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**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING**

No. R. 545

22 June 2001

THE CONSTITUTIONAL COURT

**NOTICE IN TERMS OF RULE 4(8) OF THE RULES OF THE
CONSTITUTIONAL COURT MADE BY THE PRESIDENT OF THE
CONSTITUTIONAL COURT IN CONSULTATION WITH THE CHIEF
JUSTICE UNDER SECTION 171 OF THE CONSTITUTION OF THE
REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO.108 OF 1996), AND
SECTION 16 OF THE CONSTITUTIONAL COURT COMPLEMENTARY
ACT, 1995 (ACT NO.13 OF 1995) IN:**

Case CCT 8/01

IN THE MATTER OF -

ANNETTE SUSAN BOOYSEN

First Applicant

YOULIAN VASSILEV STOIANOV

Second Applicant

CLAUDIA PHOEBE VALERIE CLOETE

Third Applicant

AROUNA ODUNLAYE

Fourth Applicant

SHAHIDA MOUDEN

Fifth Applicant

ABDEL MAJID MOUDEN

Sixth Applicant

SHAMILAH KHAN

Seventh Applicant

MOHAMMAD TAHIR JAVED

Eighth Applicant

versus

THE MINISTER OF HOME AFFAIRS

First Respondent

THE DIRECTOR GENERAL, DEPARTMENT
OF HOME AFFAIRS

Second Respondent

ORDER OF COURT

On 4 June 2001 the Constitutional Court made the following order in the above-mentioned case:

- 1.1 Section 26(2)(a) of the Aliens Control Act 96 of 1991, as amended (the Act) is declared to be inconsistent with the Constitution of the Republic of South Africa (the Constitution) and invalid.
- 1.2 The order made in para 1.1 above is suspended for a period of 12 (twelve) months from the date of this order to give Parliament an opportunity to correct the inconsistency that has resulted in the declaration of invalidity.
- 1.3 Pending the enactment of such legislation or the expiry of the period referred to in para 1.2 above, whichever occurs sooner, the second respondent is directed to accept, notwithstanding the provisions of section 26(2)(a) of the Act and of Regulation 16(1) of the Aliens Control Regulations, any application for a work permit in terms of section 26(1)(b) of the Act, made within South Africa, by any foreign non-resident spouse of a person who is permanently and lawfully resident in the Republic of South Africa.
- 2.1 Section 26(3)(b) of the Act is declared to be inconsistent with the Constitution and invalid.
- 2.2 The declaration of invalidity made in para 2.1 above is suspended for a period of 12 (twelve) months from the date of this order to enable Parliament to pass legislation to correct the inconsistency which has resulted in the declaration of invalidity.

- 2.3 Pending the enactment of such legislation or the expiry of the period referred to in para 2.2 above, whichever occurs sooner, the second respondent, when exercising the discretion conferred upon him or her by section 26(3)(a) of the Act, may not refuse to issue work permits as contemplated by section 26(1)(b) of the Act to foreign non-resident spouses of South African permanent residents, unless good cause for refusal to issue such permits is established.
- 2.4 Pending the enactment of legislation by Parliament or the expiry of the period referred to in para 2.2 above, whichever occurs sooner, the second respondent shall not, when exercising the discretion conferred upon him or her by section 26(6) of the Act, refuse to extend the validity of work permits as contemplated by section 26(1)(b) of the Act to foreign non-resident spouses of South African permanent residents, unless good cause for refusal to extend such permits is established.
- 2.5 The fact that the foreign spouse referred to in paras 2.3 or 2.4 above pursues or is likely to pursue an occupation in which, in the opinion of the second respondent or of the relevant Regional Committee of the Immigrants Selection Board, a sufficient number of persons are available in the Republic to meet the requirements of the inhabitants of the Republic, shall not be taken into account in determining the existence of good cause for the purposes referred to in paras 2.3 and 2.4 above.
- 2.6 Pending the enactment of legislation by Parliament or the expiry of the period referred to in para 2.2 above, whichever occurs sooner, the second respondent shall, when exercising the discretion conferred upon him or her by section 26(3) and 26(6) of the Act, finalise any application made by the foreign non-resident spouse of a South African permanent resident for the issue or extension of a work permit, within 30 (thirty) working days of the submission of such application, unless there is good cause for a longer period to be taken.
3. The orders made under paras 1.1 and 2.1 shall not render unlawful the refusal prior to 8 February 2001 of applications made under section 26(1)(b) of the Act. The first respondent is to pay the applicants' costs of these confirmation proceedings, including the costs attendant upon the employment of two counsel.

Thus done at JOHANNESBURG on 11 June 2001


S B MADONSELA

ppREGISTRAR: CONSTITUTIONAL COURT

**DEPARTMENT OF TRANSPORT
DEPARTEMENT VAN VERVOER**

No. R. 558

22 June 2001

AVIATION ACT (ACT NO.74 OF 1962)**TENTH AMENDMENT OF THE CIVIL AVIATION REGULATIONS, 1997**

The Minister of Transport has under section 22 of the Aviation Act, 1962 (Act No.74 of 1962) made the Regulations in the Schedule.

SCHEDULE**Definition**

1. In these Regulations, unless the context otherwise indicates "the Regulations" means the Civil Aviation Regulations, 1997, published by Government Notices No's R129 of 26 September 1997 and R.1255 of 17 October 1997, as amended by Government Notice R.1735 of 24 December 1997, Government Notice No R.1041 of 14 August 1998, Government Notice No R.1184 of 18 September 1998, Government Notice No R.1664 of 14 December 1998 and Government Notice No R.1702 of 31 December 1998 and Government Notice No R1701 of 31 December 1998 and Government Notice No R.639 of 21 May 1999 and Government No R170 of 17 February 2000 Government Notice No R.171 of 18 February 2000, and Government Notice No R.1381 of 15 December 2000.

