

Tanzania

Civil Aviation Act

## Tanzania Licensing of Air Services Regulations, 1986 Government Notice 463 of 1986

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# Tanzania

## Civil Aviation Act

### Tanzania Licensing of Air Services Regulations, 1986

#### Government Notice 463 of 1986

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*[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]*

*[Section 10; G.N.s. Nos. 463 of 1986; 134 of 1999]*

#### Part I – Preliminary provisions (regs 1-2)

##### 1. Title

These Regulations may be cited as the Tanzania Licensing of Air Services Regulations.

##### 2. Interpretation

In these Regulations, except where the context otherwise requires—

"**airline**" means an air transport enterprise offering or operating an air service;

"**air service**" means any service performed by an aircraft for hire or reward;

"**Appeal Tribunal**" means the Appeal Tribunal established under regulation 37;

"**contracting state**" means a state, other than the United Republic, that is a party to the Chicago Convention;

"**Director-General**" means the Director-General of Civil Aviation;

"**enforcement officer**" means any person appointed as an enforcement officer under regulation 47;

"**foreign aircraft**" means an aircraft registered elsewhere than in the United Republic;

"**licence**" means an air service licence granted under the provisions of these Regulations;

"**licensing authority**" means the Tanzania Civil Aviation Authority, which in respect of short-term or provisional licences for air services within the United Republic and short-term licences for non-scheduled air services between the United Republic and any other state, may authorise any officer in its Secretariat to perform its functions on its behalf;

"**Minister**" means the Minister for the time being responsible for matters relating to civil aviation;

"**provisional licence**" means a licence granted under regulation 20;

"**scheduled air service**" means one of a series of services which are operated between the same two places and which together amount to a systematic service operated in such a manner that the benefits thereof are available to members of the public from time to time seeking to take advantage of them;

"**short-term licence**" means a licence in force for a period not exceeding seven days.

## Part II – Licensing of internal air services (regs 3-13)

### 3. Internal air services to be licensed

No person shall use an aircraft within the United Republic for the provision of any air service except under and in accordance with the terms of a licence granted by the licensing authority under these Regulations to that person.

### 4. Conditions attached to licences for internal air services

- (1) The licensing authority may attach to a licence any condition which it considers desirable in the public interest, in the interest of safety, or in order to prevent uneconomic competition; and without prejudice to the generality of the foregoing, may impose a condition—
  - (a) that the aircraft to be operated under the licence shall or shall not be used over specified routes or in specified areas;
  - (b) that certain classes or descriptions of passengers or goods shall or shall not be carried;
  - (c) that passengers or goods shall be carried between specified places;
  - (d) that intermediate landings may or shall be made at specified places for the purpose of landing or loading passengers or goods;
  - (e) that the schedule of air services from time to time approved by the licensing authority shall be observed;
  - (f) as to the number and type of aircraft to be used;
  - (g) limiting the loading of an aircraft over the whole or any portion of the route on which it is to be operated;
  - (h) specifying any charges that may be made for the air services;
  - (i) as to the wages, conditions and hours of employment of any person employed in connexion with the air service.
- (2) It shall be a condition of every licence that the holder of the licence and any person having a financial interest in the business of the holder of the licence shall refrain from stipulating that any other person shall refuse booking facilities to any other holder of a licence or shall grant such facilities to such other holder only on onerous terms.

### 5. Application for licence

- (1) Every application for a licence shall be made to the licensing authority on a form to be obtained from it on demand and shall contain the particulars set out in Schedule A to these Regulations.
- (2) Every application for a licence shall be signed by the person applying for the licence and if made by any corporate body or partnership firm shall be signed by a person duly authorized in that behalf by such body, or a partner of the partnership firm, as the case may be.
- (3) Every application for a licence, other than a licence to remain in force for a period not exceeding seven days, shall be sent to the licensing authority so as to reach it on a date not less than twenty-eight days, and for a licence to remain in force for a period not exceeding seven days, on a date not less than fourteen days before the date on which it is desired that the licence shall take effect:  
  
Provided that the licensing authority may, in its discretion, accept and deal with any application for a licence received by it after the specified date.
- (4) Where an application is made to the licensing authority for a licence to remain in force for a period not exceeding seven days, and the licensing authority is satisfied that it is in the public interest

that the application should be determined with expedition, it may so determine the application and grant a licence accordingly; and the provisions of these Regulations as to the publication of particulars of applications, and making of objections and representations, shall not in that case apply.

- (5) A copy of every application shall be available for inspection at the office of the licensing authority until the application has been determined but in no case shall any information contained in such application as to the financial resources of the applicant be available for such inspection.

## **6. Publication of application for licence**

The licensing authority shall, within fourteen days after the receipt of an application for a licence other than an application for a short-term licence referred to in paragraph (4) of regulation 5 cause to be published in the manner prescribed in regulation 35, a notice containing the particulars of the application specified in Schedule B to these Regulations and specified a date, not less than twenty-eight days after the publication of the notice, by which any representations or objections with regard to the application must be made to the licensing authority.

## **7. Objection to licences**

Every representation or objection with regard to an application for a licence shall be in writing, shall state the specific grounds on which it is based, shall specify any conditions which it may be desired should be attached to the licence if granted and shall be signed by the representor or objector. If the representation or objection is made by any corporate body or partnership firm, it shall be signed by a person duly authorized in that behalf by such body, or a partner of the partnership firm as the case may be. A copy of every such representation or objection shall be sent by the person making the same to the applicant for the licence at the same time as it is sent to the licensing authority.

