation for preventive action or safety recommendation shall, in no case, create a presumption of liability for an aircraft accident or incident.

(5) Where any recommendation for preventive action or a safety recommendation is forwarded to the Minister or to the Chief Investigator by another Contracting State, the Chief Investigator shall notify that State of the preventive action taken or under consideration or the reasons why no action shall be taken.

Removal of damaged aircraft

23. (1) Subject to Regulations 6 and 7, where an accident or a serious incident occurs in Swaziland, no person shall-

- (a) have access to the aircraft involved in the accident or serious incident, the contents of the aircraft or the site of the accident or serious incident, other than the Chief Investigator, the investigator-in-charge or an authorized person; or
- (b) move or interfere with the aircraft, its contents or the site of the accident or serious incident except under the authority of the Chief Investigator or the investigator-in-charge.

(2) Notwithstanding sub-regulation (1)-

- (a) an aircraft involved in an accident or a serious incident may be moved or interfered with to the extent necessary for all or any of the following purposes-
 - (i) extricating persons or animals;
 - (ii) removing any mail, valuables or dangerous goods carried by the aircraft;
 - (iii) preventing destruction by fire or other cause; and
 - (iv) preventing any danger or obstruction to the public, air navigation or other transport;
- (b) where the aircraft is wrecked in water, the aircraft or any contents of the aircraft may be moved to the extent necessary for bringing the aircraft or its contents to a place of safety.

(3) Where the Chief Investigator or the investigator-in-charge authorizes any person to remove any goods or passenger baggage from the aircraft or to release any goods or passenger baggage from the custody of the Chief Investigator or the investigator-in-charge, that person may-

- (a) remove the goods or passenger baggage from the aircraft subject to the supervision of a police officer; and
- (b) release the goods or passenger baggage from the custody of the Chief Investigator or the investigator-in-charge subject to clearance by or with the consent of an officer of customs, if the aircraft has come from a place outside Swaziland.

(4) Where the Chief Investigator or the investigator-in-charge is of the opinion that the aircraft involved in the accident or serious incident is likely to endanger or obstruct the public, air navigation or other transport, the Chief Investigator may order the owner, operator or lessee of that aircraft to remove it to a place that the Chief Investigator or the investigator-in-charge may indicate.

(5) In the absence of the owner, operator or lessee or in the event of non-compliance with the instruction given pursuant to sub-regulation (4), the Chief Investigator or the investigator-in-charge may remove or cause the removal of the aircraft and shall not be liable for any further damage that may occur during removal.

(6) In this regulation, "authorized person" means any person authorized by the Chief Investigator or the investigator-in-charge either generally or specifically to have access to any aircraft involved in an accident or a serious incident and includes any police officer or any officer of customs.

(7) A police officer referred to in sub-regulation (7) shall be responsible for the maintenance of law and order and preservation of the site of accident pending the arrival of the investigator-in-charge.

Protection of evidence, custody and removal of aircraft

24. (1) The investigator-in-charge shall take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for a period that may be necessary for the purposes of an investigation.

(2) Any person in possession of any item which may constitute evidence for purposes of an investigation under these regulations shall hold and preserve the item and shall promptly hand them over to the investigator-in-charge.

(3) Protection of evidence shall include the preservation, by photographic or other means of any evidence which might otherwise be removed, effaced, lost or destroyed.

(4) Subject to sub-regulation (1), safe custody shall include protection against further damage, access by unauthorized persons, pilfering and deterioration.

Flight recorders read out

25. (1) The investigator-in-charge shall arrange for the readout of the flight recorders without delay.

(2) Where there are no adequate facilities to read out the flight recorders, facilities available from other States may be used taking into consideration the-

- (a) capabilities of the read-out facility;
- (b) timeliness of the read-out; and
- (c) location of the read-out facility.

Autopsy examination

26. The investigator-in-charge shall arrange for complete autopsy examination of fatally injured flight crew and, subject to the particular circumstances, of fatally injured passengers and cabin crew members, by a pathologist, preferably experienced in accident investigation.

Re-opening of investigation

27. (1) The Chief Investigator may recommend to the Minister to re-open the investigation, where new and significant evidence becomes available after the accident or serious incident investigation has been closed.

(2) The Chief Investigator may cause the investigation of an incident other than a serious incident to be re-opened if evidence has been disclosed after the completion of the investigation which, in the opinion of the Chief Investigator, is new and significant.

(3) Where the investigation of an accident or a serious incident is instituted by another Contracting State, the Minister shall obtain the consent of that State before causing the investigation to be re-opened under sub-regulation (1).

(4) Any investigation which is re-opened shall be carried out in accordance with these Regulations.

PART III GENERAL

Obstruction of investigation

28. (1) A person shall not obstruct an investigator or any person acting under the authority of the Minister or the Chief Investigator in the exercise of any rights, powers or duties under these Regulations.