Insertion of Regulation 21.08.3(A) into Part 21 of the Regulations

2. Regulation 21.08.3 A is herewith inserted after regulation 21.08.3 into the Regulations

"Carrying out test flights in certain circumstances.

21.08.3A An aircraft required to be issued or re-issued with a certificate of airworthiness or if such certificate of airworthiness is required to be rendered effective -

(i)

may be test flown with the written permission of the owner or

operator provided that -

- (aa) the aircraft has been issued with or possesses a valid South African certificate of registration;
 - (bb) an application form, as laid down by SA-CATS-AR requesting the issue of a certificate of airworthiness has been lodged with the Commissioner;
 - (cc) the application is accompanied by the fee prescribed in Part 187 for the issue of the above-mentioned certificate; and
 - (dd) where the certificate of airworthiness has expired due to an imposed calendar limit and such certificate needs to be re-issued, the requirements pertaining to the currency fee prescribed in the aforementioned regulations are to be met;
- (ii) is to be certified safe for the intended flight in the airframe logbook, prior to the flight by the holder of a valid suitably rated aircraft maintenance engineer's licence issued in terms of Part 66, or by such person who is a holder of valid certification, on type, issued in terms of Part 145 of these Regulations; and
- (iii) has to make its first landing at the point of departure."

Amendment of Regulation 67.00.9 of Part 67 of the Regulations

3. Regulation 67.00.9 of the Regulations is herewith amended;

- (a) by the substitution for paragraph (b) of subregulation (1) of the following paragraph:

"(b) not under any circumstances act as a pilot-in-command, or in any other capacity as a flight crew member, an air traffic service personnel member or a cabin crew member, as the case may be -:"

and

- (b) by the substitution for subparagraph (iii) of paragraph (b) of subregulation (1) of the following sub-paragraph:

"if the holder has entered the thirtieth week of pregnancy; or,."

Amendment of Regulation 92.00.9 of Part 92 of the Regulations

4. Regulation 92.00.8 of the Regulations is herewith amended by the substitution for paragraph (b) of subregulation (1) of the following paragraph:

"(b) operator of an aircraft used –

- (i) in a commercial air transportation operation in terms of Part 121, 127, or 135 of these Regulations; or
- (ii) in a service as defined paragraph (b) of the definition of 'air service' in section 1 of the Air Services Licensing Act, 1990 (Act No 115 of 1990); or;"

Amendment of Regulation 121.01.1 of Part 121 of the Regulations

5. Regulation 121.01.1 of the Regulations is herewith amended by the substitution for paragraph (c) of subregulation (1) of the following paragraph:

"(c) persons acting as flight crew members of the aeroplanes referred to in paragraph (b); and;"

Amendment of Regulation 121.08.1 of Part 121 of the Regulations

6. Regulation 121.08.1 of the Regulations is herewith amended –

- (a) the insertion after paragraph (b) of subregulation (2) of the following paragraph:

"(c) a Class D aeroplane is operated in accordance with the performance operating limitations described in Division Four."

- (b) by the substitution for subregulation (3) of the following subregulation:

"(3) Where specific design characteristics of an aeroplane prevents compliance with the Regulations in Division One, Two, Three or Four of this Subpart, the operator shall, notwithstanding the provisions of subregulation (2), ensure that the aeroplane is operated in accordance with such standard that

a level of safety equivalent to the level of safety prescribed in the appropriate Division in this subpart is maintained.”.

Insertion of Division Four into Part 121 of the Regulations

7. The following Division is herewith inserted after Regulation 121.08.26 of the Regulations:

“Division Four : Class D Aeroplane.

121.08.27(1) The operator of a Class D aeroplane shall not operate the aeroplane –

- (a) by night; or
 - (b) in IMC, except: -
 - (i) under special VFR;
 - (ii) in accordance with the requirements of subregulation (2); or
 - (iii) when conducting cargo-only flights
- (2) Notwithstanding the requirements of subregulation (1) single engine aeroplanes may conduct operations in IMC conditions and without visual reference to the ground with a maximum of twelve passengers, provided they meet the requirements in SA-CATS-OPS 121.08.1.
- (3) The operator of a Class D aeroplane shall ensure that, for determining compliance with the requirements prescribed in this Division, the approved performance data in the aeroplane flight manual referred to in Regulation 121.04.4 is supplemented, as necessary, with other approved data if the approved performance data in such aeroplane flight manual are insufficient.
- (4) A single-engine Class I aeroplane which does not comply with the requirements prescribed in this Division for take-off and landing, shall be operated in accordance with the performance operating limitations prescribed in Division Four.

Take-off

- 121.08.28 (1) The operator of a Class D aeroplane shall ensure that the take-off mass of the aeroplane does not exceed the maximum certificated mass for the pressure altitude and the ambient temperature at the aerodrome of departure.

- (2) The operator shall ensure that the take-off distance, as specified in the aeroplane flight manual prescribed in Regulation 121.04.4, multiplied by a factor of 1.3, does not exceed the take-off run available.
- (3) When complying with the provisions of subregulation (2), the operator shall take account of -
 - (a) The mass of the aeroplane at the commencement of the take-off run; and
 - (b) The requirements prescribed in Regulation 121.08.4(3).