## **8. Sanction of the licensing authority**

Subject to the provisions of paragraph (4) of regulation 5 every application for a licence or a variation of a licence and every representation and objection thereto made in accordance with the provisions of regulation 7 shall, at a time and place to be notified thereby, be considered by the licensing authority which shall, at the request of the applicant or of the representor or objector, examine such application, representation or objection in public.

## **9. Grant and duration of licences**

The licensing authority may grant licences in accordance with the provisions of these Regulations and such licences shall, subject to the provisions of regulations 12 and 31, continue in force for such period, not exceeding two years in the case of an initial issue of a licence or five years in the case of a subsequent licence from the date on which the licence is expressed to take effect, as may be specified by the licensing authority:

Provided that if, on the date of the expiration of a licence, an application has been made for the grant of a new licence in substitution for the existing licence held by the applicant, such existing licence shall continue in force until such application has been determined.

## **10. Matters to be taken into account**

In exercising its discretion under regulation 9 of these Regulations, the licensing authority shall have regard to the co-ordination and development of air services generally with the object of ensuring the most effective service to the public while avoiding uneconomical overlapping and generally to the interests of the public, including those of persons requiring or likely to require facilities for air transport, as well

as those of persons providing such facilities. In particular and without prejudice to the generality of the foregoing, the licensing authority shall have regard to the following matters—

- (a) the existence of other air services in the area through which the proposed air service is to be operated;
- (b) the possibility of air transport in that area;
- (c) the degree of efficiency and regularity of the air services, if any, already provided in that area, whether by the applicant or by other operators;
- (d) the period for which such services have been operated by the applicant or by other operators;
- (e) the extent to which it is probable that the applicant will be able to provide a satisfactory service in respect of continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency;
- (f) the financial resources of the applicant;
- (g) the type of aircraft proposed to be used on the service;
- (h) the competence of the applicant, having regard to his previous conduct and experience, his equipment, organisation, staffing, maintenance and other arrangements, to secure the safe operation of aircraft of the types specified in the application on flights of the description and for the purposes so specified, and the licensing authority shall also take into consideration any objections or representations duly made in accordance with the provisions of regulation 7.

## 11. Reasons for decision

In any case in which the licensing authority refuses to grant or amend a licence, or grant or amends a licence which differs from the licence or amendment for which application has been made, or imposes conditions to which the applicant objects or grants a licence despite an objection, the Licensing Authority shall, if required by the applicant or objector to do, state in writing the reasons for its for decision upon the payment of an appropriate fee by the applicant or objector.

## 12. Revocation or suspension of a licence

- (1) A licence may be revoked or suspended by the licensing authority on the ground that—
  - (a) the licence holder has been convicted of an offence against regulation 45 and 46 in respect of his licence; or
  - (b) any condition, subject to which the licence was granted, has not been observed; or
  - (c) the licence holder's financial resources have ceased to be adequate or that he is no longer competent to secure the safe conduct of his aircraft:

Provided that, before revoking or suspending any licence the licensing authority shall give 28 days' notice in writing to the holder thereof stating the grounds upon which it is proposed to revoke or suspend the licence; and the licensing authority shall not revoke or suspend the licence unless satisfied that, having regard to the facts constituting the offence against regulation 45 or regulation 46, or owing to the frequency of the failures on the part of the holder to comply with conditions or to the failure having been wilful, or to the failure being a failure to comply with the conditions attaching to every licence by virtue of paragraph (2) of regulation 4 and regulation 23, the licence should be revoked or suspended.

- (2) In any case where a licence is revoked or suspended the licensing authority shall, if required by the holder of licence to do so, state in writing the reasons for its decision.

### 13. Publication of decision

Particulars of the decisions of the licensing authority—

- (a) on application for licences; and
- (b) to revoke or suspend a licence,

shall be published by the licensing authority in the manner prescribed in regulation 35 and such particulars shall be those set out in Schedule C or Schedule D to these Regulations as the case may require.

## Part III – Licensing of international air services (regs 14-19)

### 14. Scheduled international air services

- (1) An airline whose principal place of business is in a state other than the United Republic shall not operate a scheduled air service to, from or across the United Republic unless there is in force an operating authorization for that air service issued by the licensing authority in accordance with paragraph (1) of regulation 17.
- (2) An airline whose principal place of business is within the United Republic shall not operate a scheduled air service between the United Republic and any state unless the licensing authority has designated in writing that airline as being the airline authorized to operate that service in accordance with the provisions of an air service agreement or arrangement in force between the United Republic and the state concerned, and the airline has in addition been issued with an international airline licence in accordance with regulation 15.

### 15. International airline licence

- (1) An application for an international airline licence shall contain the particulars set out in paragraph (1) of Schedule A to these Regulations and shall be accompanied by an appropriate application fee.
- (2) An applicant for an international airline licence shall, soon as practicable, furnish the Director-General with a copy of the Operations Manual containing complete instructions as to the conduct of flight operations in respect of licence is sought.
- (3) If the licensing authority is satisfied that the applicant for an international airline licence conforms to and complies with the terms and conditions of the relevant agreement or arrangement referred to in regulation 14(2) and the Director-General has advised the licensing authority that he has approved the Operations Manual referred to in subregulation (2) of this regulation, the licensing authority shall on payment by the applicant of an appropriate fee forthwith issue such applicant with an international airline licence in such form as the licensing authority determines.

