

VOLUME XI

[Chap7001]CHAPTER 70:01

AVIATION

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Responsibility for administration of Act
4. Powers of Minister
5. Declaration of land subject to control
6. Emergency powers
7. Dangerous flying, etc.
8. General control of buildings
9. Control of buildings near aerodromes
10. Closure of highways, etc.
11. Trespass by aircraft
12. Trespass on aerodromes
13. Action for nuisance
14. Aircraft and spares not liable to seizure
15. Carriage of mail in aircraft
16. Offences on Malawi aircraft
17. Service of notices or orders
18. State aircraft
19. Regulations

INDEX TO SUBSIDIARY LEGISLATION

Under Section 19

Aviation (Aerodromes) Regulations
Aviation (Aerodrome Charges) Regulations
Aviation (Aircraft Performance) Regulations
Aviation (Airport Security) Regulations
Aviation (Air Navigation) Regulations
Aviation (Air Navigation Charges) Regulations
Aviation (Air Transport Licensing) Regulations
Aviation (Fees) Regulations
Aviation (Investigation of Accidents) Regulations
Aviation (Rules of the Air and Air Traffic Control) Regulations
Aviation (Smoke) Regulations

7 of 1970

19 of 1972

13 of 1974

9 of 1977

An Act to make provision for the control, regulation and orderly development of aviation and air services within Malawi and for matters incidental thereto or connected therewith

[1ST FEBRUARY 1971]

[Ch7001s1]1. Short title

This Act may be cited as the Aviation Act.

[Ch7001s2]2. Interpretation

In this Act, except when the context otherwise requires—

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

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

“air transport service” means a service for the carriage by air of passengers, mails or other freight;

“Chicago Convention” means the Convention on International Civil Aviation concluded at Chicago on the 7th day of December, 1944, and to which Malawi has adhered by notification dated the 11th of September, 1964;

“foreign aircraft” means any aircraft other than a Malawi aircraft;

“land” includes any estate or interest in land or an easement;

“Malawi aircraft” means an aircraft registered in Malawi in pursuance of regulations made under this Act;

“state aircraft” means aircraft used exclusively for military, customs or police services in Malawi.

[Ch7001s3]3. Responsibility for administration of Act

The Minister shall be responsible for the administration of this Act and shall be charged with the general duty of organizing, carrying out and encouraging measures for the development of aviation, for the designing, development and production of aircraft, for the promotion of safety and efficiency in the use thereof and for research into questions relating to air navigation.

[Ch7001s4]4. Powers of Minister

(1) For the purposes of this Act the Minister may—

- (a) establish and maintain aerodromes;
- (b) provide and maintain, in connexion with aerodromes established by him, roads, approaches, apparatus, equipment and buildings and other accommodation;
- (c) provide and maintain facilities and equipment for the purpose of promoting the safety of air navigation including, but without prejudice to the generality of the foregoing, visual and non-visual navigation aids, visual and non-visual approach and landing aids, communications services, meteorological services and air traffic control services;
- (d) alter, abolish, remove or add to any aerodrome, road, approach, apparatus, equipment, building, accommodation or facilities established or provided by him;

(e) vary the character of any facilities provided by him for the purpose of promoting the safety of air navigation, or of the signals or assistance given thereby;

(f) determine the conditions of use of any aerodrome and determine whether any such aerodrome shall be open to public use;

(g) determine the conditions of use of any facilities or equipment provided by him for the purpose of promoting the safety of air navigation;

(h) consult with the Minister responsible for land matters on the grant of leases, subleases or licences in respect of land or buildings within an aerodrome established by him.

[Ch7001s5]5. Declaration of land subject to control

(1) The Minister may, if he is satisfied that it is necessary so to do in the interests of safety and the efficient operation of aviation, by order declare any area of land specified in the order to be subject to control for the purposes of this Act.

(2) Where the Minister makes an order under subsection (1) he may in the same or a subsequent order make such provisions as he considers necessary or expedient for the purposes of the order, and without prejudice to the generality of the foregoing, such provisions may include provisions for the following—

(a) for prohibiting or restricting building in such area;

(b) for restricting the height of buildings or structures or for requiring the total or partial demolition of any building or structure within such area;

(c) for restricting the height of trees and other vegetation upon any land within the area, or for requiring any trees or other vegetation upon any such land to be cut down or reduced in height;

(d) for extinguishing any private right of way over land within the area;

(e) for restricting the installation of cables, mains, pipes, wires or other apparatus over, on or under any land within the area;

(f) for extinguishing, at the expiration of such period as may be specified, any subsisting right of installing or maintaining any such apparatus as aforesaid over, on or under any land within the area;

(g) for requiring that, before the expiration of such period as may be specified, any such apparatus shall be removed from land within the area;

(h) for restricting or preventing the discharge of storm or other water from any drain, pipe or contour ridge constructed on any land within the area;

(i) the giving of directions by the Minister in any special case;

(j) the uses to which land in such area may or may not be put; and

(k) the prescribing of offences and penalties, not exceeding a fine of K1,000 and imprisonment for six months, in respect of the contravention of any of the provisions of such order.

(3) An order under this section may contain provision for empowering any person authorized in that behalf by the Minister to move or alter, so as to bring it into conformity with the requirements of the order or any directions given thereunder, any building, structure, vegetation or apparatus which contravenes those requirements, and for the recovery of the expenses thereof.

(4) Where the Minister makes or has under consideration the making of an order under this section in respect of any land, any person authorized in that behalf in writing by the Minister may at all reasonable times, on producing evidence of his authority, if demanded, enter upon any of the land in order to make any survey which the Minister requires to be made for the purposes of any steps to be taken in consequence of the order or, as the case may be, for the purpose of determining whether the order should be made:

Provided that admission shall not, by virtue of this subsection, be demanded as of right to any land which is occupied unless twenty-four hours notice in writing of the intended entry has been served on the occupier.

(5) Any person who obstructs any other person in the exercise of any powers conferred upon that other person by virtue of subsection (3) or subsection (4) shall be guilty of an offence and liable to a fine of K300 and to imprisonment for six months.

(6) Any person who incurs expense or suffers damage by reason of the operation of this section shall be entitled to receive from the Minister adequate compensation in respect of the expense or damage, the amount thereof to be fixed, in default of agreement, by an arbitrator in accordance with the Arbitration Act: Cap. 6:03

Provided that no compensation shall be payable in respect of any building or structure erected in contravention of a prohibition or restriction on such erection.

(7) The powers of the Minister under this section shall not be construed as prejudicing his power to acquire land for the purpose of securing the observation of any requirement which might have been imposed under this section in relation to the land.

[Ch7001s6]6. Emergency powers

(1) In time of actual or imminent war or of national emergency, the Minister may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, the navigation of all or any descriptions of aircraft over Malawi or any portion thereof; and may by order provide for taking possession of and using for the purposes of the military forces of Malawi any aerodrome, or any aircraft, machinery, plant, material or things found therein or thereon, and for

regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, or flying school of any class or description.

(2) If any person contravenes or fails to comply with any provision of an order made under this section, he shall be guilty of an offence and liable to a fine of K1,000 and to imprisonment for twelve months.

(3) Any person who suffers direct injury or loss owing to the operation of an order made under this section, shall be entitled to receive adequate compensation from the Minister, the amount thereof to be fixed, in default of agreement, by an arbitrator in accordance with the Arbitration Act: Cap. 6:03

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in Malawi or any part thereof.

[Ch7001s7]7. Dangerous flying, etc.

(1) Where an aircraft is flown in such a manner as to cause danger to any person or property on land or water, or in contravention of any regulations made under this Act, the pilot or other person in charge of the aircraft and the owner of the aircraft shall be guilty of an offence and liable for a first offence to a fine of K1,000 and to imprisonment for six months, and for a second or subsequent offence to a fine of K10,000 and to imprisonment for two years.

(2) In any proceedings against the owner of an aircraft in respect of an alleged offence under this section, it shall be a defence to prove that the act alleged to constitute the offence was done without the knowledge or consent of the owner.

(3) In this section "owner", in relation to an aircraft and an alleged offence, includes any person by whom the aircraft is hired at the time of the alleged offence.

[Ch7001s8]8. General control of buildings

(1) Subject to the provisions of the preceding sections, any person who proposes to erect any building or other structure of an overall height which exceeds by more than 50 feet the height of any obstacle including land within a radius of five miles of it, shall notify the Minister in writing of such intention and such notice shall contain the precise position and height of such proposed building or other structure, and if any person to whom this subsection applies fails to give such notice as aforesaid, or wilfully makes any false statement therein, shall be guilty of an offence and shall be liable to a fine of K1,000.

(2) Within three months of receipt of a notice under subsection (1) the Minister may, in writing, require the owner or other person responsible for the erection of such building or other structure to light or otherwise mark the same in such manner as the Minister may direct.

[Ch7001s9]9. Control of buildings near aerodromes

(1) If the Minister is satisfied with respect to any building, structure or erection in the vicinity of an aerodrome to which this section applies, that in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may direct (subject to any conditions specified) the proprietor of the aerodrome, and any person acting under the proprietor's instructions—

(a) to execute, instal, maintain, operate, and as occasion requires to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner pecified; and

(b) so far as may be necessary to enter upon and pass over (with or without vehicles) any such land as may be specified:

Provided that no such direction shall be given in relation to any building, structure or erection if it appears to the Minister that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

(2) The Minister shall, before giving any such direction as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to give the direction and of the place where copies of the proposed direction may be obtained free of charge, and take into consideration any representations with respect to the direction which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the direction; and at the end of that period the direction may, subject to the provisions of this section, be made with such modifications (if any) of the original proposal as the Minister thinks proper.

(3) Every such direction as aforesaid shall provide—

(a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the direction unless, at least fourteen days previously, the proprietor of the aerodrome to which the direction relates has served in the manner prescribed by the direction on the occupier of that land, and on every person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the direction; and

(b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Minister,

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the direction such compensation for any loss or damage which that person may suffer in consequence of the direction as may, in default of agreement, be determined by an arbitrator in accordance with the Arbitration Act, and, for the purposes of this subsection, any expense reasonably incurred in connexion with the lawful removal of any apparatus installed in pursuance of such a direction, and so much of any expense incurred in connexion with the repair, alteration, demolition or removal of any building, structure or erection to which such a direction relates as is attributable to the operation of the direction, shall be deemed to be loss or damage suffered in consequence of the direction. Cap. 6:03

(4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such a direction as aforesaid; and (subject to the provisions of subsection (5)) so long as any such direction in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed in, on or over any land in pursuance of the direction. If any person contravenes the foregoing provisions of this subsection, he shall be guilty of an offence and be liable to a fine of K300 and to imprisonment for six months; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by such a direction as aforesaid shall be liable to a fine of K150.

(5) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection:

Provided that—

(i) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and

(ii) the giving of warning of the presence of the building, under this section in force in relation thereto is not interrupted.

(6) In this section—

(a) the expression “aerodrome to which this section applies” means a Government aerodrome or any premises which, by virtue of any regulations made under section 19, are for the time being licensed as an aerodrome for the public use; and

(b) the expression “proprietor of the aerodrome” means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises, or, in the case of a Government aerodrome, the officer in charge of the aerodrome.

[Ch7001s10]10. Closure of highways, etc.

(1) The Minister may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for purposes of aviation of any aerodrome or any premises approved by the Minister used for the testing of aircraft, by order authorize the stopping up or diversion of any highway.

(2) An order under subsection (1) may provide for all or any of the following matters, that is to say—

(a) for securing the provision or improvement of any highway so far as the Minister thinks such provision or improvement necessary or desirable in consequence of any such stopping up or diversion as aforesaid;

(b) for the retention or removal of any cables, mains, pipes, wires, or similar apparatus placed along, across, over or under any highway stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;

(c) if any highway is to be provided or improved under the order, for authorizing or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, in lieu of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided.