Take-off flight path

- 121.08.29 (1) The operator of a Class D aeroplane shall ensure that the take-off flight path of the aeroplane clears all obstacles by a vertical margin of at least 295 feet plus $0,125 \times D$, where D is the horizontal distance the aeroplane has traveled from the end of the take-off distance available, except as provided in subregulations (3) and (4).
- (2) When complying with the provisions of subregulation (1), it shall be assumed that -
- (a) the take-off flight path begins at a height of 50 feet above the take-off surface at the end of the take-off distance required by regulation 121.08.12(3) and ends at a height of 1 500 feet above the take-off surface;
 - (b) the aeroplane is not banked before such aeroplane has reached a height of 50 feet above the take-off surface, and that thereafter the angle of bank does not exceed 15° .
 - (c) if engine failure occurs at the point of the take-off flight path where the loss of visual reference for the purpose of avoiding obstacles is expected to occur; and
 - (d) the gradient of the take-off flight path from 50 feet to the assumed engine-failure height is the gradient during climb and transition to the enroute configuration, multiplied by a factor of

0,77.

- (3) When complying with the provisions of subregulation (1), in those cases where the intended flight path does not require track changes of more than 15°, the operator need not consider obstacles which have a lateral distance greater than -
 - (a) 300 metres, if the flight is conducted under conditions allowing visual course guidance navigation, or if navigation aids are available enabling the pilot to maintain the intended flight path with the same accuracy; and
 - (b) 600 metres for flights under all other conditions.
- (4) When complying with the provisions of subregulation (1), in those cases where the intended flight path requires heading changes of more than 15°, an operator need not consider obstacles which have a lateral distance greater than -
 - (a) 600 metres for flights under conditions allowing visual course guidance navigation; or
 - (b) 900 metres for flights under all other conditions.
- (5) When complying with the provisions of this Regulation, the operator shall take account of the requirements referred to in Regulation 121.08.5(2).

En-route

- 121.08.30
- (1) The operator of a Class D aeroplane shall be able to demonstrate that the aeroplane, in the meteorological conditions expected for the flight, is capable of continuing flight at or above the relevant minimum altitudes for safe flight stated in the operations manual prescribed in Regulation 121.04.2, to a point 1 000 feet above an aerodrome at which the performance requirements can be complied with.
 - (2) When complying with the provisions of subregulation (1) the aeroplane shall be assumed not to be flying at an altitude exceeding the altitude at which the rate of climb equals 300 feet per minute within the maximum continuous power conditions specified in the aeroplane flight manual prescribed in

Regulation 121.04.4.**Landing at destination and alternate aerodromes**

- 121.08.31 The operator of a Class D aeroplane shall ensure that the landing mass of the aeroplane does not exceed the maximum landing mass specified for the altitude and the ambient temperature expected for the estimated time of arrival at the destination and alternate aerodrome.

Landing on dry runways

- 121.08.32 (1) The operator of a Class D aeroplane shall ensure that the landing mass of the aeroplane for the estimated time of arrival allows a full-stop landing from 50 feet above the threshold within 70 per cent of the landing distance available at the destination aerodrome and at any alternate aerodrome: Provided that the Commissioner may permit the use of a screen height of less than 50 feet, but not less than 35 feet, for steep-approach and short-landing procedures.
- (2) When complying with the provisions of subregulation (1), the operator shall take account of -
- (a) the runway surface condition and the type of runway surface;
 - (b) the runway slope in the direction of take-off; and
 - (c) the requirements referred to in regulation 121.08.9(2)(a) and (b).
- (3) For dispatching the aeroplane in accordance with the provisions of subregulation (1), it shall be assumed that -
- (a) such aeroplane will land on the most favourable runway, in still air; and
 - (b) such aeroplane will land on the runway most likely to be assigned considering the probable wind speed and direction and the ground handling characteristics of the aeroplane, and considering landing aids and terrain.

- (4) If the operator is unable to comply with the provisions of subregulation 3(b) for the destination aerodrome, the aeroplane may be dispatched if an alternate aerodrome is designated which permits full compliance with the provisions of subregulations (1), (2) and (3).

Landing on wet and contaminated runways

- 121.08.33 (1) The operator of a Class D aeroplane shall ensure that, when the appropriate weather reports or forecasts, or a combination thereof, indicate that the runway at the estimated time of arrival may be wet, the landing distance available is at least 115 per cent of the required landing distance determined in accordance with the provisions of Regulation 121.08.3.
- (2) The operator shall ensure that, when the appropriate weather reports or forecasts, or a combination thereof, indicate that the runway at the estimated time of arrival may be contaminated, the landing distance available is at least the required approved landing distance.
- (3) A landing distance on a wet runway shorter than the landing distance required by the provisions of subregulation (1), but not less than the landing distance required by the provisions of Regulation 121.08.32(1), may be used if the aeroplane flight manual referred to in Regulation 121.04.4, includes specified additional information on landing distances on wet runways."

Amendment of Regulation 127.01.1 of Part 127 of the Regulations

8. Regulation 127.01.1 of the Regulations is herewith amended by the substitution for paragraph (c) of subregulation (1) of the following paragraph:
- "(c) persons acting as flight crew members of the helicopters referred to in paragraph (b); and;"

Amendment of Regulation 135.01.1 of Part 135 of the Regulations

9. Regulation 135.01.1 of the Regulations is herewith amended by the substitution for paragraph (c) of subregulation (1) of the following paragraph:

"(c) persons acting as flight crew members of the aeroplanes referred to in paragraph (b); and;"

Amendment of Regulation 135.08.17 of Part 135 of the Regulations

10. Regulation 135.08.17 of the Regulations is herewith amended by the substitution for the said Regulation of the following Regulation:

"(1) The operator of a Class D aeroplane shall not operate the aircraft -

(a) by night; or

(b) in IMC, except :-

(i) under special VFR;

(ii) in accordance with the requirements of subregulation (2); or

(iii) when conducting a cargo-only flight

(2) Notwithstanding the requirements of subregulation (1), single-engine aircraft may conduct operations in IMC conditions or without visual reference to the ground in the public transport category with a maximum of nine passengers, provided they meet the requirements in SA-CATS OPS 135.08.17."