### 16. Suspension, amendment or cancellation of international airline licence

The licensing authority may amend, suspend or revoke an international airline licence if—

- (a) the holder thereof or any aircraft operated by him fails to comply with any provision of these Regulations, the Tanzania Air Navigation Regulations, or the terms of such licence; or
- (b) the airline fails to conform to or comply with any term or condition of the relevant agreement referred to in regulation 14.

## 17. Operating authorization

- (1) The licensing authority shall on request, issue to an airline referred to in paragraph (1) of regulation 14 an operating authorization in the event that—
  - (a) there is in force between United Republic and the state in which the airline has its principal place of business, an air service agreement or arrangement under and in accordance with which scheduled air services may be operated to from or across the United Republic; and
  - (b) the airline has been designated in accordance with the provisions of the relevant agreement or arrangement; and
  - (c) the licensing authority is satisfied that the airline conforms to and complies with the terms and conditions of the relevant agreement or arrangement.
- (2) An operating authorization shall remain valid only while the relevant agreement or arrangement remains in force and the licensing authority may amend, suspend or revoke the operating authorization only in accordance with the terms and conditions of that agreement or arrangement.

## 18. Non-scheduled flights

- (1) An aircraft which possesses the nationality of a Contracting State may, subject to observance of the terms of the Chicago Convention and the provisions of any law of the United Republic, fly in transit non-stop across the United Republic and land in the United Republic, for non-traffic purposes, in the course of a non-scheduled flight without the necessity of obtaining a licence:  

Provided that the licensing authority may refuse to grant any of the rights specified in this paragraph.
- (2) Where an aircraft which possesses the nationality of a Contracting State makes a non-scheduled flight into the United Republic it shall not take on or discharge passengers, cargo or mail in the United Republic (being passengers, cargo or mail that has been, or is to be carried for reward) except in accordance with a licence issued under the provisions of these Regulations.
- (3) An airline whose principal place of business is within the United Republic shall not operate any non-scheduled air service between the United Republic and any other state except under and in accordance with the terms of a licence granted by the licensing authority to that airline.
- (4) The licensing authority shall cause to be published in an aeronautical information publication or aeronautical information circular or notice to airmen the procedure to be followed and the particulars to be supplied by applicants for a licence referred to in paragraph (2) of this regulation.
- (5) In considering an application for a licence referred to in paragraph (2) of this regulation and in paragraph (1) of regulation 19 the licensing authority shall have regard to—
  - (a) the public interest;
  - (b) the need to provide reasonable protection for the operators of scheduled air services between the United Republic and other states so as to ensure the maintenance of regular air services for the carriage of passengers, cargo and mail between the United Republic and other states; and
  - (c) any resolution or decision of the International Civil Aviation Organization or of the International Air Transport Association that has been approved by the licensing authority and is relevant to the matter.
- (6) The licensing authority in granting a licence referred to in paragraph (2) or (3) of this regulation may attach such conditions thereto as it sees fit.
- (7) Notwithstanding anything in the provisions of this regulation, where it appears to the Director-General that an aircraft which possesses the nationality of a Contracting State is intended in the

course of a non-scheduled flight over the United Republic, to proceed over regions which are without adequate air navigation facilities, the Director-General may, if he considers it necessary in the interest of safety, direct that the aircraft follow an established air route or that the flight shall be conducted in accordance with such conditions as he may require and the aircraft shall comply with such direction.

#### **19. Non-scheduled flights by foreign aircraft not possessing nationality of a Contracting State**

- (1) A foreign aircraft which does not possess the nationality of a Contracting State shall not make a non-scheduled flight to, from or across the United Republic, except in accordance with the provisions of a licence issued in accordance with these Regulations.
- (2) In granting a licence under subregulation (1) of this regulation, the licensing authority may impose such conditions and requirements on the flight as it thinks fit including such conditions and requirements as it considers necessary to ensure compliance with the general principles contained in the Chicago Convention and the aircraft shall comply with such conditions and requirements.

### **Part IV – General provisions relating to licences (regs 20-36)**

#### **20. Provisional licences**

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

#### **21. Amendment of licences**

- (1) The licensing authority may, during the currency of a licence, of its own motion or on the application of the holder of the licence, amend or revoke any of the terms or conditions of the licence or add any new terms and conditions which it may consider necessary in the public interest.
- (2) The licensing authority shall give to the holder of the licence and in the case of a licence issued under Part II of these Regulations to every other person who in its opinion is likely to be affected, twenty-eight days notice of its intention to exercise any power conferred on it by paragraph (1) of this regulation.

#### **22. Form of licences**

A licence and an operating authorization shall be in such form as the licensing authority considers suitable to meet the requirements of any particular application approved by the licensing authority.

#### **23. Conditions attached to all licences**

It shall be a condition of every licence that the requirements of any law relating to aviation for the time being in force in the United Republic and any air traffic control procedure for the time being in force in the United Republic shall be complied with at all times during the currency of the licence in connexion with all flights performed under the licence.