(3) An order under subsection (1) may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order.

(4) Notice of any order made under subsection (1) shall be—

(a) displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order;

(b) sent to every local authority in whose area any highway to be stopped up or diverted under the order or any highway to be provided or improved under the order is situate; and

(c) served upon any water or electricity undertakers having any cables, mains, pipes or wires laid along, across, over or under any highway to be stopped up or diverted under the order.

[Ch7001s11]11. Trespass by aircraft

(1) No action shall lie in respect of trespass or nuisance by reason only of, or of the ordinary incidents of, the flight of an aircraft over any property at a height above the ground which is reasonable having regard to wind, weather and all the circumstances of the case.

(2) Where loss or damage is caused to any person or property on land or water by, or by a person in or an article or person falling from, an aircraft while in flight, taking off or landing, then, without prejudice to the law relating to contributory negligence, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft:

Provided that where loss or damage is caused as aforesaid in circumstances in which—

(i) damages are recoverable from the owner in respect of the loss or damage by virtue only of the foregoing provisions of this subsection; and

(ii) a legal liability is created in some person other than the owner to pay damages in respect of the loss or damage, the owner shall be entitled to be indemnified by that other person against any claim in respect of the loss or damage.

(3) Where an aircraft has been genuinely demised or hired out for any period exceeding fourteen days to any other person by the owner of the aircraft and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employ of owner, subsection (2) shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been demised or hired out.

[Ch7001s12]12. Trespass on aerodromes

If any person trespasses on any land forming part of a Government aerodrome or a licensed aerodrome he shall be guilty of an offence and liable to a fine of K10.

[Ch7001s13]13. Action for nuisance

No action for nuisance shall lie by reason only of the noise and vibration caused by aircraft on an aerodrome so long as the provisions of regulations made under this Act in force in respect of that aerodrome are complied with.

[Ch7001s14]14. Aircraft and spares not liable to seizure

(1) No aircraft to which this subsection applies, making any lawful entry into Malawi or any lawful transit across Malawi, with or without landings, shall be seized or detained, nor shall any proceedings be taken against the owner or operator of such aircraft, nor shall the aircraft be otherwise interfered with by or on behalf of any person in Malawi, on the ground that the construction, mechanism, parts, accessories or operations of the aircraft is or are an infringement of any patent, design or model.

(2) The importation into and storage in Malawi of spare parts and spare equipment for an aircraft to which this subsection applies and the use and installation thereof in the repair of such an aircraft shall not entitle any seizure or detention of aircraft or of the spare parts or spare equipment or any proceedings against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in Malawi on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

(3) Subsections (1) and (2) shall apply—

(a) to any aircraft (other than state aircraft) registered in a country or territory which is a party to the Chicago Convention; and

(b) to such other aircraft as the Minister may, by notice published in the Gazette, specify:

Provided that subsection (2) shall not apply in relation to any spare parts or spare equipment which are sold or distributed in Malawi.

(4) Where it is alleged by any person interested that a foreign aircraft which is not an aircraft to which subsection (1) applies and which is making a passage through or over Malawi infringes in itself or part of it any invention, design or model which is entitled to protection in Malawi, it shall be lawful, subject to and in accordance with rules of court, to detain the aircraft until the owner of it deposits or secures in respect of the alleged infringement a sum (hereafter in this section referred to as “the deposited sum”) and thereupon the aircraft shall not, during the continuance of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, on account of the alleged infringement.

(5) The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, as may be fixed by the Minister; and the payment of the deposited sum shall be made or secured to the Minister in such manner as may be approved by him.

(6) The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by rules of court and such rules may provide generally for carrying the provisions of subsections (4) and (5) into effect.

(7) For the purposes of subsection (4), the expression “owner” shall include the actual owner of the aircraft and any person claiming through or under him, and the expression “passage” shall include all reasonable landings and stoppages in the course of the passage.

[Ch7001s15]15. Carriage of mail in aircraft

(1) Mail shall not be carried by any aircraft without the consent in writing of the Postmaster-General, and any written law relating to the dispatching, conveying and delivering of mails and all incidental services relating thereto shall with such modifications, adaptations and such consequential and supplementary provisions as may by the Minister be declared by notice published in the Gazette to be expedient and necessary, apply to the dispatching, conveying, and delivering of mail by aircraft.

(2) No radio-telegraphic or other system of telegraphic or telephonic communication shall be installed, maintained, or operated in any aircraft or at any aerodrome or landing ground except by the Postmaster-General or under and in accordance with licences or other authorizations in respect of either or both personnel and apparatus granted or recognized by the Postmaster-General.

[Ch7001s16]16. Repealed by 19 of 1972

[Repealed by 19 of 1972.]

[Ch7001s17]17. Service of notices or orders

(1) Any notice or order required to be served on any person for the purpose of this Act, or of any of the regulations made thereunder, may be served on him either by delivering it to him, or by leaving it at his last known address, or by registered post addressed to his last known address.

(2) Any such notice or order required to be served upon a company shall be duly served if it is served on the secretary or an officer of the company or left at its registered office.

[Ch7001s18]18. State aircraft

This Act shall not apply to state aircraft:

Provided that the Minister may, by order, apply any of the provisions of the Act or of regulations made under the Act, with or without modification, to any state aircraft.

[Ch7001s19]19. Regulations

(1) The Minister may make regulations for the better carrying out of any of the purposes of this Act.

(2) Without prejudice to the generality of subsection (1) the powers of the Minister shall in particular include power to make regulations for the following purposes—

(a) for giving effect to and carrying out the provisions of the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention;

(b) for the registration of aircraft in Malawi;

(c) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to them and except under compliance with such conditions as to maintenance and repair as may be prescribed;

(d) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for the inspection of aircraft factories and for prohibiting or regulating the use of aerodromes which are not licensed;

(e) for prohibiting persons from engaging in, or being employed in or in connexion with, air navigation in such capacities as may be prescribed unless they satisfy the prescribed requirements, and for the licensing of persons employed at aerodromes or elsewhere in the inspection, testing and supervision of aircraft;

(f) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving Malawi may fly, and as to the conditions under which aircraft may fly from one part of Malawi to another;

(g) as to the conditions under which passengers or goods may be carried by air and under which aircraft may be used for other gainful purposes and for prohibiting the carriage by air of goods of such classes as may be prescribed;

(h) for minimizing or preventing interference with the use or effectiveness of apparatus used in connexion with air navigation, and for prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft;

(i) for authorizing persons to extinguish or screen any sign or light liable to endanger aircraft and to enter upon any land for that purpose, and for recovering the expenses of so doing from the owner or occupier of the place where the sign or light is exhibited or from the person having charge of the sign or light;

(j) generally for securing the safety, efficiency or regularity of air navigation and the safety of aircraft and of persons and property carried in aircraft, and for preventing aircraft endangering other persons and property;

(k) for requiring persons engaged in, or employed in or in connexion with, air navigation to supply meteorological information for the purposes of air navigation;

(l) for regulating the making of signals and other communications by or to aircraft and persons carried in aircraft;

(m) for regulating the use of any ensign established by the President for purposes connected with air navigation;

(n) for prohibiting aircraft from flying over such areas in Malawi as may be specified;

(o) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required under this Act (including the examination and tests to be undergone), and as to the form, custody, production, cancellation, revocation, suspension, endorsement and surrender of any such document and the conditions that may be attached thereto;

(p) for securing that aircraft shall not be used in Malawi by any person—

(i) while carrying passengers or goods for reward, on such journeys or classes of journeys—whether beginning and ending at the same point or different points—as may be prescribed;
or

(ii) for such flying undertaken for the purpose of any trade or business as may be prescribed,

except under the authority of and in accordance with a licence or permit granted to him by the Minister;

(q) for requiring any person who carries on the business of carrying passengers or goods in aircraft for reward, on such journeys or classes of journeys—whether beginning and ending at the same

point or at different points—as may be prescribed, to furnish to the prescribed authorities such information relating to the use of aircraft for the purpose of the business, and to the persons employed in connexion with that use, as may be prescribed, and specifying the time at which, and the form and manner in which, any information required under the regulations is to be furnished;

(r) for prohibiting, restricting or regulating the carrying on of any trade or business within any aerodrome which is under the control or in the occupation of the Minister or any Department;

(s) for the granting by the Minister, on such terms and conditions and subject to the payment of such consideration as he thinks fit, of authorities to carry on any trade or business within any such aerodrome as aforesaid;

13 of 1974(t) for establishing and regulating the conditions of use, including the charges to be made for use, of any aerodrome;

(u) for the investigation of accidents arising out of or in the course of air navigation and either occurring in or over Malawi or occurring to Malawi aircraft wherever they may be, and in particular—

(i) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be prescribed;

(ii) applying, with or without modifications, for the purpose of investigations held with respect to any such accidents, any of the provisions of any written law relating to the investigation of deaths or accidents;

(iii) prohibiting, pending investigations, of access to or interference with aircraft to which an accident has occurred and authorizing any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft;

(iv) authorizing or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted in Malawi in pursuance of this Act or the withdrawal or suspension of any validation conferred in Malawi of a licence granted by a competent authority elsewhere, where it appears on investigation that the licence, certificate or validation ought to be so dealt with, and requiring the production accordingly of any such licence or certificate;

(v) as to the conditions under which noise and vibration may be caused by aircraft on or over aerodromes or any specified aerodrome;

(w) for the payment of fees for any matter required or provided for under this Act, and any other matters in respect of which it appears to the Minister expedient or desirable to charge fees;

(x) as to appeals (if any) to the Minister or references to tribunals or boards of inquiry in respect of any matters provided for under this Act;

(y) for prohibiting or regulating the emission or causing of smoke in the vicinity of any aerodrome, and for this purpose “smoke” includes soot, ash, grit, gritty particles, dust and any other substance whatsoever which obscures visibility;

(z) for exempting from any of the provisions of this Act or of any regulations made thereunder any aircraft or persons or classes of aircraft or persons.

(2) Different regulations may be made for different classes of aircraft, for different aerodromes or for different parts of Malawi, but shall as far as is practicable be so framed as not to discriminate in like circumstances between aircraft registered in Malawi and operated for hire or reward.

(3) Regulations under this section may provide for the imposition of penalties for offences against the regulations, not exceeding in the case of any particular offence a fine of K1,000 and imprisonment for twelve months, and may provide for such steps as may be necessary for securing compliance with the regulations, including the seizure and detention of aircraft, and the firing at or shooting down of aircraft flying over areas of Malawi over which flying is prohibited.

(4) No information with respect to any particular undertaking which has been obtained by virtue of regulations under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connexion with the execution of the regulations; and if any person discloses any such information in contravention of this subsection he shall be liable to a fine of K400 and to imprisonment for one year.

(5) Nothing in subsection (4) shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of that subsection or of regulations made under this section or for the purposes of any report of such proceedings; but save as aforesaid that subsection shall, in relation to any legal proceedings, including arbitration, preclude any person who is in possession of any information obtained by virtue of such regulations from disclosing, and from being required by any court or arbitrator to disclose, that information without the consent of the person carrying on the undertaking to which the information relates.