Short Title and Commencement

11. These Regulations are called the Tenth Amendment of the Civil Aviation Regulations, 1997, and shall come into operation on the date of publication thereof.

LUGVAARTWET, 1962 (WET NO. 74 VAN 1962)**TIENDE WYSIGING VAN DIE BURGERLUGVAARTREGULASIES, 1997**

Die Minister van Vervoer het ingevolge artikel 22(1) van die Lugvaartwet 1962, (Wet No. 74 van 1962) die regulasies in die Bylae hiervan uitgevaardig.

BYLAE**Woordomskrywing:**

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken "die Regulasies" die Burgerlugvaartregulasies, 1997, soos afgekondig by Goewermentskennisgewing Nos R. 1219 van 26 September 1997 en R. 1255 van 17 Oktober 1997, soos gewysig deur Goewermentskennisgewing No. R. 1735 van 24 Desember 1997, Goewermentskennisgewing No. R. 1041 van 14 Augustus 1998, Goewermentskennisgewing No. R. 1184 van 18 September 1998, Goewermentskennisgewing Nos. R. 1614 van 14 Desember 1998, en No. R. 1702 van 31 Desember 1998, Goewermentskennisgewing No. 1701 van 31 Desember 1998, Goewermentskennisgewing No. R. 639 van 21 Mei 1999, en Goewermentskennisgewing No. R. 170 van 17 Februarie 2000, Goewermentskennisgewing No. R. 171 van 18 Februarie 2000.

Invoeging van Regulasie 21.08.3(A) in Deel 21 van die Regulasies:

2. Regulasie 21.08.3(A) word hierby na regulasie 21.08.3 in die Regulasies ingevoeg:

"Uitvoering van toetsvlugte in sekere omstandighede

21.08.3(A) 'n Vliegtuig wat vereis word om uitgereik of heruitgereik te word met 'n lugwaardigheidsertifikaat of indien dit nodig is om sodanige lugwaardigheidsertifikaat effektief te maak -

- (i) mag met die skriftelike toestemming van die eienaar of operateur op 'n toetsvlug geneem word met die voorbehoud dat -
 - (aa) die vliegtuig uitgereik is of in besit van 'n geldige Suid-Afrikaanse registrasiesertifikaat;
 - (bb) 'n aansoekvorm, soos vereis in SA-CATS-AR wat die uitreiking van 'n lugwaardigheidsertifikaat versoek, by die Kommissaris ingedien is;
 - (cc) die aansoek vergesel is van die gelde soos voorgeskrif in

Deel 187 van die Regulasies vir die uitreiking van die bogenoemde sertifikaat;

en

- (dd) waar die lugwaardigheidsertifikaat verval het as gevolg van 'n neergelegde kalenderbeperking en sodanige sertifikaat heruitgereik moet word, die vereistes rakende die jaargelde in Deel 187 voorgeskryf nagekom word.
- "(ii) moet voor die vlug as veilig vir die beoogde vlug in die lugraamlogboek deur die houer van 'n geldige behoorlik gegradeerde lugvaartonderhoud-ingenieurslisensie ingevolge Deel 66 of deur 'n persoon wat die houer is van 'n geldige sertifiseringstipe ingevolge Deel 145 van hierdie Regulasies, gesertifiseer word; en
- (iii) moet sy eerste landing by die vertrekpunt maak."

Wysiging van Regulasie 67.00.9 van deel 67 van die Regulasies

3. Regulasie 67.00.9 van die Regulasies word hierby gewysig –

- (a) deur die vervanging van paragraaf (b) van die betrokke regulasie deur die volgende paragraaf:
 - "(b) mag onder geen omstandighede of in enige ander hoedanigheid as 'n boordbemanningslid, 'n lugverkeersdienspersoneellid of 'n kajuitbemanningslid na gelang van die geval, optree nie-,"
- en
- (b) deur die vervanging van subparagraaf (iii) van paragraaf (b) van die betrokke regulasie deur die volgende subparagraaf:
 - "(iv) indien die houer die dertigste week van swangerskap binnegegaan het; of;"

Wysiging van Regulasie 92.00.8 van Deel 92 van die Regulasies

4. Regulasies 92.00.8 van die Regulasies word hierby gewysig deur die vervanging van paragraaf (b) van subregulasie (1) deur die volgende paragraaf:

- "(b) operateur van 'n vliegtuig gebruik –
 - (i) in 'n handelslugvervoer operasie ingevolge Deel 121, 127 of 135 van hierdie Regulasies; of
 - (ii) in 'n diens soos gedefinieer in paragraaf (b) van die omskrywing van "lugdiens" in artikel 1 van die Wet op die Lisensiering van Lugdienste, 1990 (Wet No 115 van 1990); of;"

Wysiging van Regulasie 121.01.1 van deel 121 van die Regulasies

5. Regulasie 121.01.1 van die Regulasies word hierby gewysig deur die vervanging van paragraaf (c) van subregulasie (1) deur die volgende regulasie:

"(c) persone wat optree as boordbemanningslede van die vliegtuie waarna in paragraaf (b) hierbo verwys word"; of;

Wysiging van Regulasie 121.08.1 van Deel 121 van die Regulasies

6. Regulasie 121.08.1 van die Regulasies word hierby gewys –

(a) deur die invoeging na paragraaf (b) van subregulasie (2) van die volgende paragraaf:

"(c) 'n Klas D-vliegtuig moet bedryf word in ooreenstemming met die werkverrigtingbedryfsbeperkings soos omskryf in Afdeling Vier."