#### **24. Transfer of licences**

A licence shall not be capable of being transferred or assigned:

Provided that in the event of the death, incapacity, bankruptcy, sequestration or liquidation of the holder of a licence, or of the appointment of the receiver or manager or trustee in relation to the business of the holder the person for the time being carrying on that business, shall if within fourteen days application is made for a new licence, be entitled to perform the air service authorized by the licence subject to the conditions and the obligations thereof until the application is determined. For the purpose of this

regulation, transfer of a controlling interest in business is assumed to include transfer of the operating licence

## **25. Confidential information**

Nothing in these Regulations shall require a disclosure by the applicant for a licence to any person, other than the licensing authority, of information as to his financial resources, and any such information received by the licensing authority from an applicant shall be treated as confidential.

## **26. Licence includes provisional licence**

Any reference to a licence in regulation 3, 4, 24, 25, 29, 30, 36, 45 or 46 shall be construed as including a reference to a provisional licence.

## **27. No continuing benefits**

Nothing in these Regulations shall be treated as conferring upon the holder of a licence or upon any other person, any right to the continuance of any benefits arising from the provision of these Regulations or from any licence granted thereunder or from any conditions attached to any such licence.

## **28. Licence holder's aircraft to carry mail**

- (1) The holder of a licence shall perform all such reasonable services as the Tanzania Posts and Telecommunications Corporation may from time to time require in regard to the conveyance of mail (and of any persons who may be in charge thereof) upon air services operated under the licence.
- (2) The remuneration for any service performed in pursuance of this regulation shall be as may from time to time be determined by agreement between the Tanzania Posts and Telecommunications Corporation and the licence holder.

## **29. Returns**

- (1) The holder of a licence or operating authorization shall make a monthly return in writing to the licensing authority giving, in respect of the month to which the return relates, the particulars set out in Schedule E to these Regulations with regard to all air services authorized by the licence or operating authorisation.
- (2) The return shall be made on a form to be obtained on application to the licensing authority, and shall be sent to the licensing authority not later than two months after the expiration of the month to which the return relates.

## **30. Production of licence**

The holder of a licence shall produce such licence for examination if required to do so by the licensing authority or any person in that behalf authorized, or by any police officer of or above the rank of sub-Inspector or by any person duly authorized by the licensing authority in that behalf, but may elect whether to produce it at an aerodrome used in connexion with air service authorized by the licence or at his head office or principal place of business.

## **31. Surrender and cancellation of licences**

- (1) In the event of the holder of a licence ceasing to operate the air service authorized thereby he shall forthwith notify the licensing authority and return the licence to it for cancellation:

Provided that where, owing to death, incapacity, bankruptcy, sequestration or liquidation of the holder of a licence or to the appointment of a receiver or manager or trustee in relation to the business of the holder, he ceases to operate the air service authorized by the licence, then if the

business of the holder is being carried on by some other person, that person shall forthwith notify the licensing authority and, unless application has been made within fourteen days for a new licence, shall return the licence to it for cancellation.

- (2) A licence may at any time be surrendered by the holder to the licensing authority for cancellation if during the currency of a licence the holder applies for a new licence in substitution for the current licence. The cancellation shall take effect on the date from which the new licence is expressed to take effect.
- (3) If a licence ceases to have effect, otherwise than by the effluxion of time, or is suspended or revoked the holder thereof shall within 14 days after a notice to that effect has been delivered to him personally or sent to him by registered post at the address shown in his application or last notified in accordance with regulation 33, send or deliver the licence to the licensing authority for retention during the time of suspension or for cancellation as the case may be, and the licensing authority shall on the removal of a suspension return the licence to the holder.

### **32. Loss or destruction of licences**

If a licence has been lost, destroyed or defaced the holder thereof shall forthwith notify the licensing authority which shall, if satisfied that it has been so lost, destroyed or defaced, issue a duplicate, so marked, and the duplicate so issued shall have the same effect as the original licence:

Provided that, in the case of a licence that has been defaced, the duplicate shall be so issued only after surrender of the original to the licensing authority.

### **33. Change of name and/or address of licensee**

The holder of a licence shall, if he changes his name and address during the currency of the licence, notify such change to the licensing authority within 14 days after the date of such change and shall, at the same time, send or deliver the licence to the authority; and the authority shall thereupon endorse upon the licence the licence holder's new name and/or address and return the licence to him forthwith.

### **34. Records**

- (1) The licensing authority shall keep a record of all applications for licences showing whether the licence was granted or refused, and an entry shall be made in such record whenever a licence is revoked or suspended or expires by the effluxion of time. The record shall contain such particulars as will enable the application to be identified and shall show—
  - (a) the date from which any licence is expressed to operate;
  - (b) the date on which it is expressed to expire;
  - (c) any conditions attached to the licence under the provisions of these Regulations;
  - (d) in the case of a scheduled air service, the terminal places and the intermediate landing places to which the application relates;
  - (e) in the case of an air service other than a scheduled air service, a detailed description of the type of such air service and the area of operation.
- (2) Any police officer of or above the rank of sub-Inspector and any person authorized by the licensing authority shall be entitled at any reasonable time to inspect and take copies of extracts from the record kept in accordance with paragraph (1) of this regulation.
- (3) In this regulation, the term licence shall be deemed to include operating authorization.

### 35. Publication of notices, etc.

Wherever by these Regulations it is provided that the licensing authority shall cause to be published a notice, publication for such notice shall be made in the Official *Gazette* of the United Republic, and in the local press.