SUBSIDIARY LEGISLATION

AVIATION (AIR NAVIGATION) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation

PART I

REGISTRATION AND MARKING OF AIRCRAFT

3. Aircraft to be registered
4. Registration of aircraft
5. Nationality and registration marks

PART II

AIRWORTHINESS AND EQUIPMENT OF AIRCRAFT

6. Certificate of airworthiness to be in force
7. Issue and renewal of certificates of airworthiness
8. Certificates of maintenance
9. Inspection, overhaul, repair, replacement and modification
10. Licensing of aircraft maintenance engineers
11. Aircraft to be properly equipped
12. Radio equipment of aircraft
13. Aircraft, engine and propeller log books
14. Aircraft weight schedule
15. Access and inspection for airworthiness purposes

PART III

AIRCRAFT CREW AND LICENSING

16. Composition of crew of aircraft
17. Members of flight crew—licences
18. Grant or renewal of licences to members of flight crew
19. Validation of licences

20. Personal flying log book
21. Instruction in flying
22. Glider pilot—minimum age

PART IV

OPERATION OF AIRCRAFT

23. Operations manual
24. Public transport operator's responsibilities
25. Loading—Public transport aircraft and suspended loads
26. Public transport—operating conditions
27. Foreign aircraft—weather conditions
28. Pre-flight action by commander of aircraft
29. Flight crew members to remain at flight duty stations
30. Transport of passengers—duties of commander
31. Operation of radio in aircraft
32. Use of flight recorders and preservation of records
33. Towing of gliders
34. Towing, picking up and raising of persons and articles
35. Dropping of persons and articles
36. Carriage of munitions of war
37. Carriage of dangerous goods
38. Method of carriage of persons
39. Exits and break-in markings
40. Imperilling safety of aircraft, persons and property
41. Drunkenness in aircraft

42. Smoking in aircraft
43. Authority of commander of aircraft
44. Stowaways

PART V

FATIGUE OF FLIGHT CREW

45. Application, interpretation and modification of Part V
46. Duties of operators to prevent excessive fatigue of flight crew
47. Establishment of limits on flight times, flying duty periods and rest periods
48. Maximum flying duty period for flight crew
49. Minimum rest periods for flight crew
50. Records of flight times, duty periods and rest periods
51. Maximum flight times for flight crew
52. Provision for particular cases

PART VI

DOCUMENTS AND RECORDS

53. Documents to be carried
54. Production of documents and records
55. Preservation of documents, etc.
56. Revocation, suspension and variation of certificates, licences and other documents
57. Offences in relation to documents and records

PART VII

CONTROL OF AIR TRAFFIC

58. Prohibition or restriction of flying
59. Balloons, kites and airships

PART VIII

AIR ROUTES AND AIRWAYS, AERODROMES, LIGHTS AND OTHER FACILITIES

60. Designation of air routes and airways
61. Licensing of aerodromes
62. Places authorized as aerodromes
63. Use of aerodromes
64. Chief Civil Aviation Officer's power to give directions
65. Rights of Government aircraft
66. Aerodromes of arrival in or departure from Malawi
67. Use of aerodromes by aircraft of contracting states
68. Noise and vibration caused by aircraft on aerodromes
69. Restriction of trading within Government aerodromes
70. Aeronautical lights and air route and airway facilities
71. Dangerous lights

PART IX

GENERAL

72. Power to prevent aircraft flying
73. Right of access to aerodromes and other places
74. Obstruction of persons
75. Enforcement of directions
76. Penalties

77. Extra-territorial effect of these Regulations
78. Application of these Regulations to military aircraft, etc.
79. Delegation
80. Saving
81. Exemption from liability
82. Statistical returns
83. Small aircraft

First Schedule

Part A—Table of general classification of aircraft

Part B—Nationality registration marks of Malawi aircraft

Second Schedule

Sunrise and sunset tables

Third Schedule

A and B conditions

Fourth Schedule

Categories of aircraft

Fifth Schedule

Maintenance engineers—privileges of licence

Sixth Schedule

Aircraft equipment

Seventh Schedule

Radio apparatus to be carried in aircraft

Eighth Schedule

Aircraft, engine and propeller log books

Ninth Schedule

Areas specified in connexion with the carriage of flight navigators as members of the flight crews of public transport aircraft

Tenth Schedule

Part A—Flight crew of aircraft: Licences

Part B—Flight crew of aircraft: ratings

Eleventh Schedule

Public transport—operational requirements:

Part A—Operations manual

Part B—Crew training and tests

Twelfth Schedule

Documents to be carried on aircraft registered in Malawi

Thirteenth Schedule

Minimum weather conditions for takeoff, approach to landing and landing by public transport aircraft registered in Malawi

Fourteenth Schedule

Aerodromes of arrival in or departure from Malawi

Fifteenth Schedule

Aerodrome permit issued by the Malawi Department of Civil Aviation

G.N. 16/1971

139/1973

174/1976

2/1979

143/1980

105/1981

AVIATION (AIR NAVIGATION) REGULATIONS

under s. 19

1. Citation

These Regulations may be cited as the Aviation (Air Navigation) Regulations.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“aerial work” means any purpose (other than public transport) for which an aircraft is flown if hire or reward is given or promised in respect of the flight or the purpose of the flight;

“aerial work aircraft” means an aircraft (other than a public transport aircraft) flying, or intended by the operator to fly, for the purpose of aerial work;

“aerial work undertaking” means an undertaking whose business includes the performance of aerial work;

“aerobatic manoeuvres” include loops, spins, rolls, bunts, stall turns, inverted flying and other similar manoeuvres;

“aeronautical light” means any light established for the purpose of aiding air navigation;

“aeronautical radio station” means a radio station on the surface which transmits or receives signals for the purpose of assisting aircraft;

“aeroplane” means a mechanically driven heavier than air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

“Air Navigation Directions” means Air Navigation Directions issued by the Chief Civil Aviation Officer in pursuance of subregulation 7;

“air route” means a defined airspace designated by the Chief Civil Aviation Officer and notified as an air route;

“air route facilities” means facilities (including visual and non-visual navigation aids, visual and non-visual aids to approach and landing at aerodromes, communication services, meteorological services and air traffic control services) provided to promote safe navigation of aircraft within the airspace of an air route;

“airway” means a defined airspace designated by the Chief Civil aviation Officer and notified as an airway;

“airway facilities” means facilities (including visual and nonvisual navigation aids, visual and non-visual aids to approach and landing at aerodromes, communicating services, meteorological services and air traffic control services) provided to promote safe navigation of aircraft within the airspace of an airway;

“air traffic control service” means a service provided for the purpose of—

- (a) preventing collisions—
 - (i) between aircraft; and
 - (ii) on the manoeuvring area between aircraft and obstructions; and
- (b) expediting and maintaining an orderly flow of air traffic;

“air traffic control unit” means a unit established by the Chief Civil Aviation Officer to provide air traffic control services;

“air transport undertaking” means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;

“appropriate aeronautical radio station” means in relation to an aircraft an aeronautical radio station serving the area in which the aircraft is for the time being;

“appropriate air traffic control unit” means in relation to an aircraft the air traffic control unit serving the area in which the aircraft is for the time being;

“authorized person” for the purposes of any of these Regulations means any person authorized by the Minister or Chief Civil Aviation Officer either generally or in relation to a particular case or class of cases, and references to an authorized person include references to the holder for the time being of any office designated by the Minister;

“cargo” includes mail and animals;

“certificate of airworthiness” means a certificate of airworthiness issued or renewed or rendered valid under regulation 7, and includes any flight manual or performance schedule relating to the certificate of airworthiness;

“certificate of maintenance” and “certificate of compliance” have the meanings respectively assigned to them in regulation 8 (1) and regulation 9 (3);

“class” in relation to aircraft means class in accordance with the table of general classification of aircraft contained in the First Schedule;

“commander” in relation to an aircraft means the member of the flight crew designated as commander of that aircraft by the operator thereof, or failing such a person the person who is for the time being the pilot in command of the aircraft;

“competent authority” means in relation to Malawi the Chief Civil Aviation Officer, and in relation to any other country the authority responsible under the law of that country for promoting the safety of civil aviation;

“congested area” in relation to a city, municipality, town or settlement, means any area which is substantially used for residential, industrial, commercial or recreational purposes;

“contracting state” means any state (including Malawi) which is a party to the Chicago Convention;

“control area” means airspace which has been notified as such, and which extends upwards from a notified altitude;

“controlled airspace” means control areas and control zones;

“control zone” means airspace which has been notified as such and which extends upwards from the surface;

“co-pilot” in relation to an aircraft means a pilot who in performing his duties as such is subject to the direction of another pilot carried in the aircraft;

“flight crew” in relation to an aircraft means those members of the crew of the aircraft who respectively undertake to act as pilot, flight navigator, flight engineer and flight radio operator of the aircraft;

“flight level” means one of a series of levels of equal atmospheric pressure separated by notified intervals and each expressed as the number of hundreds of feet which would be indicated at that level on a pressure altimeter calibrated in accordance with the International Standard Atmosphere and set to 1013.2 millibards (29.92 inches of mercury);

“flying machine” means a mechanically driven heavier than air aircraft classified in Part A of the First Schedule;

“Government aerodrome” means any aerodrome in Malawi which is under the control of the Chief Civil Aviation Officer or is in the occupation of any Government Department;

“instrument flight rules” means instrument flight rules prescribed under the Aviation (Rules of the Air and Air Traffic Control) Regulations;

“kilogram” (or kg.) equals 2.204 pounds;

“to land” in relation to aircraft includes alighting on the water;

“licence” includes any certificate of competency or certificate of validity issued with the licence or required to be held in connexion with the licence by the law of the country in which the licence is granted;

“licensed aerodrome” means an aerodrome licensed under these Regulations;

“lifejacket” includes any device designed to support a person individually in or on the water;

“lighthouse authority” means any authority in Malawi in which the care and management of lighthouses is by law vested;

“manoeuvring area” means that part of an aerodrome provided for the take-off and landing of aircraft and for the movement of aircraft on the surface, excluding the apron and aircraft maintenance areas;

“maximum total weight authorized” in relation to an aircraft means the maximum total weight of the aircraft and its contents at which the aircraft may take-off in accordance with the certificate of airworthiness in force in respect of the aircraft;

“mile” means an international nautical mile or the equivalent of 6,080 feet;

“military aircraft” includes the naval, military or air force aircraft of any country, and any aircraft in respect of which there is in force a certificate issued by the Chief Civil Aviation Officer to the effect that such aircraft is a military aircraft;

“night” means the time between fifteen minutes after sunset and fifteen minutes before sunrise, sunset and sunrise in different parts of Malawi being determined in accordance with the table in the Second Schedule; and “day”, as opposed to night, shall be determined accordingly;

“notified” means the showing in any of the following publications issued in Malawi whether before or after the coming into operation of these Regulations, that is to say “Notams (Notices to Airmen)”, “Aeronautical Information Publication”, “Information Circulars”, the Gazette or any other official publication issued for the purpose of enabling any of these Regulations to be complied with; G.N. 174/1976

“operational flight plan” has the meaning assigned to it by paragraph (2) of Part A of the Tenth Schedule;

“owner” in respect of an aircraft means any person having a legal or beneficial interest in such aircraft or a share therein;

“pilot in command” in relation to an aircraft means the person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

“prototype aircraft” means an aircraft in respect of which an application has been made for a certificate of airworthiness and the design of which has not been previously investigated in connexion with any such application;

“prototype (modified) aircraft” means an aircraft in respect of which an application has been made for a certificate of airworthiness and the design of which, in part, has not previously been investigated in connexion with any such application;

“public transport aircraft” means an aircraft flying, or intended by the operator of the aircraft to fly, for the purpose of public transport;

“replacement” in relation to any part of an aircraft or its equipment includes the removal and replacement of that part, whether or not by the same part, and whether or not any work is done on it, but does not include the removal and replacement of a part which is designed to be removable solely for the purpose of enabling another part to be inspected, repaired, removed or replaced, or cargo to be loaded;

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service;

“sea-plane” shall be construed as including a flying boat and any other aircraft designed to manoeuvre on the water;

“type” in relation to aircraft or engines means any design which in the opinion of the Chief Civil Aviation Officer constitutes a type;

“visual flight rules” means visual flight rules prescribed under the Aviation (Rules of the Air and Air Traffic Control) Regulations, 1970.