(b) deur die vervanging van subregulasie (3) deur die volgende subregulasie:

"(3) Waar bepaalde ontwerpkenmerke van 'n vliegtuig nakoming van die Regulasies in Afdeling Een, Twee, Drie en Vier van hierdie Subgedeelte verhoed, moet die operateur, ondanks die bepalings van subregulasie (2), verseker dat die vliegtuig bedryf word in ooreenstemming met sodanige standaard dat 'n peil van veiligheid gelykwaardig aan die van veiligheid wat in die toepaslike Afdeling in hierdie Subgedeelte voorgeskryf word, gehandhaaf word."

Invoeging van Afdeling 4 in Deel 121 van die Regulasies

7. Die volgende Afdeling word hiermee ingevoeg na regulasie 121.08.26 van die Regulasies:

- "121.08.27 (1) Die operateur van 'n Klas D-vliegtuig mag nie die vliegtuig bedryf-
- (a) in die nag nie; of
 - (b) in IMC nie, behalwe:-
 - (i) onder spesiale VFR;
 - (ii) in ooreenstemming met die vereistes van subregulasie (2); of
 - (iii) wanneer vrag-alleen vlugte bedryf word.
- (2) Nieteenstaande die vereistes van subregulasies (1) mag enkelmotorige vliegtuie operasies ondergaan in IMC toestande en sonder visuele verwysing na die grond, op die voorwaarde dat aan die vereistes van SA-CATS-OPS 121.08.1 voldoen word.
- (3) Die operateur van 'n Klas D-vliegtuig sal verseker dat, met die oog op die bepaling van nakoming met die vereistes voorgeskryf in hierdie Afdeling, die goedgekeurde werkverrigtingsdata in die vliegtuigvlieghandleiding waarna in Regulasie 121.04.4 verwys word, soos benodig met ander goedgekeurde data aangevul word indien die goedgekeurde werkverrigtingsdata in die vliegtuigbedryfshandleiding nie voldoende is nie.

- (4) 'n Enkelmotorige Klas 1-vliegtuig wat nie voldoen aan die vereistes van opstyging en landing soos in hierdie Afdeling voorgeskryf is nie, moet bedryf word in ooreenstemming met die werkverrigtingbedryfsbeperkings soos voorgeskryf in Afdeling Vier.

Opstyging

- 121.08.28 (1) Die operateur van 'n Klas D-vliegtuig moet verseker dat die opstygingsmassa van die vliegtuig nie die maksimum gesertifiseerde massa vir die druk altitude en die omgewingstemperatuur by die vliegveld van vertrek oorskry nie.
- (2) Die operateur moet verseker dat die opstygingsafstand, soos gespesifiseer in die vliegtuigvlieghandleiding bedoel in regulasie 121.04.4, vermenigvuldig met 'n faktor van 1.3, nie die beskikbare opstygingsaanloop oorskry nie.
- (3) By voldoening aan die bepalinge van subregulasie (2), moet die operateur rekening hou met –
- (a) die masse van die vliegtuig by die aanvang van die opstygingsaanloop; en
 - (c) die vereistes voorgeskryf in regulasie 121.08.4(3).

Opstygingsvliegbaan

- 121.08.29 (1) Die operateur van 'n Klas D-vliegtuig moet verseker dat die opstygingsvliegbaan van die vliegtuig alle versperrings oorheengaan met 'n vertikale speling van minstens 295 voet plus $0,125 \times D$, waar D die horisontale afstand is wat die vliegtuig beweeg het van die end van die beskikbare opstygingsafstand, behalwe soos bepaal in subregulasies (3) en (4).
- (2) By voldoening aan die bepalinge van subregulasie (1), word dit veronderstel dat –
- (a) die opstygingsvliegbaan begin op 'n hoogte van 50 voet bo die opstygingsoppervlakte aan die end van die opstygingsafstand vereis deur regulasie 121.08.12(2) en op 'n hoogte van 1500 voet bo die opstygingsoppervlakte eindig;
 - (b) die vliegtuig nie gekantel word voordat so 'n vliegtuig nie 'n hoogte van 50 voet bo die opstygingsoppervlakte bereik het nie, en daarna die kantelhoek nie 15° oorskry nie;
 - (c) opstygingsvliegbaan waar die verlies van sig- oriëntasie vir die doel om versperrings te vermy, verwag kan word om voor te kom; en
 - (d) die gradiënt van die opstygingsvliegbaan van 50 voet tot die veronderstelde motorweieringshoogte, die gradiënt is gedurende styglug en oorgang na die onderwegkonfigurasie, vermenigvuldig met 'n faktor van 0,77.

- (3) By voldoening aan die bepalings van subregulasie (1), in daardie gevalle waar die beplande vliegbaan nie spoorveranderings van meer as 15° vereis nie, hoef die operateur nie versperrings in ag te neem wat 'n sydelings afstand het van meer as –
- (a) 300 meter, indien die vlug uitgevoer word onder toestande wat sigkoersleiding-navigasie toelaat, of indien navigasihulpmiddels beskikbaar is om die vlieënier in staat te stel om die beplande vliegbaan te handhaaf met dieselfde akkuraatheid; en
 - (b) 600 meter vir vlugte onder alle ander toestande.
- (4) By voldoening aan die bepalings van subregulasie (1), in daardie gevalle waar die beplande vliegbaan rigtingveranderings van meer as 15° vereis, hoef die operateur nie versperrings in ag te neem nie met 'n groter sydelingse afstand as –
- (a) 600 meter vir vlugte onder toestande wat sigkoersleiding-navigasie toelaat; of
 - (b) 900 meter vir vlugte onder alle ander toestande.
- (5) By voldoening aan die bepalings van hierdie regulasie, moet die operateur rekening hou met die vereistes bedoel in regulasie 121.08.5(2).