(2) A person shall not, without reasonable cause, fail to comply with any summons of-

- (a) an investigator-in-charge carrying out an investigation under these Regulations; or
- (b) any person empowered to exercise the powers of the investigator-in-charge under regulation 14.

(3) The onus of proving reasonable cause for failing to comply with a summons shall lie on the person relying on that excuse.

Non-disclosure of records

29. (1) Information collected in the course of an investigation shall not be disclosed or made available to any other person other than in connection with an investigation carried out under these Regulations or in compliance with an order from a court of competent jurisdiction.

(2) Information referred to in sub-regulation (1) shall include but is not limited to the following-

- (a) statements taken from persons in the course of an investigation;
- (b) communication between persons having been involved in the operation of the aircraft;
- (c) medical or private information regarding persons involved in the accident or incident;
- (d) cockpit voice recording and transcript from that recording;
- (e) air traffic service recording and transcript from that recording; or
- (f) opinion expressed in the analysis of information,

including flight recorder information.

(3) A record of the information referred to in sub-regulation (2) shall be included in the final report or its appendices or in any other report only when it is relevant to the analysis of the accident or incident.

Release and disposal of aircraft and wreckage

30. (1) Where the retention of the aircraft involved in an accident or incident, parts of the aircraft or aircraft wreckage, or any contents of the aircraft is no longer necessary for the purposes of an investigation; the Chief Investigator shall release custody of the aircraft, parts, wreckage or contents to the following person or persons-

- (a) if it is a Swazi registered aircraft-
 - (i) the owner of the aircraft, parts, wreckage or contents;
 - (ii) where the owner is dead, the personal representative of the owner; or
 - (iii) a person authorized, in writing, by the owner or the personal representative of the owner to take custody on behalf of the owner or the owner's personal representative;
- (b) in any other case, to the person or persons designated by the State of registry or the State of the operator, as the case may be.

(2) The investigator-in-charge shall-

- (a) where the investigator-in-charge intends to release the aircraft wreckage, issue a notice to persons referred to in sub-regulation (1); or

- (b) where such persons cannot be traced, by publishing a notice in at least two daily newspapers of wide circulation in the state of occurrence, giving details of the aircraft wreckage and specifying the period during which it should be removed.

(3) The person to whom the notice has been issued may, before the expiry of the notice and for good cause, apply in writing to the Chief Investigator for an extension of the period within which the wreckage may be removed.

(4) Where a person to whom custody of the aircraft, parts, wreckage or contents is to be released fails to take custody within the period specified in the notice, the aircraft, parts, wreckage or contents may be disposed of in a manner that the Chief Investigator considers fit.

(5) The expenses incurred by the Chief Investigator in disposing the aircraft, parts, wreckage or contents shall be recoverable from the owner or operator of the aircraft or both.

Return and disposal of records

31. (1) The Chief Investigator, on the advice of the investigator-in-charge, shall, after the completion of the investigation or at any time determined by the investigator-in-charge, return the aircraft records or any documents containing factual information concerning an accident or incident to the persons from whom they were obtained, unless they are still required for judicial proceedings or other proceedings.

(2) The records and information referred to in sub-regulation (1) not claimed by or returned to the persons from whom they were obtained, may be disposed of in any manner that the Chief Investigator considers fit after a period of three years.

Penalties

32. A person who contravenes any provision of these Regulations, commits an offence and is liable, on conviction, to a fine of not exceeding one hundred thousand Emalangeni or to imprisonment for a term not exceeding two years or to both, and in a case of a continuing offence shall be liable to a fine not exceeding twenty thousand Emalangeni for each day the offence continues.

Repeal and saving

33. (1) Part XXVIII of the Aviation Regulations 2002, dealing with investigation of accidents, published in Legal Notice 71 of 2002 is hereby repealed.

(2) Notwithstanding sub-regulation (1), any investigation, review or inquiry commenced or any notices, circulars or orders issued under those regulations shall continue to be in force and have the same effect as if they were made under these regulations.

SCHEDULE
(Under Regulation 4)

FORMAT OF THE FINAL REPORT

PURPOSE

The purpose of this format is to present the Final Report in a convenient and uniform manner. Detailed guidance on completing each section of the Final Report is found in the Manual of Aircraft Accident Investigation.

FORMAT*Title*

The Final Report begins with a title comprising: name of the operator; manufacturer, model, nationality and registration marks of the aircraft; place and date of the accident or incident.

Synopsis

Following the title is a synopsis describing briefly all relevant information regarding: notification of accident to national and foreign authorities; identification of the accident investigation authority and accredited representation; organization of the investigation; authority releasing the report and date of publication; and concluding with a brief résumé of the circumstances leading to the accident.

Body

The body of the Final Report comprises the following main headings:

1. Factual information
2. Analysis
3. Conclusions
4. Safety recommendations

Each heading consisting of a number of sub-headings as outlined in the following.

Appendices

Include as appropriate.