### 36. Application and licence fees

- (1) There shall be paid in respect of and together with any application for a licence or a variation of licence an appropriate application fee.
- (2) There shall be paid in respect of the grant or variation of any licence an appropriate fee for each year or part of a year of the term for which the licence is expressed to remain in force. For the purpose of these Regulations a year is taken to be twelve months.
- (3) No refund of any fees paid in respect of an application for or grant of a licence shall be made whether on withdrawal of the application or surrender of the licence or otherwise.

## Part V – Appeals from decisions of licensing authority (regs 37-42A)

### 37. Establishment of Appeal Tribunal

- (1) There is established an Appeal Tribunal which shall sit as a judicial authority to determine any appeal referred to it from a person aggrieved by the space decision of the licensing authority.
- (2) The Appeal Tribunal shall be composed of—
  - (a) a Chairman who shall be appointed by the Minister;
  - (b) three other members appointed by the Minister from amongst persons who have had experience of and shown capacity in the civil aviation industry.
- (3) A person shall not be eligible for appointments as a Chairman of the Appeal Tribunal unless that person is a Principal Resident Magistrate or a lawyer who has worked in an office dealing in legal matters for a period of not less than five years.
- (4) The Minister shall appoint a public officer to be the Secretary of the Appeal Tribunal.
- (5) The Appeal Tribunal shall regulate its own procedure.

### 38. Appeals to Appeal Tribunal

Subject to these Regulations, any person aggrieved shall have a right of appeal on a matter of law only from the whole of any part of any decision of the licensing authority in respect of any licence or application under these Regulations:

Provided that a person who has made representations only in respect of an application shall not be considered to be a person aggrieved:

Provided further that this regulation shall not apply to licences, operating authorizations or applications made under Part III of these Regulations.

### 39. Procedure on appeals

- (1) A notice of appeal shall be signed by or on behalf of any person aggrieved by a decision in respect of which an appeal lies under regulation 38 (herein referred to as the appellant) and shall be delivered to the Appeal Tribunal within 30 days after the publication of such decision and shall be accompanied by an appropriate fee.

- (2) A copy of the notice of appeal referred to in subregulation (1) of this regulation shall be served by the appellant on the licensing authority and on each of the parties to the application; and for this purpose any person having a right to appeal against a decision may require the licensing authority to furnish the names and addresses of the other parties to the hearing of such application.
- (3) The Appeal Tribunal shall cause to be served upon any appellant who has given notice in accordance with subregulation (1) of this regulation and on each of the parties referred to in subregulation (2) a notice of the date, time and place of the hearing of the appeal and such notice shall be served not less than twenty-one days before such date.
- (4) For the purpose of every such appeal the licensing authority shall furnish to the Appeal Tribunal a copy of the record of proceedings including any notes of evidence taken by the licensing authority in connection with the subject matter of the appeal.

#### 40. **Sittings of Appeal Tribunal**

- (1) Every sitting of the Appeal Tribunal shall be held in public and at such place as the said Tribunal deems convenient:  

Provided that the Appeal Tribunal may, in the course of the hearing of any particular appeal, order that the hearing or any part thereof shall be held in private.
- (2) Any sitting of the Appeal Tribunal may be adjourned from time to time and from place to place.
- (3) The Appeal Tribunal may make an order prohibiting the publication of any report or description of the proceedings, or any part thereof in any appeal:  

Provided that no such order shall be made prohibiting the publication of the names and description of the parties to the appeal, or particulars of any licence relevant to the appeal.
- (4) Subject to these Regulations, the Appeal Tribunal shall determine its own procedure.

#### 41. **Hearing of appeals**

- (1) Any party to an application or person who has been heard in connexion with such publication, shall have the right to be heard by the Appeal Tribunal in considering an appeal:  

Provided that in any such case a party who did not exercise his right to be heard in respect of the application, shall not have the right to be heard by the Appeal Tribunal unless he has served on it; and on all other parties to such application at least ten days' notice of his wish to be heard by the Appeal Tribunal, stating his reason for wishing to be heard and has obtained the Appeal Tribunal's consent to his being so heard.
- (2) Any party to an appeal may appear in person or be represented by any other person whom he may have duly authorized for that purpose.
- (3) Any party to an appeal may produce to the Appeal Tribunal evidence additional to that received by the licensing authority if such a party has served the parties to the appeal within 10 days' notice of his intention so to do setting forth the substance for such new evidence, and any such party and any such new evidence shall be subject to examination before the Appeal Tribunal by any other party to the appeal:  

Provided that the Appeal Tribunal shall not admit such evidence when it is shown to its satisfaction that such evidence was not available or would not have been obtained by reasonable diligence at the time of the original application made under Part II of these Regulations.
- (4) The Appeal Tribunal may, if it thinks fit, require the licensing authority, to amplify or explain the reasons for any decision subject to appeal and amplification or explanation shall be in writing and shall be served on all parties to such appeal.

- (5) The Tribunal may received as evidence any statement, document, information or matter that may in its opinion assist it to deal effectually with the matters before it, whether or not the same would be otherwise admissible in a court of law.