Onderweg

- 121.08.30 (1) Die operateur van 'n Klas D-vliegtuig moet in staat wees om te demonstreer dat die vliegtuig, onder die weersomstandighede verwag vir die vlug, in staat is om met die vlug voort te gaan by of bo die betrokke minimumaltitudes vir veilige vlug vermeld in die bedryfshandleiding voorgeskryf in regulasie 121.04.2, tot 'n punt 1 000 voet bo 'n vliegveld waarby aan die werkverrigting-vereistes voldoen kan word.
- (2) By voldoening aan die bepalings van subregulasie (1) word die vliegtuig geag nie te vlieg nie op 'n altitude wat die altitude oorsky waarteen die tempo van stygvlug gelyk is aan 300 voet per minuut binne die maksimum aanhoudende krag-omstandighede wat gespesifiseer is in die vliegtuigvlug-handleiding voorgeskryf in regulasie 121.04.4.

Landing op Bestemmings- en Uitwykvliegvelde

- 121.08.31 Die operateur van 'n Klas D-vliegtuig moet verseker dat die landingsmassa van die vliegtuig nie die maksimum gesertifiseerde massa gespesifiseer vir die altitude en die omgewingstemperatuur verwag vir die beraamde aankomstyd by die bestemmings- en uitwykvliegveld, oorskry nie.

Landing op droë aanloopbane

- 121.08.32 (1) Die operateur van 'n Klas D-vliegtuig moet verseker dat die landingsmassa van die vliegtuig vir die verwagte landingstyd, 'n stilhou-landing toelaat van 50 voet bo die drempel binne 70 persent van die beskikbare landingsafstand by die bestemmingsvliegveld en by enige ander uitwykvliegveld: Met dien verstande dat die Kommissaris

die gebruik kan toelaat van 'n beskermingshoogte van minder as 50 voet, maar nie minder nie as 35 voet, vir steilnaderings- en kortlandingsprosedures.

- (2) By voldoening aan die bepalinge van subregulasie (1), moet die operateur rekening hou met –
 - (a) die toestand van die aanloopbaanoppervlakte en die tipe aanloopoppervlakte;
 - (b) die gradiënt van die aanloopbaan in die rigting van opstyding; en
 - (c) die vereistes bedoel in regulasie 121.08.8(2)(a) en (b).
- (3) Vir die afstuur van die vliegtuig ooreenkomstig die bepalinge van subregulasie (1), word dit veronderstel dat –
 - (a) so 'n vliegtuig sal land op die mees gunstige aanloopbaan, in windstilte; en
 - (b) so 'n vliegtuig sal land op die aanloopbaan wat mees waarskynlik aangewys sal word inaggenome die waarskynlike windsnelheid en –rigting en die grond-hanteringskenmerke van die vliegtuig, en met inagneming van landingshulpmiddels en terrein.
- (4) Indien die operateur nie in staat is om te voldoen aan die bepalinge van subregulasie 3(b) vir die bestemmingsvliegveld nie, kan die vliegtuig afgestuur word indien 'n uitwykvliegveld aangewys is wat volledige voldoening aan die bepalinge van subregulasies (1), (2) en (3) toelaat.

Landing op nat en besoedelde aanloopbane

- 121.08.33
- (1) Die operateur van 'n Klas D-vliegtuig moet verseker dat, wanneer die toepaslike weerberigte of –voorspellings, of 'n kombinasie daarvan, aandui dat die aanloopbaan teen die verwagte aankomstyd nat kan wees, die landingsafstand beskikbaar minstens 115 persent is van die vereiste landingsafstand bepaal ooreenkomstig die bepalinge van regulasie 121.08.22.
 - (2) Die operateur moet verseker dat, wanneer die toepaslike weerberigte of –voorspellings, of 'n kombinasie daarvan, aandui dat die aanloopbaan teen die verwagte aankomstyd besoedel kan wees, die beskikbare landingsafstand minstens die vereiste goedgekeurde langafstand is.
 - (3) 'n Landingsafstand op 'n nat aanloopbaan wat korter is as die landingsafstand vereis deur die bepalinge van subregulasie (1), maar nie minder nie as die langafstand vereis deur die bepalinge van regulasie 121.08.22(1), kan gebruik word indien die vliegtuigvlieghandleiding bedoel in regulasie 121.04.4 spesifieke bykomende inligting insluit oor landingsafstande op nat aanloopbane."

Wysiging van Regulasie 127.01.1 van deel 127 van die Regulasies

8. Regulasie 127.01.1 van die Regulasies word hierby gewysig deur die vervanging van paragraaf (c) van subregulasie (1) deur die volgende paragraaf:
"(c) persone wat optree as boordbemanningslede van die helikopters waarna in paragraaf (b) hierbo verwys word;"

Wysiging van Regulasie 135.01.1 van Deel 135 van die Regulasies

9. Regulasie 135.01.1 van die Regulasies word hierby gewysig deur die vervanging van paragraaf (c) van subparagraaf (1) deur die volgende paragraaf:
"(c) persone wat optree as boordbemanningslede van die vliegtuie waarna in paragraaf (b) hierbo verwys word; en;"

Wysiging van Regulasies 135.08.17 van Deel 135 van die Regulasies

10. Regulasie 135.08.17 van die regulasies word hierby bewysig deur die vervanging van die betrokke regulasie deur die volgende regulasie:

- "(1) Die operateur van 'n Klas D-vliegtuig mag nie die vliegtuig bedryf-
- (a) in die nag nie; of
 - (b) in IMC nie, behalwe:-
 - (i) onder spesiale VFR;
 - (ii) in ooreenstemming met die vereistes van subregulasie (2); of
 - (iii) wanneer 'n vrag-alleen vlug bedryf word.
- (2) Nieteenstaande die vereistes van subregulasie (1), mag enkelmotorige vliegtuie operasies uitvoer in IMC toestande of sonder visuele verwysing na die grond in die openbare vervoerbedryf met 'n maksimum van nege passasiers, op voorwaarde dat aan die vereistes van SA-CATS OPS 121.08.17 voldoen word."