(2) Unless the context otherwise requires, an aircraft shall be deemed to be in flight—

(a) in the case of a piloted flying machine, from the moment when after the embarkation of its crew for the purpose of taking off it first moves under its own power until the moment when it next comes to rest at the unloading point at the conclusion of the flight;

(b) in the case of a pilotless flying machine, or a glider, from the moment when it first moves for the purpose of taking off until the moment when it next comes to rest after landing;

(c) in the case of an airship or free balloon, from the moment when it first becomes detached from the surface until the moment when it next becomes attached thereto or comes to rest thereon,

and the expressions “a flight” and “to fly” shall be construed accordingly.

(3) Every person employed or engaged in an aircraft in flight on the business of the aircraft shall be deemed to be a member of the crew thereof.

(4) References in these Regulations to the operator of an aircraft are, for the purpose of the application of these Regulations in relation to any particular aircraft, references to the person who at the relevant time has the management of that aircraft:

Provided that for the purposes of the application of Part II when by virtue of any charter or other agreement for the hire or loan of an aircraft a person other than an air transport undertaking or an aerial work undertaking has the management of that aircraft for a period not exceeding 14 days, the foregoing provisions of this subregulation shall have effect as if that agreement had not been entered into.

(5)(a) Subject to the provisions of this subregulation an aircraft in flight shall for the purpose of these Regulations be deemed to fly for the purpose of public transport—

(i) if hire or reward is given or promised for the carriage of passengers or cargo in the aircraft on that flight; or

(ii) if any passengers or cargo are carried gratuitously in the aircraft on that flight by an air transport undertaking, not being persons in the employment of the undertaking (including in the case of a body corporate, its directors), persons authorized by the Chief Civil Aviation Officer to witness the training or tests referred to in regulation 17 (3), or the training practice or tests referred to in regulation 24 (2), or cargo intended to be used by any such persons as aforesaid or by the undertaking;
or

(iii) for the purpose of Part II, if hire or reward is given or promised for the right to fly the aircraft on that flight otherwise than under a hire-purchase agreement,

and the expression “public transport of passengers” shall be construed accordingly:

Provided that notwithstanding that an aircraft may be flying for the purpose of public transport by reason of paragraph (a) (iii) it shall not be deemed to be flying for the purpose of public transport of passengers unless hire or reward is given for the carriage of those passengers.

(b) Where under a transaction effected by or on behalf of a member of an unincorporated association of persons on the one hand and the association of persons or any member thereof on the other hand, a person is carried in, or is given the right to fly, an aircraft in such circumstances that hire or reward would be deemed to be given or promised if the transaction were effected otherwise than as aforesaid, hire or reward shall, for the purposes of these Regulations, be deemed to be given.

(6) Aircraft shall be classified in accordance with the table set out in Part A of the First Schedule.

(7)(a) Wherever the Chief Civil Aviation Officer is empowered or required under these Regulations or any other regulations made under the Act to make any provision or to issue, make or grant any instrument or to issue any direction, notification or instruction or to give any permission, approval or authority or to impose any requirement, condition or limitation, he may, unless the contrary intention appears in the regulation conferring the power or function or imposing the obligation or duty, make the provision or issue, make or grant the instrument or issue the direction, notification or instruction or give the permission, approval or authority or impose the requirement, condition or limitation in Air Navigation Directions.

(b) Any power conferred on the Chief Civil Aviation Officer as referred to in paragraph (a) may, unless the contrary intention appears, be exercised differently with respect to different classes or types of aircraft, aerodromes, persons or property with respect to different circumstances and with respect to different parts of Malawi.

(c) Any power conferred on the Chief Civil Aviation Officer under paragraph (a) to issue Air Navigation Directions shall be construed as including a power exercisable in like manner to vary, revoke, cancel or otherwise terminate the Air Navigation Directions.

(d) Expressions used in Air Navigation Directions shall, unless the contrary intention appears, have the same meanings as in these Regulations.

PART I

REGISTRATION AND MARKING OF AIRCRAFT

3. Aircraft to be registered

(1) Subject to the provisions of subregulation (2), no aircraft shall fly over Malawi unless it is registered in—

- (a) Malawi;
- (b) a contracting State; or
- (c) some other country in relation to which there is in force an agreement between the Government and the government of that country which makes provision for the flight over Malawi of aircraft registered in that country:

Provided that—

- (i) a glider may fly unregistered and shall be deemed to be a Malawi aircraft for the purpose of regulations 11, 12, 17 and 28 on any flight which begins and ends in Malawi without passing over any other country and is not for the purpose of public transport or aerial work;
- (ii) any aircraft may fly unregistered on any flight which begins and ends in Malawi without passing over any other country and is in accordance with the “B Conditions” set forth in the Third Schedule;
- (iii) this subregulation shall not apply to any kite or captive balloon.

(2) The Chief Civil Aviation Officer may, in such special circumstances and subject to such conditions or limitations as he thinks fit, temporarily exempt from the provisions of subregulation (1) an aircraft registered elsewhere.

(3) If an aircraft flies over Malawi in contravention of subregulation (1) in such manner or circumstance that if the aircraft had been registered in Malawi an offence against these Regulations would have been committed, the like offence shall be deemed to have been committed in respect of that aircraft.

4. Registration of aircraft

(1) The Chief Civil Aviation Officer shall be responsible for the registration of aircraft in Malawi.
G.N. 174/1976

(2) The Chief Civil Aviation Officer shall not register an aircraft, or shall forthwith cancel the registration of an aircraft, as the case may be, if it appears to the Chief Civil Aviation Officer that—

- (a) the aircraft is registered anywhere outside Malawi; or
- (b) an unqualified person is entitled as owner of the aircraft; or
- (c) it would not be in the public interest for the aircraft to be or continue to be registered in Malawi.

(3) The following persons and no others shall be qualified to be owners of Malawi aircraft—

- (a) persons ordinarily resident in Malawi;

(b) bodies corporate established or deemed to be established under and subject to the laws of Malawi;

(c) Malawi Government.

(4) Notwithstanding subregulation (2), if an aircraft is chartered by demise to a person qualified in accordance with subregulation (3) the Chief Civil Aviation Officer may, whether or not an unqualified person is entitled as owner therein, register the aircraft in Malawi in the name of the charterer upon being satisfied that the aircraft may otherwise be properly so registered, and subject to the provisions of this regulation the aircraft may remain so registered during continuation of the charter.

(5) Application for the registration of an aircraft in Malawi shall be made in writing to the Chief Civil Aviation Officer, and shall include or be accompanied by such particulars and evidence relating to the aircraft and the ownership and chartering thereof as he may require to enable him to determine whether the aircraft may properly be registered in Malawi and to issue the certificate referred to in subregulation (7). In particular, the application shall include the proper classification of the aircraft in accordance with the "General Classification of Aircraft" set out in Part A of the First Schedule.

(6) Upon receiving an application for the registration of an aircraft in Malawi and being satisfied that the aircraft may properly be so registered, the Chief Civil Aviation Officer shall register the aircraft, wherever it may be, and shall include in the register the following particulars—

(a) the number of the certificate;

(b) the nationality mark of the aircraft and the registration mark assigned to it by the Chief Civil Aviation Officer;

(c) the name of the constructor of the aircraft and its designation;

(d) the serial number of the aircraft;

(e) the name and address of every person who is entitled as owner of the aircraft; or, in the case of an aircraft which is the subject of a hire-purchase agreement, the name and address of the hirer; or

(f) in the case of an aircraft registered in pursuance of subregulation (4), an indication that it is so registered.

(7) The Chief Civil Aviation Officer shall furnish to the person or persons in whose name the aircraft is registered (hereinafter in this regulation referred to as "the registered owner") a certificate of registration, which shall include the foregoing particulars and the date on which the certificate was issued.

(8) Subject to subregulation (4), if at any time after an aircraft has been registered in Malawi there is a change of ownership in the aircraft, the registration of the aircraft shall thereupon become

void and the certificate of registration shall forthwith be returned by the registered owner to the Chief Civil Aviation Officer for cancellation.

(9) The registered owner of a Malawi aircraft shall forthwith inform the Chief Civil Aviation Officer in writing of—

(a) any change in the particulars which were furnished to the Director upon application being made for the registration of the aircraft;

(b) the destruction of the aircraft, or its permanent withdrawal from use;

(c) in the case of an aircraft registered under subregulation (4), the termination of the charter.

(10) The Chief Civil Aviation Officer may, whenever it appears to him necessary or appropriate to do so for giving effect to this Part or for bringing up to date or otherwise correcting the particulars entered on the register, amend the register, or if he thinks fit, may cancel the registration of the aircraft.

(11) The Chief Civil Aviation Officer may adapt or modify the foregoing provisions of this regulation as he deems necessary or expedient for the purpose of providing for the temporary transfer of aircraft to or from the register, either generally or in relation to a particular case or class of cases.

(12) In these Regulations references to an interest in an aircraft do not include references to an interest in an aircraft to which a person is entitled only by virtue of his membership of a flying club, and the reference in subregulations (8) and (9) to the registered owner of an aircraft includes, in the case of a deceased person, his personal representative, and in the case of a body corporate which has been dissolved, its successor.

5. Nationality and registration marks

(1) An aircraft shall not fly in Malawi unless it bears painted thereon or affixed thereto, in the manner required by the law of the country in which it is registered, the nationality and registration marks required by that law.

(2) The marks to be borne by Malawi aircraft shall comply with Part B of the First Schedule.

(3) An aircraft shall not bear any marks which purport to indicate—

(a) that the aircraft is registered in a country in which it is not in fact registered; or

(b) that the aircraft is a state aircraft of a particular country if it is not in fact such an aircraft, unless the appropriate authority of that country has sanctioned the bearing of such marks.

PART II

AIRWORTHINESS AND EQUIPMENT OF AIRCRAFT

6. Certificate of airworthiness to be in force

(1) An aircraft shall not fly unless there is in force in respect thereof a certificate of airworthiness duly issued or rendered valid under the law of the country in which the aircraft is registered, and any conditions subject to which the certificate was issued or rendered valid are complied with:

Provided that the foregoing prohibition shall not apply to flights beginning and ending in Malawi without passing over any other country, of—

- (i) a glider, if it is not being used for the public transport of passengers or aerial work;
- (ii) a balloon, if it is not being used for the public transport of passengers;
- (iii) a kite;
- (iv) an aircraft flying in accordance with the “A Conditions” or the “B Conditions” set forth in the Third Schedule;
- (v) an aircraft flying in accordance with the conditions of a permit to fly issued by the Chief Civil Aviation Officer in respect of that aircraft.

(2) In the case of a Malawi aircraft the certificate of airworthiness referred to in subregulation (1) shall be a certificate issued or rendered valid in accordance with regulation 7.

7. Issue and renewal of certificates of airworthiness

(1) The Chief Civil Aviation Officer may issue in respect of any aircraft a certificate of airworthiness if he is satisfied that the aircraft is fit to fly having regard to—

- (a) the design, construction, workmanship and materials of the aircraft (including in particular any engines fitted therein) and of any equipment carried in the aircraft which he considers necessary for the airworthiness of the aircraft; and
- (b) the results of flying trials, and such other tests of the aircraft as he may require:

Provided that, if the Chief Civil Aviation Officer has issued a certificate of airworthiness in respect of an aircraft which, in his opinion, is a prototype aircraft or a modification of a prototype aircraft he may dispense with flying trial in the case of any other aircraft if he is satisfied that it conforms to such prototype or modification.

(2) Every certificate of airworthiness shall specify such categories as are, in the opinion of the Chief Civil Aviation Officer, appropriate to the aircraft in accordance with the Fourth Schedule and the certificate shall be issued subject to the condition that the aircraft shall be flown only for the purposes indicated in the said Schedule in relation to those categories.