#### **42. Determination of appeals by Appeal Tribunal and Minister**

- (1) On completion of the hearing of an appeal, the Appeal Tribunal shall send to the Minister a report containing a summary of the proceedings conducted by it, recommendations and the decision of the Appeal Tribunal.
- (2) Where a person who is aggrieved by the decision of the Appeal Tribunal has referred an appeal to the Minister, the Minister may, on determining that appeal, confirm, modify or reverse the decision appealed against or may direct the Appeal Tribunal to hear the matter afresh or may otherwise deal with the matter in the manner directed by the Minister.

#### **42A. Appeal against decision of the Minister**

- (1) Any person who is aggrieved by the decision of the Minister following an appeal referred to the Minister either by the licensing authority or by a person whose application for a grant of licence has been refused or has been dealt with in any manner prejudicial to him, may appeal to the High Court.
- (2) In determining an appeal under this regulation, the High Court shall have the right to summon and hear any witness and receive evidence in the manner and to the same extent as if it were a court exercising civil jurisdiction in a civil case and the provisions of the Civil Procedure Code<sup>1</sup> relating to summoning of witnesses, the taking of testimony on oath and non-compliance with a witness summons shall apply in relation to such appeal.

### **Part VI – Offences and penalties (regs 43-48)**

#### **43. Illegal use of aircraft**

Any person who uses an aircraft in contravention of the provisions of regulations 3, 14, 18 or 19 of these Regulations shall—

- (a) in the case of an aircraft on an International air service, be guilty of an offence and liable for a first offence, to a fine not exceeding ninety thousand shillings and, for a second or subsequent offence, to a fine not exceeding one hundred and twenty thousand shillings or, in default of payment thereof, to imprisonment for a term not exceeding two years; and
- (b) in the case of an aircraft on an internal air service, be guilty of an offence and shall be liable for a first offence, to a fine not exceeding forty thousand shillings and, for a second or subsequent offence, to a fine not exceeding eighty thousand shillings or, in default of payment thereof to imprisonment for a term not exceeding two years.

#### **44. Evidence and proof**

In any proceedings for an offence under the Regulations—

- (a) if it is proved that passengers or cargo were carried on any aircrafts that fact shall, in the absence of proof to the contrary, be sufficient evidence that an air service was carried on by means of that aircraft;
- (b) any licence may be proved by the production of a copy of the licence certified to be correct by an authorised person whose signature shall be judicially noticed.

<sup>1</sup>

#### 45. False information

Any person who knowingly supplies any false or misleading information touching any matter which is material to any application or appeal to the licensing authority or to any member, servant or agent of the licensing authority, or to the Director-General shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings or in the case of a second or subsequent offence to a fine not exceeding twenty thousand shillings or in default of payment thereof to imprisonment for a term not exceeding two years.

#### 46. Contravention of Regulations or conditions of licence

Any person who contravenes or fails to comply with any of the provisions of these Regulations or of any terms or conditions of a licence granted under the provisions of these Regulations shall be guilty of an offence and, except as otherwise provided for in these Regulations, shall be liable to a fine not exceeding one thousand shillings or, in the case of a second or subsequent offence, to a fine not exceeding twenty thousand shillings or, in default of payment thereof, to imprisonment for a term not exceeding two years and, in the case of the holder of a licence granted under these Regulations, any penalty imposed under the provisions of this regulation shall be without prejudice to powers of revocation or suspension of such licence by the licensing authority under regulations [12](#) and [16](#).

#### 47. Appointment and powers of enforcement officers

- (1) There shall be appointed enforcement officers for the purpose of securing compliance with the provisions of these Regulations and any terms or conditions attached to a licence.
- (2) An enforcement officer may at any time and on production, if required, of his authority—
  - (a) enter and inspect any premises of any airline on which he has reasonable cause to believe that the business of an airline is being carried on in contravention of these Regulations; and
    - (i) may examine and take copies of any books, accounts and documents found in those premises relating to or appearing to relate to the business of an airline;
    - (ii) may seize any books, accounts or documents found on those premises which he has reasonable grounds to believe contain evidence of an offence under these Regulations;
    - (iii) may question who appears to him to be engaged in, or carrying on, or employed in, the business of an airline on those premises on any matter concerning the application of or compliance with these Regulations or any terms or conditions attached to a licence;
  - (b) board or detain an aircraft or recall an aircraft already in flight and search such aircraft if he has reasonable grounds to suspect that the aircraft is being used in contravention of these Regulations or that it contains any matter which may be used as evidence in respect of an offence under these Regulations;
  - (c) require, by notice in writing, any person who appears to him to be engaged in or carrying on the business of an airline, to produce to him at such time and place as he may specify in the notice any books, accounts and documents relating to the business of an airline:

Provided that for the purpose of regulation 47(2)(a) and (h) of these Regulations any travel agent and/or tour operator dealing in tickets for air travel shall be construed as constituting an airline.

#### 48. Procedure on detention or recall of aircraft

Where an enforcement officer detains an aircraft or recalls an aircraft already in flight he shall, unless he is of the opinion that, due to the nature of the offence, the aircraft is likely to be allowed to proceed on

its flight within a period not exceeding three hours, immediately report such detention or recall to the Authority:

Provided that under no circumstances whatsoever shall an enforcement officer detain an aircraft for more than three hours from the time of its intended departure or from the time of landing after being recalled unless such longer detention has been authorised under this regulation.