Kort titel en inwerkingtreding

11. Hierdie Regulasies heet die Tiende Wysiging van die Burgerlugvaartregulasies 1997, en tree in werking op die datum van publikasie daarvan.

AVIATION ACT, 1962, (ACT NO. 74 OF 1962)**ELEVENTH AMENDMENT OF THE CIVIL AVIATION REGULATIONS, 1997**

The Minister of Transport has under section 22(1) of the Aviation Act, 1962 (Act No. 74 of 1962) made the regulations in the Schedule hereto.

SCHEDULE**Definition:**

1. In these regulations unless the context otherwise indicates, "the Regulations" means the Civil Aviation Regulations, 1997, publishes by Government Notice Nos. R.1219 of 26 September 1997 and R.1255 of 17 October 1997, as amended by Government Notice R.1735 of 24 December 1997, Government Notice No. R.1041 of 14 August 1998, Government Notice Nos. R.1665 of 14 December 1998 and Government Notice 1702 of 31 December 1998, Government Notice No. R.1701 of 31 December 1998, Government Notice No. R.639 of 21 May 1999, Government Notice No. R. 170 of 17 February 2000, Government Notice No. 171 of 18 February 2000 and Government Gazette No. 138 of 15 December 2000.

Amendment of regulation 1.001 of Part 1 of the Regulations.

2. **Regulation 1 of the Regulations is herewith amended-**
 - (a) by the insertion after the definition of "AIP Supplement" of the following definition:

" 'air ambulance operation' means air transportation of a patient requiring in-flight medical care and operated in terms of Part 138 of the Regulations;"

- (b) by the insertion after the definition of "maximum certificated mass" of the following definition:-

" 'medically compromised passenger' means a person who is physically or mentally compromised due to illness, injury, congenital malfunction or other temporary or permanent incapacity or disability, who cannot assist himself or herself, and is not likely to require medical care, but needs to be accompanied by a person to provide comfort during the flight and to assist in any emergency flight procedure;"; and

- (c) by the insertion before the definition of "meteorological information" of the following definition:-

" 'medical personnel' means any aviation health care provider registered with an appropriate authority who is assigned to provide medical care to a patient from the time of boarding an aircraft until completion of disembarkation and who is knowledgeable of aviation stresses and their effect on the human body and on medical life support and equipment used in the transport of patients".

Amendment of regulation 91.07.19 of Part 91 of the Regulations.

3. Regulation 91.07.19 of the Regulations is herewith amended, by the substitution for the said regulation of the following regulation:

- "(1) The owner or operator of an aircraft shall ensure that passengers are seated where, in the event that an emergency evacuation is required, such passengers may best assist and not hinder evacuation from the aircraft.
- (2) The owner or operator of an aircraft shall ensure that if a medically compromised passenger is carried together with other passengers, such passenger shall not be positioned in such a way that access to emergency exits is blocked.
- (3) Passengers may be carried in an aircraft, other than an air ambulance aircraft operated and equipped in terms of Part. 138, on a stretcher only if such stretcher and the manner in which it is secured to the aircraft have been approved by the Commissioner and the condition of the passenger does not require the attention of an aviation health care provider or require the passenger to be connected to any external medical equipment.

- (4) In the case of an emergency medical situation, where no air ambulance aircraft operated and equipped in terms of Part 138 can be made available within a reasonable time span at or near the place where the situation exists, an aircraft owner or operator may disregard sub-regulations (1), (2) and (3) in the interest of saving human life.
- (5) Any non-standard emergency transport in terms of sub-regulation (4) shall be reported by the operator to the Commissioner on the appropriate form as described in Document SA-CATS-OPS, explaining the reasons for the deviation from Regulation 91.07.19, within fourteen days of the flight having taken place".

Short title and commencement:

- 4. These Regulations are called the Eleventh Amendment of the Civil Aviation Regulations, 1997, and will come into operation on the date of publication thereof.

LUGVAARTWET, 1962 (WET NO. 74 VAN 1962)**ELFDE WYSIGING VAN DIE BURGERLUGVAARTREGULASIES, 1997**

Die Minister van Vervoer het ingevolge artikel 22(1) van die Lugvaartwet 1962, (Wet No. 74 van 1962) die regulasies n die Bylae hiervan uitgevaardig.

BYLAE**Woordomskrywing:**

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken "die Regulasies" die Burgerlugvaartregulasies, 1997, soos afgekondig by Goewermentskennisgewing Nos R. 1219 van 26 September 1997 en R. 1255 van 17 Oktober 1997, soos gewysig deur Goewermentskennisgewing No. R 1735 van 24 Desember 1997, Goewermentskennisgewing No. R. 1041 van 14 Augustus 1998, Goewermentskennisgewing No. R 1184 van 18 September 1998, Goewermentskennisgewing Nos. R. 1614 van 14 Desember 1998 en R. 1702 van 31 Desember 1998, Goewermentskennisgewing No. 1701 van 31 Desember 1998, Goewermentskennisgewing No. R. 639 van 21 Mei 1999, en Goewermentskennisgewing No. R. 170 van 17 Februarie 2000, Goewermentskennisgewing No. R.171 van 18 Februarie 2000.en Goewermentskennisgewing No. R.1381 van 15 Desember 2000.

Wysiging van regulasie 1 van Deel van die Regulasies.