(3) The Chief Civil Aviation Officer may issue the certificate of airworthiness subject to such other conditions relating to the airworthiness of the aircraft as he thinks fit.

(4) The certificate of airworthiness may designate the performance group to which the aircraft belongs for the purposes of the requirements referred to in regulation 26 (1).

(5) The Chief Civil Aviation Officer may, subject to such conditions as he thinks fit, issue a certificate of validation rendering valid for the purposes of these Regulations a certificate of airworthiness issued in respect of any aircraft under the law of any country other than Malawi.

(6) Subject to this regulation and regulation 56, a certificate of airworthiness or validation issued under this regulation shall remain in force for such period as may be specified therein, and may be renewed from time to time by the Chief Civil Aviation Officer for such further period as he thinks fit.

(7) A certificate of airworthiness or a certificate of validation issued in respect of an aircraft shall cease to be of force or effect—

(a) if the aircraft, or such of its equipment as is necessary for the airworthiness of the aircraft, is overhauled, repaired or modified, or if any part of the aircraft or of such equipment is removed or is replaced otherwise than in a manner and with material of a type approved by the Chief Civil Aviation Officer either generally or in relation to a class of aircraft or to the particular aircraft; or

(b) until the completion of any inspection of the aircraft or of any of such equipment as aforesaid, being an inspection required by the Chief Civil Aviation Officer to be made for the purpose of ascertaining whether the aircraft remains airworthy.

(8) Without prejudice to any other provision of these Regulations the Chief Civil Aviation Officer may, for the purposes of this regulation, accept reports furnished to him by a person whom he may approve either absolutely or subject to such conditions as he thinks fit as qualified to furnish such reports.

(9) The Chief Civil Aviation Officer shall cause to be prepared and preserved in relation to every Malawi aircraft a record enabling the aircraft (including in particular its engines) and such of its equipment as he may have considered necessary for the airworthiness of the aircraft in issuing, varying or rendering valid a certificate of airworthiness, to be identified with the drawings and other documents on the basis of which the certificate was issued, varied or rendered valid, as the case may be. All equipment so identified shall for the purposes of these Regulations be deemed to be equipment necessary for the airworthiness of the aircraft. The Chief Civil Aviation Officer shall cause such record to be produced for examination upon request being made therefor at any reasonable time by any person having, in the opinion of the Chief Civil Aviation Officer, reasonable grounds for requiring to examine it.

8. Certificates of maintenance

(1) A Malawi aircraft shall not fly for the purpose of public transport or dropping or projecting any material for agricultural, public health or similar purposes unless— G.N. 174/1976

(a) the aircraft (including in particular its engines), together with its equipment and radio station, is maintained in accordance with maintenance schedules approved by the Chief Civil Aviation Officer in relation to that aircraft;

(b) there is in force in respect of that aircraft a certificate (in these Regulations referred to as a "certificate of maintenance") issued in accordance with this regulation and certifying that maintenance has been carried out in accordance with such maintenance schedules:

Provided that an aircraft may, notwithstanding that paragraphs (a) and (b) have not been complied with in relation to the radio station therein, fly for the sole purpose of enabling persons to be trained to perform duties in aircraft.

(2) Every certificate of maintenance shall come into force upon being issued and shall cease to be of force or effect upon the expiration of the period of its validity in elapsed time or flying time, whichever may be the earlier, as specified in the relevant maintenance schedule and the period of validity of the certificate shall be recorded in the certificate at the time it is issued.

(3) A certificate of maintenance may be issued for the purposes of this regulation only by—

(a) the holder of the licence granted under these Regulations as an aircraft maintenance engineer being a licence of an appropriate category in accordance with regulation 10 and the Fifth Schedule; G.N. 174/1976

(b) the holder of a licence as such an engineer granted under the law of a country other than Malawi and rendered valid under these Regulations, in accordance with the privileges endorsed on the licence;

(c) any person approved by the Chief Civil Aviation Officer and authorized by him to issue such certificates; G.N. 174/1976

(d) a person whom the Chief Civil Aviation Officer has authorized to issue a certificate of maintenance in a particular case, and in accordance with that authority:

Provided that, upon approving a maintenance schedule, the Chief Civil Aviation Officer may direct that certificates of maintenance relating to that schedule, or to any part thereof specified in his direction, may be issued only by the holder of such a licence as is so specified.

(4) Certificates of maintenance shall be issued in duplicate. One of the duplicates shall, during the period of validity of the certificate, be carried in the aircraft when regulation 53 so requires, and the other shall be kept by the operator elsewhere than in the aircraft.

(5) On the termination of every flight by a Malawi aircraft for any of the purposes specified in subregulation (1) the commander of the aircraft shall enter in a technical log, and sign and date such entries—

(a) the times when the aircraft took off and landed; G.N. 174/1976

(b) particulars of any defect in any part of the aircraft or its equipment which is known to him, being a part to which a maintenance schedule relates, or, if no such defect is known to him, an entry to that effect:

Provided that in the case of a number of consecutive flights beginning and ending on the same day and with the same person as commander of the aircraft, the said commander may, except where he becomes aware of a defect during an earlier flight, make the entries as aforesaid in a technical log at the end of the last of such consecutive flights, when the aircraft is—

(i) flying for the purpose of public transport where each of the aforesaid consecutive flights begins at the same aerodrome and ends at that aerodrome; or

(ii) flying for the purpose of dropping or projecting any material for agricultural, public health or similar purposes.

(6) Upon the rectification of any defect which has been entered in a technical log in accordance with subregulation (5), a copy of the certificate of compliance required by regulation 9 in respect of the work done for the rectification of the defect shall be entered in the technical log in such a position or manner as to be readily identifiable with the entry of the defect to which it relates.

(7) The technical log referred to in subregulations (5) and (6) shall be carried in the aircraft when regulation 53 so requires and copies of the entries referred to in those subregulations shall be kept on the ground.

(8) Subject to regulation 55 every certificate of maintenance shall be preserved by the operator of the aircraft for a period of two years following the expiry of the period of validity of the certificate, and for such further period as the Chief Civil Aviation Officer may require in any particular case.

9. Inspection, overhaul, repair, replacement and modification

(1) A Malawi aircraft, being an aircraft in respect of which a certificate of airworthiness issued or rendered valid under these Regulations is in force, shall not fly if any part of the aircraft or of such of its equipment as is necessary for the airworthiness of the aircraft has been overhauled, repaired, replaced or modified or has been inspected as provided in regulation 7 (7) unless there is in force a certificate of compliance issued in accordance with this regulation and relating to the overhaul, repair, replacement, modification or inspection, as the case may be: G.N. 174/1976

Provided that if a repair or replacement of a part of an aircraft or its equipment is carried out when the aircraft is at such a place that it is not reasonably practicable—

(i) for the repair or replacement to be carried out in such a manner that a certificate of compliance can be issued under this regulation in respect thereof; or

(ii) for such a certificate to be issued while the aircraft is at that place, the aircraft may fly to a place at which such a certificate can be issued, being the nearest place—

(A) to which the aircraft can, in the reasonable opinion of the commander thereof, safely fly by a route for which it is properly equipped;

(B) to which it is reasonable to fly having regard to any hazards to the liberty or health of any person on board,

and in such case the commander of the aircraft shall cause written particulars of the flight, and the reasons for making it, to be given to the Chief Civil Aviation Officer within ten days thereafter.

(2)(a) Equipment provided in compliance with the Sixth Schedule (except paragraph 3 thereof); or

(b) in the case of a public transport aircraft, radio apparatus provided for use therein or in any survival craft carried therein, whether or not such apparatus is provided in compliance with these Regulations,

shall not be installed, or placed on board for use, in a Malawi aircraft after being overhauled, repaired or modified unless there is in force in respect thereof at the time when it is installed or placed on board a certificate of compliance issued in accordance with this regulation and relating to the overhaul, repair or modification thereof, as the case may be.

(3) For the purposes of these Regulations “certificate of compliance” means a certificate that the part of the aircraft or its equipment has been overhauled, repaired, replaced or modified, as the case may be, in a manner and with material of a type approved by the Chief Civil Aviation Officer either generally or in relation to a class or type of aircraft or the particular aircraft and which identifies the aircraft and the overhaul, repair, replacement or modification to which it relates and includes particulars of the work done, and in relation to an inspection required by the Chief Civil Aviation Officer, that the inspection has been made in accordance with the requirements of the Chief Civil Aviation Officer and that any consequential repair or replacement has been carried out as aforesaid.

(4) A certificate of compliance may be issued for the purposes of this regulation only by—

(a) the holder of a licence granted under these Regulations as an aircraft maintenance engineer being a licence of an appropriate category in accordance with regulation 10 and the Fifth Schedule; G.N. 174/1976

(b) the holder of a licence as such an engineer granted under the law of a country other than Malawi and rendered valid under these Regulations, in accordance with the privileges endorsed on the licence;

(c) a person approved by the Chief Civil Aviation Officer as, being competent to issue such certificates; or

(d) a person whom the Chief Civil Aviation Officer has authorized to issue the certificate in a particular case.

(5) Subject to regulation 55, if the aircraft to which a certificate of compliance relates is a public transport aircraft or an aerial work aircraft, the certificate of compliance shall be preserved by the operator of the aircraft for the period of time for which he is required to preserve the log book relating to same part of the aircraft or to the same equipment or apparatus as the case may be. In the case of any other aircraft the certificate shall be preserved by the operator of the aircraft for a period of two years.

10. Licensing of aircraft maintenance engineers

(1) The Chief Civil Aviation Officer may grant aircraft maintenance engineer's licences, subject to such conditions as he thinks fit, of a category specified in the Fifth Schedule, upon being satisfied that the applicant is a fit person to hold the licence and has furnished such evidence and passed such examinations and tests as the Chief Civil Aviation Officer may require for the purpose of establishing that he has sufficient knowledge, experience, competence and skill in aeronautical engineering. G.N. 174/1976, 143/1980

(2) The Chief Civil Aviation Officer may include in a licence of any category a rating, subject to such conditions as he thinks fit, specifying a type of aircraft or equipment, upon being satisfied that the applicant is qualified to issue the certificates specified in the Fifth Schedule in relation to that category in respect of aircraft or equipment of that type, and a rating shall be deemed to form part of the licence. G.N. 143/1980

(3) A licence of any category shall, subject to any conditions included in the licence, entitle the holder to issue the certificates specified in the Fifth Schedule in relation to that category in respect of aircraft or equipment of a type specified in a rating included in the licence. G.N. 143/1980

(4) A licence or rating shall, subject to regulation 56, remain in force for the periods specified therein, not exceeding twelve months, but may be renewed by the Chief Civil Aviation Officer from time to time upon his being satisfied that the applicant is a fit and proper person and is qualified as aforesaid.

(5) The Chief Civil Aviation Officer may issue a certificate rendering valid for the purposes of these Regulations any licence as an aircraft maintenance engineer or aircraft radio maintenance engineer granted under the law of any country other than Malawi. Such certificate may be issued subject to such conditions, and for such periods, as the Chief Civil Aviation Officer thinks fit.

(6) Upon receiving a licence granted under this regulation, the holder shall forthwith sign his name thereon in ink with his ordinary signature.

(7) Where in the opinion of the Chief Civil Aviation Officer the performance of certain classes of work requires a specialized degree of skill, such work shall be performed only by holders of certificates of competency issued by the Chief Civil Aviation Officer. The classes of work and conditions governing the issue or renewal of such certificates of competency shall be determined by the Chief Civil Aviation Officer from time to time.