Note. — In preparing a Final Report, using this format, ensure that:

- a) all information relevant to an understanding of the factual information, analysis and conclusions are included under each appropriate heading;
- b) where information in respect of any of the items in 1. — Factual information is not available, or is irrelevant to the circumstances leading to the accident, a note to this effect is included under the appropriate sub-headings.

1. FACTUAL INFORMATION

1.1 *History of the flight.* A brief narrative giving the following information:

— Flight number, type of operation, last point of departure, time of departure (local time or UTC), point of intended landing.

— Flight preparation, description of the flight and events leading to the accident, including reconstruction of the significant portion of the flight path, if appropriate.

— Location (latitude, longitude, elevation), time of the accident (local time or UTC), whether day or night.

1.2 *Injuries to persons.* Completion of the following (in numbers):

Injuries Crew Passengers Others

Fatal

Serious

Minor/None

Note. — Fatal injuries include all deaths determined to be a direct result of injuries sustained in the accident. Serious injury is defined in Chapter 1 of the Annex.

1.3 *Damage to aircraft.* Brief statement of the damage sustained by aircraft in the accident (destroyed, substantially damaged, and slightly damaged, no damage).

1.4 *Other damage.* Brief description of damage sustained by objects other than the aircraft.

1.5 *Personnel information:*

- a) Pertinent information concerning each of the flight crew members including: age, validity of licences, ratings, mandatory checks, flying experience (total and on type) and relevant information on duty time.
- b) Brief statement of qualifications and experience of other crew members.
- c) Pertinent information regarding other personnel, such as air traffic services, maintenance, etc., when relevant.

1.6 *Aircraft information:*

- a) Brief statement on airworthiness and maintenance of the aircraft (indication of deficiencies known prior to and during the flight to be included, if having any bearing on the accident).
- b) Brief statement on performance, if relevant, and whether the mass and centre of gravity were within the prescribed limits during the phase of operation related to the accident. (If not and if of any bearing on the accident give details.)

- c) Type of fuel used.

1.7 Meteorological information:

- a) Brief statement on the meteorological conditions appropriate to the circumstances including both forecast and actual conditions, and the availability of meteorological information to the crew.
- b) Natural light conditions at the time of the accident (sunlight, moonlight, twilight, etc.).

1.8 Aids to navigation. Pertinent information on navigation aids available, including landing aids such as ILS, MLS, NDB, PAR, VOR, visual ground aids, etc., and their effectiveness at the time.

1.9 Communications. Pertinent information on aeronautical mobile and fixed service communications and their effectiveness.

1.10 Aerodrome information. Pertinent information associated with the aerodrome, its facilities and condition, or with the take-off or landing area if other than an aerodrome.

1.11 Flight recorders. Location of the flight recorder installations in the aircraft, their condition on recovery and pertinent data available there from.

1.12 Wreckage and impact information. General information on the site of the accident and the distribution pattern of the wreckage; detected material failures or component malfunctions. Details concerning the location and state of the different pieces of the wreckage are not normally required unless it is necessary to indicate a break-up of the aircraft prior to impact. Diagrams, charts and photographs may be included in this section or attached in the Appendices.

1.13 Medical and pathological information. Brief description of the results of the investigation undertaken and pertinent data available there from.

Note. — Medical information related to flight crew licences should be included in 1.5 —

Personnel information.

1.14 Fire. If fire occurred, information on the nature of the occurrence, and of the fire fighting equipment used and its effectiveness.

1.15 Survival aspects. Brief description of search, evacuation and rescue, location of crew and passengers in relation to injuries sustained, failure of structures such as seats and seatbelt attachments.

1.16 Tests and research. Brief statements regarding the results of tests and research.

1.17 Organizational and management information. Pertinent information concerning the organizations and their management involved in influencing the operation of the aircraft. The organizations include, for example, the operator; the air traffic services, airway, aerodrome and weather service agencies; and the regulatory authority. The information could include, but not be limited to, organizational structure and functions, resources, economic status, management policies and practices, and regulatory framework.

1.18 Additional information. Relevant information not already included in 1.1 to 1.17.

1.19 Useful or effective investigation techniques. When useful or effective investigation techniques have been used during the investigation; briefly indicate the reason for using these techniques and refer here to the main features as well as describing the results under the appropriate sub-headings 1.1 to 1.18.

2. ANALYSIS

Analyse, as appropriate, only the information documented in 1. — Factual information and which is relevant to the determination of conclusions and causes.

3. CONCLUSIONS

List the findings and causes established in the investigation. The list of causes should include both the immediate and the deeper systemic causes.

4. SAFETY RECOMMENDATIONS

As appropriate, briefly state any recommendations made for the purpose of accident prevention and any resultant corrective action.

APPENDICES

Include, as appropriate, any other pertinent information considered necessary for the understanding of the report.

N. M. DLAMINI
MINISTER OF PUBLIC WORKS AND TRANSPORT

