

# FLIGHT OPERATIONS NOTICE

**30 April 2023****Number: OPS/N/2023/034**

## Exemptions

Flight Operations Notices are intended to provide advice and guidance to illustrate a means, but not necessarily the only means, of complying with the Regulations, or to explain certain regulatory requirements by providing informative, interpretative and explanatory material. Flight Operations Notices should always be read in conjunction with the relevant regulations.

### 1. Purpose

This notice makes provision for exemption(s) from Civil Aviation (Safety) Regulation under Regulation 98.

Compliance with requirements is not optional. The Authority have in place appropriate, robust and documented regulatory mechanisms to ensure that ICAO Annexes, the objectives of specific SARPs, or accepted safety practice are not compromised. It should therefore be clear that exemptions/exceptions are not used to overcome an unpopular requirement or that compliance with a requirement is optional. Therefore, the use of exemptions is regarded as the exception not the norm.

Any exemption will only be granted based on a robust rationale. Applicants need to demonstrate that the risk to safety will not be significantly increased by the granting of the exemption and provide assurance that all risks have been identified and mitigations are in place to ensure that risk to safety is kept as low as reasonably practicable.

Therefore, a Hazard Identification and Risk Management (HIRM) exercise will need to be conducted by the applicant for the exemption to identify all risks associated with the exemption and mitigating actions are put in place to ensure a safety level at least equal to that provided by the rule from which relief is sought. The HIRM exercise will need to be fully documented and is an integral part of the application.

Furthermore, any exemptions issued will be continuously monitored, managed and regularly reviewed by the holder, with a view to removing the need for an exemption where possible, as well as check the validity and robustness of mitigation measures in place. The outcome of such reviews will be transmitted to the Authority for processing.

The exemption process will include robust assessment by the Authority before the exemption is granted and will also be subject to conditions and limitations as appropriate.

### 2. Applicability

This notice applies to holders of licenses, ratings and certificates issued in accordance with Civil Aviation (Safety) Regulations 2017.

### 3. References

- Civil Aviation (Safety) Regulation 2017 (Regulation 98)
- ICAO Doc 9859 Safety Management Manual
- ICAO Doc 9734 Safety Oversight Manual

#### **4. Additional Information/Clarification/Queries**

Any queries, requests for guidance/clarification or additional information subsequent to this publication should be addressed to GM SSR by mail [dalabrosse@scaa.sc](mailto:dalabrosse@scaa.sc) or by contacting the SCAA Safety and Security Regulations Flight Operations and Personnel Licencing Inspectorate (telephone **4384271**)

#### **5. Effective Date**

30 April 2023

#### **6. Cancellation**

This Notice will remain in force until revoked or replaced by the Authority.

## 7. Exemptions

### 7.1 Background

7.1.1 The Authority can issue an exemption from provisions of the Seychelles Civil Aviation (Safety) Regulations (CASR) under Regulation 98. The Authority may issue an exemption either on application or on its own initiative.

7.1.2 The Authority may consider two types of exemptions; standard exemptions and exemptions for exceptional circumstances. This notice addresses the process for application for standard exemptions and likewise addresses exemptions issued on the Authority's initiative or in exceptional circumstances.

### 7.2 Application for a Standard Exemption (Regulation 98)

7.2.1 A standard exemption is a relief from any specified requirement in the Civil Aviation (Safety) Regulations 2017. Any organisation holding a certificate, license or rating may apply for a standard exemption.

7.2.2 Unless otherwise agreed by the Authority, an application must be received at least 30 days prior to the date that the exemption is required. The Authority considers that an exemption against the regulations is a last resort and the intent of introducing a 30-day timeframe is to:

- ensure that the exemption application is given proper and timely consideration by the applicant;
- encourage industry to adopt proper planning and management fall back strategies; and
- ensure that an exemption is absolutely necessary rather than a convenient method of bypassing an unpopular regulation.