11. Aircraft to be properly equipped

(1) An aircraft shall not fly unless it is so equipped as to comply with the law of the country in which it is registered, and as to enable the flight crew to control the flight path of the aircraft, carry out any required procedural manoeuvres and observe the operational limitations of the aircraft, and to enable lights and markings to be displayed, and signals to be made, in accordance with these Regulations. G.N. 174/1976

(2) In the case of Malawi aircraft the equipment required to be provided (in addition to any other equipment required by or under these Regulations) shall be that specified in such parts of the Sixth Schedule as are applicable in the circumstances and shall comply with the provisions of that Schedule. The equipment, except that specified in paragraph 3 of the said Schedule, shall be of a type approved by the Chief Civil Aviation Officer either generally or in relation to a class or type of aircraft or in relation to that aircraft and shall be installed in a manner so approved.

(3) In any particular case the Chief Civil Aviation Officer may direct that a Malawi aircraft shall carry such additional or special equipment or supplies as he may specify for the purpose of facilitating the navigation of the aircraft, the carrying out of search and rescue operations, or the survival of the persons carried in the aircraft.

(4) The equipment carried in compliance with this regulation shall be so installed or stowed and kept stowed and so maintained and adjusted as to be readily accessible and capable of being used by a person for whose use it is intended. G.N. 174/1976

(5) The position of equipment provided for emergency use shall be indicated by clear marking in or on the aircraft. In particular there shall be exhibited in a prominent position in every passenger compartment or provided individually for each passenger of every public transport aircraft registered in Malawi a notice stating where the lifejackets (if any) are to be found, and containing instructions as to how they are to be used. G.N. 174/1976

(6) All equipment installed or carried in an aircraft, whether or not in compliance with this regulation, shall be so installed or stowed and kept stowed and so maintained and adjusted as not to be a source of danger in itself or to impair the airworthiness of the aircraft or the proper functioning of any equipment or services necessary for the safety of the aircraft.

(7) Without prejudice to subregulation (2), all navigation equipment (other than radio apparatus) of any of the following types— G.N. 174/1977

(a) equipment capable of establishing the aircraft's position at some earlier time by computing and applying the resultant of the acceleration and gravitational forces acting upon it; and

(b) equipment capable of establishing automatically the altitude and relative bearing of selected celestial bodies,

when carried in a Malawi aircraft (whether or not in compliance with these Regulations) shall be of a type approved by the Chief Civil Aviation Officer either generally or in relation to that aircraft and shall be installed in a manner so approved.

(8) This regulation shall not apply in relation to radio apparatus except that specified in the Sixth Schedule. G.N. 174/1976

12. Radio equipment of aircraft

(1) An aircraft shall not fly unless it is so equipped with radio apparatus as to comply with the law of the country in which the aircraft is registered and to enable communication to be made and the aircraft to be navigated in accordance with these Regulations.

(2) In the case of Malawi aircraft the aircraft shall be equipped with radio apparatus in accordance with the Seventh Schedule.

(3) In any particular case the Chief Civil Aviation Officer may direct that a Malawi aircraft shall carry such additional or special radio apparatus as he may specify for the purpose of facilitating the navigation of the aircraft, the carrying out of search and rescue operations or the survival of the persons carried in the aircraft.

(4) The radio apparatus provided in compliance with this regulation in a Malawi aircraft shall always be maintained in a serviceable condition.

(5) All radio apparatus installed in a Malawi aircraft (whether or not in compliance with these Regulations) shall be of a type approved by the Chief Civil Aviation Officer in relation to the purpose for which it is to be used, and shall, except in the case of a glider which is permitted by regulation 3 (1) to fly unregistered, be installed in a manner approved by the Chief Civil Aviation Officer. Neither the apparatus nor the manner in which it is installed shall be modified except with the approval of the Chief Civil Aviation Officer.

13. Aircraft, engine and propeller log books

(1) In addition to any other log books required by or under these Regulations, the following log books shall be kept in respect of every public transport aircraft and aerial work aircraft registered in Malawi—

- (a) an aircraft log book;
- (b) a separate log book in respect of each engine fitted in the aircraft; and
- (c) a separate log book in respect of each variable pitch propeller fitted to the aircraft,

which shall include the particulars respectively specified in the Eighth Schedule.

(2) Each entry in the log book shall be made as soon as practicable after the occurrence to which it relates, but in no event more than seven days after the expiration of the certificate of maintenance (if any) in force in respect of the aircraft at the time of the occurrence.

(3) Entries in a log book may refer to other documents, which shall be clearly identified, and any other documents so referred to shall be deemed, for the purposes of these Regulations, to be part of the log book.

(4) It shall be the duty of the operator of every aircraft in respect of which log books are required to be kept as aforesaid to keep them or cause them to be kept in accordance with the foregoing provisions of this regulation.

(5) Subject to regulation 55 every log book shall be preserved by the operator of the aircraft until a date two years after the aircraft, the engine or the variable pitch propeller has been destroyed or has been permanently withdrawn from use.

14. Aircraft weight schedule

(1) Every flying machine and glider in respect of which a certificate of airworthiness issued or rendered valid under these Regulations if in force shall be weighed and the position of its centre of gravity determined at such time and in such manner as the Chief Civil Aviation Officer may require in the case of that aircraft.

(2) Upon the aircraft being weighed as aforesaid the operator of the aircraft shall prepare a weight schedule showing the basic weight of the aircraft, that is to say the weight of the aircraft empty together with the weight of unusable fuel and unusable oil in the aircraft and of such items of equipment as are indicated in the weight schedule, and showing the position of the centre of gravity of the aircraft when the aircraft contains only the items included in the basic weight

(3) Subject to regulation 55 the weight schedule shall be preserved by the operator of the aircraft until the expiry of a period of six months following the next occasion on which the aircraft is weighed for the purposes of this regulation.

15. Access and inspections for Airwothiness purposes

The Chief Civil Aviation Officer may cause such inspections, investigations, tests, experiments and flight trials to be made as he deems necessary for the purposes of this Part and any person authorized to do so in writing by the Chief Civil Aviation Officer may at any reasonable time inspect any part of, or material intended to be incorporated in or used in the manufacture of any part of, an aircraft or its equipment or any documents relating thereto and may for that purpose go upon any aerodrome or aircraft factory or other premises.

PART III

AIRCRAFT CREW AND LICENSING

16. Composition of crew of aircraft

(1) An aircraft shall not fly unless it carries a flight crew of the number and description required by the law of the country in which it is registered.

(2) A Malawi aircraft shall carry a flight crew adequate in number and description to ensure the safety of the aircraft and of at least the number and description specified in the certificate of airworthiness issued or rendered valid under these Regulations, or, if no certificate of airworthiness is required under these Regulations to be in force, the certificate of airworthiness, if any, last in force under these Regulations in respect of that aircraft.

(3) A Malawi aircraft flying for the purpose of public transport, having a maximum total weight authorized of more than 10,000 kilograms, shall carry not less than two pilots as members of the flight crew thereof.

(4) A Malawi aircraft engaged on a flight for the purpose of public transport shall carry a flight navigator as a member of the flight crew if on the route or any diversion therefrom, being a route or diversion planned before take-off, the aircraft is intended to be more than 500 miles from the point of take-off measured along the route to be flown and to pass over part of an area specified in the Ninth Schedule. The flight navigator carried in compliance with this regulation shall be carried in addition to any person who is carried in accordance with this regulation to perform other duties.

(5) A Malawi aircraft which is required by regulation 12 to be equipped with radio communication apparatus shall carry a flight radio operator as a member of the flight crew, who, if he is required to operate radiotelegraph apparatus, shall be carried in addition to any other person who is carried in accordance with this regulation to perform other duties.

(6) If it appears to him to be expedient to do so in the interests of safety, the Chief Civil Aviation Officer may direct any particular operator that the aircraft operated by him or any such aircraft shall not fly in such circumstances as the Chief Civil Aviation Officer may specify unless they carry in addition to the flight crew required to be carried therein by the foregoing provisions of this regulation such additional persons as members of the flight crew as he may specify in the direction.

(7)(a) When a Malawi aircraft carries twenty or more passengers on a flight for the purpose of public transport, the crew of the aircraft shall include persons carried for the purpose of performing in the interest of the safety of passengers duties to be assigned by the operator or the person in command of the aircraft, but who shall not act as members of the flight crew. The number of such persons carried when the aircraft is carrying the number of passengers specified in column 1 of the table set out hereunder shall not be less than the number set out opposite that number in column 2 of that table—

Column 1	Column 2
20–50 passengers	1 person
51–100 passengers	2 persons
101–150 passengers	3 persons
Over 150 passengers	4 persons

(b) The Chief Civil Aviation Officer may give a direction to the operator of any Malawi aircraft requiring him to include among the crew thereof whenever the aircraft is flying for the purpose of public transport at least one such person as aforesaid, notwithstanding that the aircraft may be carrying fewer than twenty passengers.

17. Members of flight crew—licences

(1) Subject to this regulation, a person shall not act as a member of the flight crew of a Malawi aircraft unless he is the holder of an appropriate licence granted or rendered valid under these Regulations: G.N. 174/1976

Provided that a person may within Malawi act as a flight radiotelephony operator without being the holder of such a licence if—

(i) he does so as the pilot of a glider not flying for the purpose of public transport or aerial work, or as a person being trained in a Malawi aircraft to perform duties as a member of the flight crew of an aircraft;

(ii) he is authorized to operate the radiotelephone station by the holder of the licence granted in respect of that station by the Chief Civil Aviation Officer or other appropriate authority under any enactment;

(iii) messages are transmitted only for the purpose of instruction or of the safety or navigation of the aircraft;

(iv) messages are transmitted only on a frequency exceeding 60 megahertz assigned by the Chief Civil Aviation Officer for use on flights on which a flight radiotelephony operator acts in one of the capacities specified in paragraph (i) of this proviso; G.N. 174/1976

(v) the transmitter is pre-set to one or more of the frequencies so assigned and cannot be adjusted in flight to any other frequency;

(vi) the operation of the transmitter requires the use only of external switches; and

(vii) the stability of the frequency radiated is maintained automatically by the transmitter.

(2) Subject as aforesaid, a person shall not act as a member of the flight crew required by or under these Regulations to be carried in a foreign aircraft unless—

(a) in the case of an aircraft flying for the purpose of public transport or aerial work he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered; or

(b) in the case of any other aircraft, he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered or under these Regulations, and the Chief Civil Aviation Officer does not in the particular case give a direction to the contrary.

(3) Notwithstanding subregulation (1), a person may, unless the certificate of airworthiness in force in respect, of the aircraft otherwise requires, act as pilot of a Malawi aircraft for the purpose of undergoing training or tests—

(a) for the grant or renewal of a pilot's licence or for the inclusion, renewal or extension of a rating thereon; or

(b) for admission into the armed forces of Malawi,

without being the holder of an appropriate licence, if the following conditions are complied with—

(i) no other person shall be carried in the aircraft or in an aircraft being towed thereby except a person carried as a member of the flight crew in compliance with these Regulations, a person authorized by the Chief Civil Aviation Officer to witness the aforesaid training or test, or, if the pilot in command of the aircraft is the holder of an appropriate licence, a person carried for the purpose of being trained or tested as a member of the flight crew of an aircraft; and

(ii) the person acting as the pilot of the aircraft without being the holder of an appropriate licence shall not be the pilot in command of the aircraft unless within the period of six months immediately preceding he was either the holder of a pilot's licence (other than a student pilot's licence) granted under these Regulations or was serving as a qualified pilot of aircraft in the armed forces of Malawi, and his physical condition has not, so far as he is aware, so deteriorated during that period as to render him unfit for the licence for which he intends to qualify.

(4) Notwithstanding subregulation (1), a person may act as a member of the flight crew of a Malawi aircraft without being the holder of an appropriate licence if, in so doing, he is acting in the course of his duty as a member of the armed forces of Malawi.