2. Regulasie 1 van die Regulasies word hierby gewysig deur:-
 - (a) die invoeging na die omskrywing van "lugdiens" van die volgende omskrywing:-

" 'lugambulansdiens' beteken die lugvervoer van 'n pasiënt ingevolge Deel 138 van die Regulasies' "
 - (b) die invoeging na die omskrywing van "medevlieënier" van die volgende omskrywing:-

"medies gekomprommiteerde passasier' beteken 'n persoon wat fisies of geestelik as gevolg van siekte, besering, aangebore wanfunksies of _tydelike of permanente onbevoegdheid of ongeskiktheid, nie homself of haarself kan help nie, en wat waarskynlik nie mediese sorg sou benodig nie, maar wat

benodig om deur 'n persoon vergesel te wees om bystand tydens die vlug te verleen, en hulp te verleen tydens enige noodvlugprosedure' "; en

- (c) die invoeging voor die omskrywing van "mengboustrukture- of komponente" van die volgende omskrywing:-

"mediese personeel" beteken enige lugvaartgesondheids-sorgvoorsiener geregistreer by die toepaslike owerheid, wat aangewys is om mediese sorg aan 'n pasiënt vanaf die tydstip van inskeping tot ontskeping voltooi is, en wat benodig word ten opsigte van lugvaartstres en die effek daarvan op die menslike liggaam en op die mediese lewensonderhoud en vervoertoerusting te verskaf."

Wysiging van regulasie 91.07.19 van Deel 91 van die Regulasies.

3. Regulasie 91.07.19 van die Regulasies word hierby gewysig: deur-

- (a) die hernoemering van die bestaande regulasie 91.07.19 as subregulasie (1);

en

- (b) die invoeging, na subregulasie 1, soos hernoem, van die volgende subregulasies:-

"(2) Die eienaar of operateur van 'n lugvaartuig sal verseker dat indien 'n medies gekompromiteerde passasier saam met ander passasiers vervoer word, sodanige passasiers nie op so 'n wyse geplaas sal word dat toegang tot die nooduitgang geblokkeer word nie.

(3) Passasiers mag in 'n vliegtuig anders as 'n lugambulansvliegtuig bedryf en toegerus ingevolge Deel 138 slegs op 'n draagbaar vervoer word indien sodanige draagbaar en die wyse waarop dit aan die vliegtuig vasgeheg word, deur die Kommissaris goedgekeur is, en die toestand van die passasier nie die aandag van 'n lugvaartgesondheids-sorgvoorsiener of die koppeling aan enige eksterne mediese toerusting noodsaak nie.

"(4) Die enigste uitsondering op regulasie 91.07.19 is dat in die geval van 'n mediese noodsituasie, waar geen lugambulanslugvaartuig bedryf en toegerus

ingevolge Deel 138 , nie beskikbaar gemaak kan word binne 'n redelike tydsbestek by of naby die plek waar die situasie bestaan, nie, 'n lugvaartuigeienaar of operateur subregulasies (1), (2), en (3) kan ignoreer ten einde lewens te kan red.

(5) Sodanige nie-standaard noodvervoer moet aan die Kommissaris deur die operateur op die toepaslike vorm soos omskryf in Dokument SA-CATS-OPS 91 gerapporteer word ,waarin die redes vir die afwyking van regulasie 91.07.19 binne veertien dae daarna, aangedui word.

Kort titel en inwerkingtreding:

4. Hierdie regulasies heet die Elfde Wysiging van die Burgerlugvaartregulasies 1997, en sal in werking tree op die datum van publikasie daarvan.



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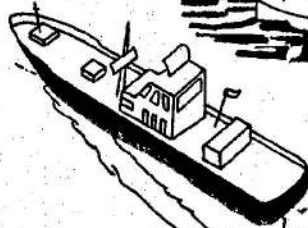
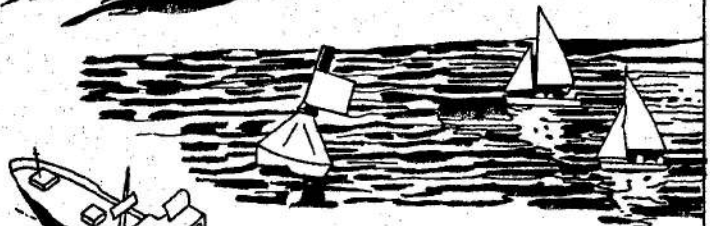
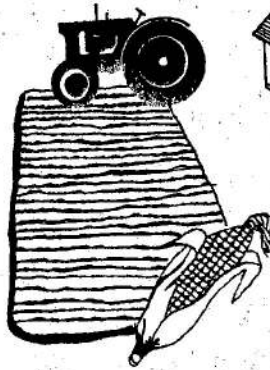
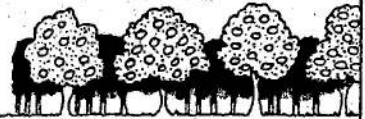
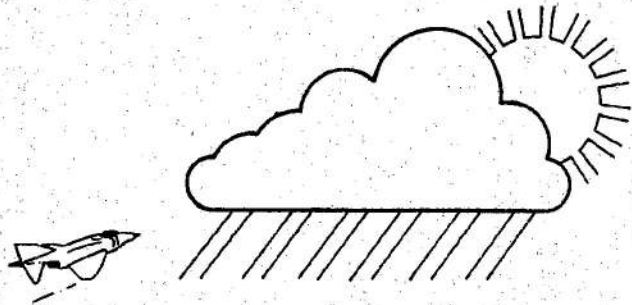
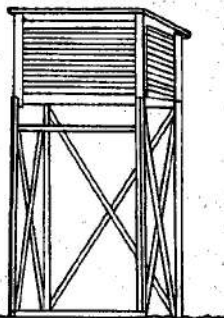
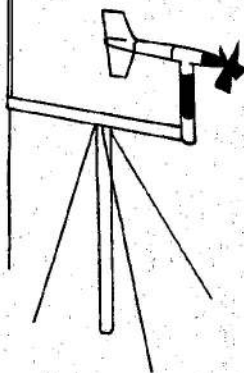
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