- (2) On receipt of a report under this regulation the Authority may, pending further investigation, order the detention of the aircraft for such longer period as it may specify or allow the aircraft to proceed on its flight whether or not an offence has been committed in respect thereof.
- (3) The Authority may, in writing, delegate to any person any of its powers under subregulations (1) and (2) of this regulation.

## Schedule A

### Particular to be furnished in connection with an application for a licence

1. **Scheduled air services:**
  - (i) Name and address of applicant.
  - (ii) Names of places between which the air service is to be operated.
  - (iii) Names of the regular stage stopping places for the purpose of taking on or setting down passengers or goods.
  - (iv) Times and frequencies of air service.
  - (v) Number and type or types of aircraft to be used.
  - (vi) Type of load to be carried.
  - (vii) Maximum and minimum fares to be charged to passengers or for goods in respect of the total journey or any portion of the journey for which separate charges are made.
  - (viii) Date of commencement of air service.
  - (ix) Period for which licence is required.
  - (x) If air service is already in operation—
    - (a) period for which the air service has been operated;
    - (b) details as per monthly return for period of operation or last twelve months, whichever be the less.
  - (xi) List of other air services operated by the applicant at the time of application.
  - (xii) Particulars of any working arrangement with any other company operating an air service.
  - (xiii) Particulars of any financial interest which any other person providing passenger transport facilities, or controlling the business of any person who provides such facilities, has in the business of the applicant.
  - (xiv) Particulars of any financial interest which the applicant has in any other undertaking providing passenger transport facilities or controlling the business of any person who provides such facilities.
  - (xv) The nature of the person making the application, whether an individual, partnership firm or corporate body, public or private, with or without limited liability. If a company, public or private—
    - (a) the nominal and issued capital;
    - (b) the names and nationality of the directors;

- (c) the names and state of incorporation of any other companies holding shares in the applicant's business;
  - (d) the names and state of incorporation of any subsidiary companies of the applicant.
- (xvi) Such particulars of the accounts of the applicant's business during the last twelve months as the licensing authority shall require.
2. **Charter and aerial work, other than scheduled air services and flying instruction:**
- (i) Name and address of applicant.
  - (ii) Numbers and types of aircraft and engines to be used.
  - (iii) Types of work to be carried out; the areas in which it is proposed to operate; each type of service; and place at which each type of service is to be based.
  - (v) Maximum charges to be made for such type of work.  
*[Please note: numbering as in original.]*
  - (v) Date of commencement of air service.
  - (vi) Period for which licence is required.
  - (vii) If air service is already in operation—
    - (a) the period for which the air service has been operated;
    - (b) details as per monthly return for period of operation or last twelve months, whichever be the less.
  - (viii) List of other air service operated by applicant at the time of application.
  - (ix) Particulars of working arrangements with other air service companies.
  - (x) Particulars of any financial interest which any other person providing instructional facilities, or controlling the business of any person who provides such facilities, has in the business of the applicant.
  - (xi) Particulars of any financial interest which the applicant has in any undertaking providing instructional facilities or controlling the business of any person who provides such facilities.
  - (xii) The nature of the person making the application, whether an individual, partnership firm or corporate body, public or private, with or without limited liability. If company, public or private—
    - (a) the nominal and issued capital;
    - (b) the names and nationality of the directors;
    - (c) the names and state of incorporation of any other companies holding shares in the applicant's business;
    - (d) the names and state of incorporation of any subsidiary companies of the applicant.
  - (xiii) Such particulars of the accounts of the applicant's business during the last twelve months as the licensing authority shall require.
3. **Flying instruction:**
- (i) The name and address of applicant.
  - (ii) The numbers and types of aircraft and engines to be used.
  - (iii) The types of instruction to be carried out; places where it is proposed to operate; and place at which the service is to be based.

- (iv) Maximum charges to be made for each type of instruction.
- (v) Date of commencement of air service.
- (vi) Period for which licence is required.
- (vii) If air service is already in operation—
  - (a) period for which air service has been operated;
  - (b) details as per monthly return for period of operation or last twelve months, whichever be the less.
- (viii) List of other air services operated by the applicant at the time of application.
- (ix) Particulars of working arrangements with other air service companies.
- (x) Particulars of any financial interest which any other person providing instructional facilities, or controlling the business of any person who provides such facilities, has in the business of the applicant.
- (xi) Particulars of any financial interest which the applicant has in any other undertaking providing instructional facilities or controlling the business of any person who provides such facilities.
- (xii) The nature of the person making the application, whether an individual, partnership firm or corporate body, public or private, with or without limited liability. If a company, public or private—
  - (a) the nominal and issued capital;
  - (b) the names and nationality of the directors;
  - (c) the names and state of incorporation of any other companies holding shares in the applicant's business;
  - (d) the names and state of incorporation of any subsidiary companies of the applicant.
- (xiii) Such particulars of the accounts of the applicant's business during the last twelve months as the licensing authority shall require.

### **Schedule B (Regulation 16)**

#### **Particulars of application to be published**

- (i) The name and address of applicant.
- (ii) If for scheduled air service—
  - (a) places between which the air service is to be operated;
  - (b) names of the regular stage stopping places for the purpose of taking or setting down passengers or goods;
  - (c) times and frequency of air service;
  - (d) type of load to be carried;
  - (e) date for air service to commence;
  - (f) period for which the licence is required.
- (iii) If for charter and aerial work, other than scheduled air service and instruction—
  - (a) types of work to be carried out and the areas in which it is proposed to operate each type of service;
  - (b) date for air service to commence;

- (c) period for which licence is required.