(5) An appropriate licence for the purposes of this regulation means a licence which entitles the holder to perform the functions which he undertakes in relation to the aircraft concerned and the flight on which it is engaged.

(6) This regulation shall not apply to a person (other than a flight radio operator) by reason of his acting as a member of the flight crew of a glider which is not flying for the purpose of public transport or aerial work.

18. Grant or renewal of licences to members of flight crew

(1) The Chief Civil Aviation Officer may grant licences subject to such conditions as he thinks fit of any of the following classes—

Student Pilot's licence; G.N. 174/1976

Private Pilot's licence (aeroplanes);

Commercial Pilot's licence (aeroplanes);

Senior Commercial Pilot's licence (aeroplanes);

Airline Transport Pilot's licence (aeroplanes);

Private Pilot's licence (helicopters and gyroplanes);
Commercial Pilot's licence (helicopters and gyroplanes);
Airline Transport Pilot's licence (helicopters and gyroplanes);
Private Pilot's licence (balloons and airships);
Commercial Pilot's licence (balloons);
Commercial Pilot's licence (airships);
Commercial Pilot's licence (gliders);
Flight Navigator's licence;
Flight Engineer's licence;
Flight Radiotelephony Operator's general licence;
Flight Radiotelephony Operator's restricted licence;
Flight Radiotelegraphy Operator's temporary licence;
Flight Radiotelegraphy Operator's licence,

upon his being satisfied that the applicant is a fit and proper person to hold a licence and is qualified by reason of his knowledge, experience, competence, skill and physical fitness to act in the capacity to which the licence relates, and for that purpose the applicant shall furnish such evidence, and undergo such examinations and tests (including in particular medical examinations), as the Chief Civil Aviation Officer may require of him. A licence of any class shall not be granted to any person who is under the minimum age specified for that class of licence in Part A of the Tenth Schedule.

(2) Subject to any conditions of the licence, a licence of any class shall entitle the holder to perform the functions specified in respect of that licence in Part A of the said Tenth Schedule under the heading "privileges":

Provided that—

(i) subject to subregulation (10), regulation 17 (3) and regulation 21 (1) a person shall not be entitled to perform any of the functions specified in Part B of the said Schedule in respect of a rating unless his licence includes that rating;

(ii) a person shall not be entitled to perform any of the functions to which his licence relates if he knows or has reason to believe that his physical condition renders him temporarily or permanently unfit to perform such functions;

(iii) a person when exercising the privileges of a licence for which he was assessed as fit subject to suitable correcting glasses being worn shall have a spare set of suitable correcting glasses readily available;

(iv) the holder of a licence, other than a flight radiotelephony operator's licence, shall not be entitled to perform any of the functions to which his licence relates unless it includes a medical certificate issued and in force under subregulation (7);

(v) the holder of a pilot's licence shall not be entitled to perform functions on a flight unless the licence bears a valid certificate issued by the Chief Civil Aviation Officer declaring such licence to be valid;

(vi) a person shall not be entitled to perform the functions to which an instrument rating, flying instructor's rating or assistant flying instructor's rating relates unless his licence bears a certificate, signed by a person authorized by the Chief Civil Aviation Officer to sign such certificates, indicating that the holder has, within the period of 13 months in the case of an instrument rating and an assistant flying instructor's rating, and 25 months in the case of a flying instructor's rating, preceding the day on which he performs those functions, passed a test of his ability to perform the functions to which the rating relates, being a test carried out in flight in the case of the two last-named ratings, and in the case of the first-named rating, either in flight or by means of apparatus approved by the Chief Civil Aviation Officer in which flight conditions as simulated on the ground;

(vii) a person who, on the last occasion when he took a test for the purposes of paragraph (vi) of this proviso failed that test, shall not be entitled to fly in the capacity for which that test would have qualified him had he passed it.

(3) The Chief Civil Aviation Officer may, if he is satisfied that the applicant is qualified as aforesaid to act in the capacity to which the rating relates, include in a licence a rating of any of the classes specified in Part B of the said Tenth Schedule and such rating shall be deemed to form part of the licence and shall entitle the holder to perform such functions as are specified in Part B of the said Schedule in respect of that rating.

(4) A licence shall, subject to regulation 56, remain in force for the periods indicated in the licence, not exceeding those respectively specified in the Tenth Schedule, and may be renewed by the Chief Civil Aviation Officer from time to time upon his being satisfied that the applicant is a fit and proper person and is qualified as aforesaid.

(5) Upon receiving a licence granted under this regulation, the holder shall forthwith sign his name thereon in ink with his ordinary signature.

(6) Every applicant for and holder of a licence granted under this regulation, other than a flight radiotelephony operator's licence, shall upon such occasions as the Chief Civil Aviation Officer may require submit himself to a medical examination by a person approved by the Chief Civil Aviation Officer

either generally or in a particular case who shall make a report to the Chief Civil Aviation Officer in such form as the Chief Civil Aviation Officer may require.

(7) Having considered the report made to him pursuant to subregulation (6), the Chief Civil Aviation Officer may, subject to such conditions, if any, as he may impose, issue to the person concerned a certificate, under his hand, certifying that the person concerned is physically fit to perform the functions licensed under the relevant licence. Subject and without prejudice to proviso (ii) to subregulation (2), such certificate shall be valid for the period of time specified thereon and shall be deemed to form part of the licence to which it relates. G.N. 174/1976

(8) Every holder of a licence, other than a flight radiotelephony operator's licence, granted under this regulation or rendered valid under regulation 19 who suffers—

(a) any personal injury involving incapacity to undertake the functions to which his licence relates; or

(b) any illness involving incapacity to undertake those functions throughout a period of twenty days or more,

shall inform the Chief Civil Aviation Officer in writing of such injury, pregnancy or illness, as soon as possible in the case of an injury, and as soon as the period of twenty days has elapsed in the case of illness.

(9) A licence, other than a flight radiotelephony operator's licence, granted under this Part shall be deemed to be suspended upon the occurrence of such an injury, or the elapse of such period of illness as is referred to in subregulation (7). The suspension of the licence shall cease—

(a) upon the holder being medically examined under arrangements made by the Chief Civil Aviation Officer and pronounced fit to resume his functions under the licence; or

(b) upon the Chief Civil Aviation Officer exempting the holder from the requirement of a medical examination, subject to such conditions as the Chief Civil Aviation Officer thinks fit;

(c) in the case of a woman, has reason to believe that she is pregnant.

(10) A licence granted under this regulation shall be deemed to be suspended upon the pregnancy of the holder being diagnosed and shall remain suspended until the holder has been medically examined after the termination of the pregnancy and pronounced fit to resume her duties under the licence.

(11) Nothing in these Regulations shall be taken to prohibit the holder of a commercial pilot's, senior commercial pilot's or airline transport pilot's licence from acting as pilot in command of an aircraft carrying passengers by night by reason of the lack of a night rating in his licence.

(12) Notwithstanding any provision to the contrary in these Regulations, the holder of a pilot's licence shall not be prohibited from acting as pilot of a type of aircraft not specified in the aircraft rating

included in his licence, if the said aircraft does not exceed 5,700 kg. authorized maximum total weight and, with the prior approval of the Chief Civil Aviation Officer, the holder of such licence acts as such pilot for the purpose of conducting a test required of any person by the Chief Civil Aviation Officer pursuant to and for the purposes of subregulation (1), or of proviso (iv) to subregulation (2), or of subregulation (3), as the case may be.

19. Validation of licences

The Chief Civil Aviation Officer may issue a certificate of validation rendering valid for the purposes of these Regulations any licence as a member of the flight crew of an aircraft granted under the law of any country other than Malawi. A certificate of validation may be issued subject to such conditions and for such period as the Chief Civil Aviation Officer thinks fit.

20. Personal flying log book

Every member of a flight crew of a Malawi aircraft and every person who engages in flying for the purpose of qualifying for the grant or renewal of a licence under these Regulations or undergoing tests or receiving instruction in flying for admission into the armed forces of Malawi shall keep a personal flying log book in which the following particulars shall be recorded—

- (a) the name and address of the holder of the log book;
- (b) particulars of the holder's licence (if any) to act as a member of the flight crew of an aircraft;
- (c) particulars of all flights made as a member of the flight crew of aircraft, including—
 - (i) the date, duration and places of arrival and departure of the flight;
 - (ii) the type and registration marks of the aircraft;
 - (iii) the capacity in which the holder acted in flight;
 - (iv) particulars of any special conditions under which the flight was conducted, including night flying and instrument flying;
 - (v) particulars of any test or examination undertaken whilst in flight.

21. Instruction in flying

(1) A person shall not give any instruction in flying to any person flying or about to fly a flying machine for the purpose of becoming qualified for—

- (a) the grant of a pilot's licence; or
- (b) the inclusion in a pilot's licence of an aircraft rating entitling the holder of the licence to act as pilot of—

(i) a multi-engined aircraft; or

(ii) an aircraft of any class appearing in column 4 of the Table in Part A of the First Schedule,

if the person under instruction has not been previously entitled under the Act or qualified in the armed forces of Malawi to act as pilot of a multi-engined aircraft, or of an aircraft of that class, as the case may be; or

(c) the inclusion or variation of any rating, other than an aircraft rating in a pilot's licence, unless—

(i) the person giving the instruction holds a licence, granted or rendered valid under these Regulations, entitling him to act as pilot in command of the aircraft for the purpose and in the circumstances under which instruction is to be given;

(ii) such licence includes a flying instructor's rating or an assistant flying instructor's rating entitling the holder, in accordance with the privileges specified in the Tenth Schedule in respect of that rating, to give the instruction; and

(iii) if consideration is given for the instruction, such licence entitles the holder to act as pilot in command of an aircraft flying for the purpose of public transport:

Provided that subparagraph (ii) shall not apply if the aircraft is owned, or is operated under arrangements entered into, by a flying club of which both the person giving and the person receiving the instruction are members.

(2) For the purpose of this regulation consideration shall be deemed to be given for instruction if any reward is given or promised by any person to any other person in consideration of the flight being made or of the instruction being given or if the instruction is given by a person employed for reward primarily for the purpose of giving such instruction.

22. Glider pilot—minimum age

A person under the age of sixteen years shall not act as pilot in command of a glider.

PART IV

OPERATION OF AIRCRAFT

23. Operations manual

(1) This regulation shall apply to public transport aircraft registered in Malawi, other than aircraft used for the time being solely for flights not intended to exceed 60 minutes in duration which are either— G.N. 174/1976

(a) flights solely for training persons to perform duties in an aircraft; or

(b) flights intended to begin and end at the same aerodrome.

(2)(a) The operator of every aircraft to which this regulation applies shall—

(i) make available to every member of his operating staff an operations manual;
and

(ii) ensure that each copy of the operations manual is kept up to date; and G.N.
174/1976

(iii) ensure that on each flight every member of the crew has access to a copy of every part of the operations manual which is relevant to his duties on the flight.

(b) Every operations manual shall contain all such information and instructions as may be necessary to enable the operating staff to perform their duties as such including in particular information and instructions relating to the matters specified in Part A of the Eleventh Schedule:

Provided that the operations manual shall not be required to contain any information or instructions available in a flight manual accessible to the persons by whom the information or instructions may be required.

(3) The operator of the aircraft shall, if the Chief Civil Aviation Officer shall so require, furnish the Chief Civil Aviation Officer with a copy of the whole of the operations manual for the time being in effect, or of such parts thereof as the Chief Civil Aviation Officer may specify. The operator shall make such amendments of or additions to the operations manual as the Chief Civil Aviation Officer may require for the purpose of ensuring the safety of the aircraft or of persons or property carried therein or the safety, efficiency or regularity of air navigation.