7.2.3 However, the Authority is aware that there may be unforeseen circumstances when an exemption will be required within a very short time frame. In these circumstances the Authority will consider a late application provided the applicant submits reasonable justification as to why the application was not submitted 30 days prior to the date that the exemption is required. The Authority will not accept poor planning or commercial impact on business as suitable justification. The Authority will establish if the reduced timeframe available will be adequate for proper assessment of the safety impact.

### 7.3 Application Process

7.3.1 An application for a standard exemption must include:

- *The applicant's name and address.* Where an exemption is being sought by an organisation, the application should also include the name and contact details of the focal person (normally a nominated person) in that organisation in relation to the application. As the Authority issue a standard exemption to a legal entity the application should include the name of the legal entity to which the Authority will issue the exemption. Further, if the exemption is in relation to a facility or to a specific aeronautical product, the application should identify the location of the facility or the aeronautical product;
- *Details of any authorisation held by the applicant which is relevant to the exemption.* At minimum, this should include the authorisation which makes the applicant subject to the provision from which they wish to be exempted (e.g. their flight crew licence if the provision applies to a flight crew member, or their AOC if the provision applies to an operator);

- *The relevant provisions of the regulation.* The applicant must identify the relevant provision of the Civil Aviation (Safety) Regulations and associated directives from which the exemption is being sought;
- *Details of the aircraft or aeronautical product (if applicable).* This may include type, model, serial number or registration;
- *Type of Operation.* If the exemption will affect a particular type of operation, this should be stated and additional details on the operation must be provided for clarity;
- *The reasons why the applicant needs the exemption.* The reasons provided should be detailed and fulsome. Failure to provide adequate information will simply result in the exemption application being rejected (refer to paragraph 7.5.1 below);
- *Details of how an acceptable level of safety will be provided.* Again, the application should be detailed and fulsome in this regard in accordance with the HIRM conducted by the applicant;
- *The date.* The date on which the exemption is required to commence; and
- *The exemption duration.* The duration of the exemption may not be more than 6 months from commencement date. Though the applicant is required to indicate the duration it is seeking, the Authority may issue exemptions of lesser duration based on the assessment conducted during the approval process.

## **7.4 Authority Consideration of Application for Standard Exemptions**

### **7.4.1 The Authority with due consideration will:**

- Grant the exemption if the application meets all of the requirements;
- Reject the application due to inadequacies in the application submitted; or
- Terminate or cancel the application should the conditions or situation that initially warranted the application significantly improve.

7.4.2 In considering an application for a standard exemption, the Authority regards air safety as the paramount consideration. With this in mind, The Authority may require supplementary information from the applicant, which will have to be provided prior to the commencement of the processing:

7.4.3 Considerable research and investigation is often required before the Authority can make a determination. Therefore, the application should be made at least 30 days before the requested start date. Only in exceptional circumstances will Authority consider an application with a requested start date less than 30 days from the date of application. Where an application is submitted less than 30 days, the applicant must provide reasonable justification and supporting evidence for the application not being submitted within the prescribed timeframe. Failure to provide justification may result in rejected applications

7.4.4 In processing an application, the Authority will consider all the information provided as well as anything in its records concerning the applicant. If there is anything averse to the applicant in its records which the Authority intends to take into account, the Authority will inform the applicant in writing that it intends to take this information into account and will invite the applicant to make a written submission about the matter within a reasonable period. If the applicant responds with a written submission within that time then the Authority will take the response into consideration, otherwise the processing of the application will be terminated. To restart the application process, a new application will have to be submitted with all the required information being included, and the required timeline will be started anew.

7.4.5 If the applicant previously held an exemption that was revoked, the Authority will take the reasons for the revocation into account as well as the new evidence that the applicant submits regarding their capacity to carry out the functions necessary to regain the exemption.

## **7.5 Notification of Decision to Applicants**

7.5.1 The Authority will notify the applicant in writing of its decision as prescribed by paragraph 7.5.1 above. If the Authority refuses to grant an exemption, or imposes conditions or limitations, then the Authority will provide the rationale for its decision.

7.5.2 The Authority will maintain a register of all exemptions and a list of exemptions granted will be published on the Authority website.