### **Schedule C (Regulation 13)**

#### **Particulars**

- (i) The name and address of applicant.
- (ii) The name and date of official *Gazette* of the United Republic in which notice of the application was published.
- (iii) Such particulars as will enable the application to be identified.
- (iv) An indication whether the licence was granted as applied for, granted with modifications (the modifications to be stated), or refused.

### **Schedule D (Regulation 13)**

#### **Particulars**

- (i) The name and address of applicant.
- (ii) Such information as will enable the licence to be identified, and in the case of a scheduled air service, the places and regular stage stopping places to be stated.
- (iii) The date from which revocation or suspension takes effect and, in the case of suspension, the period of the suspension.
- (iv) The grounds on which the licence has been revoked or suspended.

### **Schedule E (Regulation 29)**

#### **Particulars to be given by holders of licences and operating authorizations in monthly returns (except where otherwise specified)**

*Passengers should be stated in numbers, distances in statutory miles of 1,760 yards and goods and mail in kilograms*

1. **Scheduled air services:**
  - (A) A list of the service numbers of all flights operated giving the names of the places between which services are operated, the names of the regular staging points on the route, the type of aircraft used and the number of flights operated by each type.
  - (B) Copy of the current timetable.
  - (C) For services operated under an International Airline Licence or an Operating Authorization for each service number—
    - (i) Total passengers, goods and mail, terminating and in transit, arriving in the United Republic by point of discharge within the United Republic (showing in addition the point of uplift of passengers outside the United Republic for each point of discharge).
    - (ii) Total passengers, goods and mail, originating and in transit, departing from the United Republic by point of uplift within the United Republic (showing in addition the point of discharge of passengers outside the United Republic for each point of uplift).

- (iii) In transit passengers at each staging point in the United Republic on international services not included above, i. e. those whose airports' uplift and discharge are both within the United Republic.
  - (iv) Total number of passenger seats offered and the number filled, on flights arriving in and/or departing from the United Republic.
  - (v) Total capacity of commercial cargo offered and the weight carried on flights arriving in and/or departing from the United Republic.
  - (vi) Total passengers, goods and mail carried only within the United Republic by points of uplift and discharge separately for traffic between each airport in each direction.
- (D) For services operated under an International Airline Licence and on sectors not wholly within the United Republic—
- (i) For each staging point outside the United Republic the passengers, goods and mail uplifted, each by points of discharge; and the passengers, goods and mail in transit.
  - (ii) For each sector—
    - (a) the total passenger-miles offered, and carried; and
    - (b) the total commercial cargo load-miles offered, and carried.
- (E) For services operated under a local licence the following shall be submitted for each period of four weeks commencing 1st January each year, and in addition for each 13-week period throughout the year; the four complete 13-week periods in the year shall, however, be extended to include 31st December; or for such periods as shall be determined from time to time—
- (i) By service number—
    - (a) the total passenger-miles offered and carried;
    - (b) the total load-miles offered and carried.
  - (ii) The passengers, goods and mail carried in each direction, between all combinations of staging points.

**2. Charter, aerial work and non-scheduled flights:**

- (i) Numbers and type or types of aircraft and engines operated during the month, actual dates of any changes made, to be given.
- (ii) Average daily service ability of aircraft complete.
- (iii) Total number of miles flown on each class of work.
- (iv) Total number of flights made on each class of work.
- (v) Passenger miles and total number of passengers carried.
- (vi) Ton-miles and total weight of goods carried.
- (vii) Number of flights commenced but not completed, giving cause.
- (viii) Total number of requests for air service made.
- (ix) Total number of requests for air service made which were not accepted giving reasons.
- (x) Number of pilots, navigators, radio operators, flight engineers, stewards photographers; and
- (xi) Copy of current schedule of charges for air service

**3. Flying instructions:**

- (i) The number and types of aircraft and engines operated during the month, the actual dates of any changes made, to be given.
- (ii) The average daily serviceability of aircraft complete.
- (iii) The total number of hours flown: (i) dual instruction; (ii) solo; and the total number of hours of non-flying instruction, per type of instruction.
- (iv) The total number of flights made: (i) dual instruction; (ii) solo.
- (v) The number of instructors employed and their salaries by grade.
- (vi) A copy of the current schedule for instructional charges.
- (vii) The total number of pupils under instruction, according to the class of pilot licence for which instruction is being given.
- (viii) The total number of pilot licences, per class, gained during the month.
- (ix) The total number of pilot licences, per class, held by pupils or members of the club.
- (x) The total number of pupils or members.

**Schedule F****Particulars to be furnished in connection with an application  
for a licence to operate an international non-scheduled service**

- (a) Name of operator.
- (b) Address of operator.
- (c) Type of flight (e.g. inclusive tour).
- (d) Type of aircraft.
- (e) Registration marks.
- (f) Date and place of origin of flight.
- (g) Complete route itinerary, including dates and times (GMT).
- (h) Name of Captain and number of crew.
- (i) Number of passengers and/or freight details.
- (j) Whether in conformity with IATA Resolution 045.
- (k) Name of charterer.
- (l) Address of charterer.
- (m) Name of local agent, if any.
- (n) Full details of passengers and/or freight to be uplifted or set down in the East African territories, and details of the cost to the charterer.