
GOVERNMENT NOTICE

DEPARTMENT OF TRANSPORT

No. R. 674

12 June 2009

AVIATION ACT, 1962 (ACT NO 74 OF 1962)

AMENDMENT TO 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, published by Government Notice No R.1219 of 26 September 1997 and R.1255 of 17 October 1997, as amended by Government Notice No R. 1753 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, Government Notice No R. 1701 of 31 December 1998, Government Notice No 1702 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 R. 171 of 18 February 2000, Government Notice No R. 1381 of 15 December 2000, Government Notice No R. 558 of 22 June 2001, Government Notice No R. 559 of 22 June 2001, Government Notice No R. 1134 of 30 August 2002, Government Notice No R. 1367 of 15 November 2002, Government Notice No R. 1368 of 15 November 2002, Government Notice No 1369 of 15 November 2002, Government Notice No R. 1370 of 15 November 2002, Government Notice No R. 1371 of 15 November 2002, Government Notice No R. 1372 of 15 November 2002, Government Notice No R. 434 of 28 March 2003, Government Gazette No 435 of 28 March 2003, Government Gazette No R.1375 of 1 October 2003, Government Gazette No R.1340 of 31 March 2004, Government Notice No R.807 dated 4 August 2006, Government Notice No R. 1371 dated 28 December 2006, Government Notice No R. 364 dated 26 April 2007, Government Notice No R. 571 dated 13 July 2007, Government Notice No R. 572 dated 13 July 2007, Government Notice No R. 573 dated 13 July 2007, Government Notice No R. 574 dated 13 July 2007, Government Notice No R. 1233 Dated 20 December 2007, Government Notice No R. 1234 dated 20 December 2007, Government Notice No R. 601 dated 30 May 2008, Government Notice No R. 700 dated 30 June 2008 and Government Notice No R. 936 dated 05 September 2008.

Substitution of Regulation 21.01.6 of the Regulations

2. The following regulation is herewith substituted for Regulation 21.01.6 of the Regulations:

“Suspension, cancellation and appeal

21.01.6 (1) An authorised officer, inspector or authorised person may suspend a certificate, approval or authorisation issued under this Part, if –

- (a) immediate suspension is necessary in the interests of aviation safety;
- (b) an authorised officer, inspector or authorised person is prevented by the holder of the certificate, approval or authorisation from carrying out any safety inspection and audit or from performing any of the functions that the authorised officer, inspector or authorised person is permitted to perform in terms of the Act and these Regulations; or
- (c) it is evident that the holder of the certificate, approval or authorisation does not comply with the relevant requirements prescribed in this Part, after such holder has been given at least 14 days within which to comply therewith and has been notified of the proposed suspension and the purpose thereof.

(2) The notice of suspension must be given in writing, stating the reasons for the suspension.

(3) An authorised officer, inspector or authorized person who has suspended a certificate, approval or authorisation must, within 7 days, submit a report in writing to the Commissioner with a proof that a copy thereof has been submitted to the person concerned, stating the reasons why, in his or her opinion, the suspended certificate, approval or authorisation should be withdrawn or restored.

(4) A person whose certificate, approval or authorisation has been suspended in terms of sub-regulation (1) may appeal, to the Commissioner, against such suspension within 14 days from the date of such suspension.

(5) The appeal referred to in sub-regulation (4), must be in writing, and stating the reasons why, in the appellant’s opinion, the suspension should be varied or set aside.

(6) The appellant must furnish proof to the Commissioner that a copy of the appeal and any documents supporting such appeal have been served on the authorised officer, inspector or authorised person concerned.

(7) The Commissioner must consider the appeal referred to in sub-regulation (4) within 14 days of receipt thereof.