## **7.6 Conditions or Limitations on Standard Exemptions**

7.6.1 Based on the assessment made on the exemption being sought the Authority may impose conditions or limitations where necessary in the interests of safety. All conditions or limitations imposed by the Authority will be in writing and set out in the notice to the applicant. The Authority will provide rationale for imposing such conditions or limitations.

7.6.2 The Authority will require the exemption holder to ensure that a copy of the exemption is carried with the associated document (certificate, license or rating) and that the exemption is readily available should the holder be subject to an audit or inspection by any regulatory Authority where the operations is being conducted.

7.6.3 As an example, the Authority may also impose conditions relating to the circumstances in which the exemption is operative, the procedures to be used by the holder of the exemption, or recordkeeping by the holder of the exemption.

7.6.4 A breach of a condition or limitation is an offence under the Civil Aviation (Safety) Regulations 2017. Furthermore, a person not complying with an exemption does not gain the benefit of the exemption, and hence this may render the exemption null and void. The person or organisation may also be in breach of the provision of Civil Aviation (Safety) Regulations 2017 from which the exemption has been granted.

## **7.7 Validity of Exemptions**

7.7.1 The validity of the exemption will be as per the commencement and expiry dates indicated on the exemption document.

7.7.2 Certain exemptions may also contain circumstances in which the exemption will apply. This may be stipulated hours of operation, flight or series of flights, specific event or activity. In such instances the exemption document will contain a statement indicating the condition of validity.

### **7.7.4 Extension of Validity Period.**

7.7.4.1 The process for extension of the validity period of an exemption is much the same as for its original issue. An application for an extension of an exemption must set out in writing the details of the exemption, but does not need to give the Authority information or documents previously supplied and which have not changed since the exemption was issued. However, the applicant should be aware that an application for extension does not automatically entitle the organisation to the granting of a further exemption in the same or similar terms. Each application will be assessed on its merits at the time of the application.

7.7.4.2 If the application is for an extension of an existing exemption, the application need not contain information which has been previously supplied to the Authority in relation to the existing exemption, and which has not changed since the issue of the existing exemption. However, the application must include a revised HIRM and justification for the extension.

## **7.8 Non-Transfer of Exemptions**

Exemptions are not transferable. As standard exemptions are generally issued to specified legal entities, should another entity wish to take advantage of the exemption it must apply for the same exemption in its own right.

## **7.9 Surrender and Revocation of Exemptions**

7.9.1 The holder of an exemption may at any time decide to surrender the exemption should compliance to the conditions and limitations prescribed be no longer practicable. The exemption may likewise be surrendered should continuous monitoring by the holder indicate that it is no longer required.

7.9.2 The Authority may at any time revoke an exemption in the interests of safety. This may occur as a result of the applicant not complying with the conditions and limitations of the exemption, or special circumstances arising and the Authority becoming aware that continuation of the exemption may threaten aviation safety.

7.9.3 If the Authority decides to revoke an exemption, it will normally give the holder of the exemption reasonable notice of its intention to do so and provide them with the opportunity to respond. The Authority will take the exemption holder's response into account in deciding whether or not to revoke the exemption.

7.9.4 The Authority will not provide prior notice of its intention to revoke an exemption in circumstances of serious and imminent risk to air safety, or where the applicant has been found to be in breach of a condition or limitation of the exemption or a related provision of the regulations.

7.9.5 Where the Authority revokes an exemption, it will do so in writing and will state the rationale for the revocation.

## **7.10 Standard Exemptions Issued on Authority Initiative**

7.10.1 The Authority may publish a standard exemption on its own initiative. This might occur if in that particular case conditions exist or events have occurred that make the prescribed requirements inapplicable and the only means of addressing this in the short term would be by exemption.

7.10.2 A standard exemption issued on the Authority's own initiative will include specific requirements for application.

## **7.11 Exemptions in Exceptional Circumstances**

7.11.1 Subject to the discretion of the Authority, exemptions may be granted during exceptional circumstances such as major disasters or large-scale emergencies (force majeure) requiring the use of air transport. The Authority will grant an exemption on its own initiative or on an application from Government or industry.