- (8) The Commissioner may at any time extend, confirm, vary or set aside the suspension.
- (9) The Commissioner may cancel the certificate, approval or authorisation if –
- (a) he or she confirms the suspension in terms of sub-regulation (8); or
 - (b) the holder of the certificate, approval or authorisation does not appeal against the suspension referred to in sub-regulation (1).
- (10) The holder of the certificate, approval or authorisation, who feels aggrieved by the cancellation referred to in sub-regulation (9), may appeal against such cancellation to the Minister, within 30 days from the date the holder is notified about the cancellation.
- (11) The appellant must submit a copy of the appeal and any documents or records supporting such appeal, to the Commissioner, and must furnish proof of such submission to the Minister.
- (12) The Commissioner must, within 30 days of receipt of the copy of the appeal referred to in sub-regulation (10), deliver his or her written reply to such appeal together with the report that has been submitted to him or her, in terms of sub-regulation (3).
- (13) The Minister may –
- (a) adjudicate or authorize the adjudication of the appeal on the basis of the documents submitted to him or her; or
 - (b) order the appellant and the Commissioner, the authorized officer, inspector or authorized person concerned to appear before him or her or before the authorized adjudicator to give evidence, either in person or through a representative, at a time and place determined by the Minister or the authorized adjudicator.
- (14) The Minister or the authorized adjudicator may confirm, vary or set aside the cancellation referred to in sub-regulation (9).
- (15) The Commissioner may, on good cause shown, condone any non-compliance with the time period referred to in sub-regulations (3) and (4).
- (16) The Minister may, on good cause shown, condone any non-compliance with the time period referred to in sub-regulations (10) and (12).
- (17) In adjudicating the appeals in terms of this regulation, the Commissioner and the Minister or the authorised adjudicator referred to in sub-regulation (13) may afford the appellant -

- (a) a reasonable opportunity to make representation;
- (b) an opportunity to appear in person; and
- (c) an opportunity to present and dispute evidence and arguments.

(18) The Commissioner and the Minister must within 14 days of their decision, furnish written reasons to the parties cited in the appeal, for any decision taken pursuant to the appeal.”.

Substitution of Regulation 24.01.9 of the Regulations

3. The following regulation is herewith substituted for Regulation 24.01.9 of the Regulations:

“Suspension, cancellation and appeal

24.01.9 (1) An authorised officer, inspector or authorised person may suspend a certificate, approval or authorisation issued under this Part, if –

- (a) immediate suspension is necessary in the interests of aviation safety;
- (b) an authorised officer, inspector or authorised person is prevented by the holder of the certificate, approval or authorisation from carrying out any safety inspection and audit or from performing any of the functions that the authorised officer, inspector or authorised person is permitted to perform in terms of the Act and these Regulations; or
- (c) it is evident that the holder of the certificate, approval or authorisation does not comply with the relevant requirements prescribed in this Part, after such holder has been given at least 14 days within which to comply therewith and has been notified of the proposed suspension and the purpose thereof.

(2) The notice of suspension must be given in writing, stating the reasons for the suspension.

(3) An authorised officer, inspector or authorized person who has suspended a certificate, approval or authorisation must, within 7 days, submit a report in writing to the Commissioner with a proof that a copy thereof has been submitted to the person concerned, stating the reasons why, in his or her opinion, the suspended certificate, approval or authorisation should be withdrawn or restored.

(4) A person whose certificate, approval or authorisation has been suspended in terms of sub-regulation (1) may appeal, to the Commissioner, against such suspension within 14 days from the date of such suspension.

- (5) The appeal referred to in sub-regulation (4), must be in writing, and stating the reasons why, in the appellant's opinion, the suspension should be varied or set aside.
- (6) The appellant must furnish proof to the Commissioner that a copy of the appeal and any documents supporting such appeal have been served on the authorised officer, inspector or authorised person concerned.
- (7) The Commissioner must consider the appeal referred to in sub-regulation (4) within 14 days of receipt thereof.
- (8) The Commissioner may at any time extend, confirm, vary or set aside the suspension.
- (9) The Commissioner may cancel the certificate, approval or authorisation if –
- (a) he or she confirms the suspension in terms of sub-regulation (8); or
 - (b) the holder of the certificate, approval or authorisation does not appeal against the suspension referred to in sub-regulation (1).
- (10) The holder of the certificate, approval or authorisation, who feels aggrieved by the cancellation referred to in sub-regulation (9), may appeal against such cancellation to the Minister, within 30 days from the date the holder is notified about the cancellation.
- (11) The appellant must submit a copy of the appeal and any documents or records supporting such appeal, to the Commissioner, and must furnish proof of such submission to the Minister.
- (12) The Commissioner must, within 30 days of receipt of the copy of the appeal referred to in sub-regulation (10), deliver his or her written reply to such appeal together with the report that has been submitted to him or her, in terms of sub-regulation (3).
- (13) The Minister may –
- (a) adjudicate or authorize the adjudication of the appeal on the basis of the documents submitted to him or her; or
 - (b) order the appellant and the Commissioner, the authorized officer, inspector or authorized person concerned to appear before him or her or before the authorized adjudicator to give evidence, either in person or through a representative, at a time and place determined by the Minister or the authorized adjudicator.
- (14) The Minister or the authorized adjudicator may confirm, vary or set aside the cancellation referred to in sub-regulation (9).