7.11.2 Under these circumstances, an application can be made in any way that is reasonable. This may be by phone, radio or any other communication method that is available at the time.

7.11.3 As time is critical in such circumstances, the Authority may notify applicants or affected parties verbally of the granting of the exemption and will follow up with a written notice.

7.11.4 The Authority will publish the details of the exemption on the Authority website.

## 8. Applications

All applications for standard exemptions must be made using the Exemption Application Form (Refer to Appendix A below) with all supporting documentation attached. Applications should be addressed to the General Manager Safety and Security Regulation (GM SSR) at [dalabrosse@scaa.sc](mailto:dalabrosse@scaa.sc).

## Appendix A Exemption Application Form



### EXEMPTION APPLICATION FORM

Please complete this form electronically (preferred method) then print, sign and submit to the Authority through the email [dalabrosse@scaa.sc](mailto:dalabrosse@scaa.sc) Alternatively, print, then complete in BLOCK CAPITALS using black or dark blue ink and submit through the above-mentioned email address.

**FALSE REPRESENTATION STATEMENT**

It is an offence to make, with intent to deceive, any false representations for the purpose of procuring the issue of any authorization/approval. Persons doing so render themselves liable and subject to prosecution under the current applicable regulation.

**Instructions for completing this form.**

1. This application for exemption must be submitted at least 30 days from the proposed exemption start date.
2. Incomplete application forms and failure to provide necessary documentation will result in rejected application.
3. Additional sheets may be used if required but must be annotated to indicate respective field.

*Note: Applicants will be charged for the processing of exemptions, whether the exemption is granted.*

1. Applicant Details			
Operator Name:			
Postal Address			
Tel:	Fax:	Email:	
2. Details of Requested Exemption			
Specific requirement or regulation from which the exemption is sought			
Type of operations to be conducted under the proposed exemption			
Description of personnel, equipment, instrument, facility or activities covered by the exemption being sought.			
Exemption Duration	Start Date:	End Date:	
An application for an exemption shall be submitted not less than 30 days in advance of the proposed effective date of the exemption. Where an application is submitted less than 30 days, the applicant must provide reasonable justification and supporting evidence for the application not being submitted within the prescribed timeframe. Failure to provide justification may result in rejected applications.			
Justification for application less than 30 days from exemption start date:			



An explanation of why the exemption is needed: (State the reason why you are not able to comply with the regulation and the nature of the relief requested from it)

An explanation of how the exemption would be in the public interest and will benefit the public as a whole:

Is there any safety concerns or information about any relevant accidents or incidents, of which you are aware of, that occurred as a resulted of deviation from this requirement? If yes, the please describe:

Do you seek to operate under the proposed exemption outside the territory of Seychelles?

Yes

No

If yes, indicate whether the exemption would contravene any provision of the standards and recommended practices of the international civil aviation organization (ICAO) as well as the regulations pertaining to the territory in which the operation will occur.

What is the risk level determined for the exemption being sought? (Please attach your risk assessment with this application)

Please list down (with detailed description) of alternative means by which a level of safety equivalent to that established by the regulation is maintained and any risks identified may be mitigated.

<b>Applicant Name:</b>		<b>Signature:</b>
<b>Position:</b>		
<b>Date:</b>		

**AUTHORITY USE ONLY**

Do the conditions identified by the applicant mitigate all the risks identified through risk assessments carried out?

Yes

No

If no, list down other conditions that will be required to fully mitigate the risks:

Has coordination with other inspectorate/departments or external organizations been necessary to complete the assessment? If so, attach evidence of all coordination conducted.

Principal Inspector Comments:

Recommendation for Exemption to be Granted:

Yes

No

Name:

Date:

Signature:

Head of Flight Operations and Flight Crew Licensing Inspectorate Comments:

Name:

Date:

Signature:

General Manager Safety and Security Regulation Comments and Approval

Name:

Date:

Signature:

Exemption Granted:

Yes

No

A PDF copy of the form is available on the SCAA website [here](#)