(4) For the purposes of this regulation and the Eleventh Schedule “operating staff” means the servants and agents employed by the operator, whether or not as members of the crew of the aircraft, to ensure that the flights of the aircraft are conducted in a safe manner, and includes an operator who himself performs those functions.

(5) If in the course of a flight on which the equipment specified in scale 0 in paragraph 5 of the Sixth Schedule is required to be provided the said equipment becomes unserviceable, the aircraft shall be operated on the remainder of that flight in accordance with any relevant instructions in the operations manual.

24. Public transport operator’s responsibilities

(1) The operator of a Malawi aircraft shall not permit the aircraft to fly for the purpose of public transport without first—

(a) designating from among the flight crew a pilot to be the commander of the aircraft for the flight;

(b) satisfying himself by every reasonable means that his flight crews when operating outside Malawi know that they must comply with and are familiar with the laws, regulations and procedures of the States in which his aircraft are operating;

(c) satisfying himself by every reasonable means that the aeronautical radio stations and navigational aids serving the intended route or any planned diversion therefrom are adequate for the safe navigation of the aircraft; and

(d) satisfying himself by every reasonable means that the aerodrome at which it is intended to take off or land and any alternate aerodrome at which a landing may be made are suitable for the purpose and in particular are adequately manned and equipped to ensure the safety of the aircraft and its passengers:

Provided that the operator of the aircraft shall not be required to satisfy himself as to the adequacy of firefighting, search, rescue or other services which are required only after the occurrence of an accident.

(2) The operator of a Malawi aircraft shall not permit any person to be a member of the crew thereof during any flight for the purpose of public transport (except a flight for the sole purpose of training persons to perform duties in aircraft) unless such person has had the training, experience, practice and periodical tests specified in Part B of the Eleventh Schedule in respect of the duties which he is to perform and unless the operator has satisfied himself that such person is competent to perform his duties, and in particular to use the equipment provided in the aircraft for that purpose. The operator shall maintain, preserve, produce and furnish information respecting records relating to the foregoing matters in accordance with Part B of the said Eleventh Schedule.

(3) The operator of a Malawi aircraft shall not permit the simulation of emergency situations affecting the flight characteristics of the aircraft when passengers are being carried and shall instruct his flight crews accordingly.

25. Loading—public transport aircraft and suspended loads

(1) The operator of a Malawi aircraft shall not cause or permit it to be loaded for a flight for the purpose of public transport or cause or permit any load to be suspended therefrom except under the supervision of a person whom he has caused to be furnished with written instructions as to the distribution and securing of the load so as to ensure that— G.N. 174/1976

(a) the load may safely be carried on the flight; and

(b) any conditions subject to which the certificate of airworthiness in force in respect of the aircraft was issued or rendered valid, being conditions relating to the loading of the aircraft, are complied with.

(2) The instructions shall indicate the weight of the aircraft prepared for service, that is to say the aggregate of the basic weight (shown in the weight schedule referred to in regulation 14) and the

weight of such additional items in or on the aircraft as the operator thinks fit to include; and the instructions shall indicate the additional items included in the weight of the aircraft prepared for service, and shall show the position of the centre of gravity of the aircraft at that weight:

Provided that this subregulation shall not apply in relation to a flight if—

- (i) the aircraft's maximum total weight authorized does not exceed 1,000 kilograms; or
- (ii) the aircraft's maximum total weight authorized does not exceed 2,500 kilograms and the flight is intended not to exceed 60 minutes in duration and is either—
 - (A) a flight solely for training persons to perform duties in aircraft; or
 - (B) a flight intended to begin and end at the same aerodrome.

(3) The operator of an aircraft shall not cause or permit it to be loaded in contravention of the instructions referred to in subregulation (1).

(4) The person supervising the loading of the aircraft shall, before the commencement of any such flight, prepare and sign a load sheet in duplicate conforming to the requirements specified in subregulation (6) and shall (unless he is himself the commander of the aircraft) submit the load sheet for examination of the commander of the aircraft who shall sign his name thereon:

Provided that the foregoing requirements of this subregulation shall not apply if—

- (i) the load and the distributing and securing thereof upon the next intended flight are to be unchanged from the previous flight and the commander of the aircraft makes and signs an endorsement to that effect upon the load sheet for the previous flight, indicating the date of the endorsement, the place of departure upon the next intended flight and the next intended place of destination; or
- (ii) subregulation (2) does not apply in relation to the flight.

(5) One copy of the load sheet shall be carried in the aircraft when regulation 53 so requires until the flights to which it relates have been completed and one copy of that load sheet and of the instructions referred to in this regulation shall be preserved by the operator until the expiration of a period of 6 months thereafter and shall not be carried in the aircraft.

(6) Every load sheet required by subregulation (4) shall include at the foot or end thereof a certificate, signed by the person referred to in subregulation (1) as responsible for the loading of the aircraft, that the aircraft has been loaded in accordance with the written instructions furnished to him by the operator of that aircraft, pursuant to this regulation, and shall contain the following particulars—

- (a) the nationality mark of the aircraft to which the load sheet relates and the registration mark assigned to that aircraft by the Chief Civil Aviation Officer;
- (b) particulars of the flight to which the load sheet relates;

- (c) the total weight of the aircraft as loaded for that flight;
- (d) the weights of the several items from which the total weight of the aircraft, as so loaded, has been calculated including in particular the weight of the aircraft prepared for service and the respective total weights of the passengers, crew, baggage and cargo intended to be carried on the flight;
- (e) the manner in which the load is distributed and the resulting position of the centre of gravity of the aircraft which may be given approximately if and to the extent that the relevant certificate of airworthiness so permits.

(7) For the purpose of calculating the total weight of the aircraft the respective total weights of the passengers and crew entered in the load sheet shall be computed from the actual weight of each person and for that purpose each person shall be separately weighed:

Provided that in the case of an aircraft with a total seating capacity of 12 or more persons and subject to the provisions of subregulation (9) the said weights may be calculated according to the following table, and the load sheet shall bear a notation to that effect—

TABLE 1

Males over 12 years of age	75kilograms	Females over 12 years of age	65kilograms	Children aged 2 years or more but not over 12 years of age	40kilograms	Infants under 2 years of age	8kilograms
----------------------------	-------------	------------------------------	-------------	--	-------------	------------------------------	------------

(8) For the purpose of calculating the total weight of an aircraft the respective total weights of the baggage and cargo entered in the load sheet shall be computed from the actual weight of each piece of baggage, cargo or cargo container and for that purpose each piece or container shall be separately weighed:

Provided that, in the case of an aeroplane with a total seating capacity of 12 persons or more, the total weight of the baggage may, subject to the provisions of subregulation (9), be calculated at not less than the weights shown in Table 2 and the load sheet shall bear a notation to that effect.

TABLE 2

Journey made by the aeroplane	Cabin baggage per passenger	Not applicable to infants under 2 years of age.*	Hold baggage per piece	Domestic	3 kg.10 kg.	Regional	3 kg.12 kg.	Intercontinental	3 kg.14 kg.
-------------------------------	-----------------------------	--	------------------------	----------	-------------	----------	-------------	------------------	-------------

(i) If Table 2 has been used, subject to the provisions of subregulation (9) for determining the weight of hold baggage, it shall also be used for determining the weight of the cabin baggage.

(ii) For the purpose of this Regulation—

(a) a journey made by an aeroplane shall be treated as domestic if it is confined within the territory of Malawi;

(b) a journey made by an aeroplane shall be treated as regional if it is confined within the mainland of the African continent south of the equator; and

(c) a journey made by an aeroplane shall be treated as intercontinental if it is neither domestic nor regional.

(9)(a) If it appears to the person supervising the loading of an aeroplane that a passenger or baggage to be carried on such aeroplane exceeds the weight set out in Table 1 or 2 of regulation 25, he shall, if he considers it necessary for the safety of the aeroplane, or if the Chief Civil Aviation Officer so directs in that particular case, require any such person or baggage to be weighed and shall record the weight on the load sheet.

(b) Whenever a person or baggage has been weighed pursuant to paragraph (a) of this subregulation, the weight recorded on the load sheet shall take into account either the actual weight determined in accordance with the respective provisions of subregulation (8) or (9) whichever shall be the greater.

26. Public transport—operating conditions

(1) A Malawi aircraft shall not fly for the purpose of public transport, except for the sole purpose of training persons to perform duties in aircraft, unless such requirements as may be prescribed in respect of its weight and related performance are complied with.

(2) The assessment of the ability of an aircraft to comply with subregulation (1) shall be based on the information as to its performance contained in the certificate of airworthiness relating to the aircraft. In the event of the information given therein being insufficient for that purpose such assessment shall be based on the best information available to the commander of the aircraft.

(3) Such requirements as are contained in the Thirteenth Schedule in respect of the weather conditions required for take-off, approach to landing and landing shall be complied with in respect of every aircraft to which regulation 23 applies.

(4) A Malawi aircraft, when flying over water for the purpose of public transport, shall, except as may be necessary for the purpose of take-off or landing, fly at such an altitude as would enable the aircraft to reach a place at which it can safely land—

(a) if it has one engine only, in the event of the failure of that engine;

(b) if it has more than one engine, in the event of the failure of one of those engines and with the remaining engine or engines operating within the maximum continuous power conditions specified in the certificate of airworthiness relating to the aircraft.

(5) Without prejudice to the provisions of subregulation (4), an aircraft in respect of which there is in force under these Regulations a certificate of airworthiness designating the aircraft as being of performance group X shall not fly over water for the purpose of public transport so as to be more than 60 minutes, flying time from the nearest shore, unless the aircraft has more than two power units. For the purposes of this subregulation, flying time shall be calculated at normal cruising speed with one power unit inoperative.

27. Foreign aircraft—weather conditions

(1) A foreign aeroplane shall not fly in Malawi for the purpose of public transport unless the operator thereof shall have—

(a) furnished the Chief Civil Aviation Officer with such particulars as the Chief Civil Aviation Officer may from time to time have required relating to the weather conditions specified by the operator in relation to aerodromes in Malawi for the purpose of limiting their use by the aircraft for take-off or landing, including any instructions given by the operator in relation to such weather conditions; and G.N 174/1976

(b) made such amendments of or additions to the weather conditions so specified and any instructions so given as the Chief Civil Aviation Officer may require for the purpose of ensuring the safety of the aircraft or the safety, efficiency or regularity of air navigation.

(2) The aircraft shall not begin or end a flight at an aerodrome in Malawi in weather conditions less favourable than those so specified in relation to that aerodrome, or in contravention of the instructions referred to in subregulation (1).

28. Pre-flight action by commander of aircraft

The commander of a Malawi aircraft shall satisfy himself before the aircraft takes off—

(a) that the flight can safely be made, taking into account the latest information available as to the route and aerodromes to be used, the weather reports and forecasts available, and any alternative course of action which can be adopted in case the flight cannot be completed as planned;

(b) that the equipment (including radio apparatus) required by or under these Regulations to be carried in the circumstances of the intended flight is carried and is in a fit condition for use;

(c) that the aircraft is in every way fit for the intended flight, and that where certificates of maintenance are required by regulation 8 (1) to be in force, they are in force and will not cease to be in force during the intended flight;

(d) that the load carried by the aircraft is of such weight, and is so distributed and secured, that it may safely be carried on the intended flight;

(e) that sufficient fuel, oil and engine coolant (if required) are carried for the intended flight, and that a safe margin has been allowed for contingencies, and, in case of a flight for the purpose of public transport, that the instructions in the operations manual relating to fuel, oil and engine coolant have been complied with;

(f) in the case of an airship or balloon that sufficient ballast is carried for the intended flight;

(g) that the operating limitations contained in the appropriate flight manual, or its equivalent, will not be exceeded;

(h) that, having regard to the performance of the aircraft in the conditions to be expected on the intended flight and to any obstructions at the places of departure and intended destination and on the intended route, it is capable of safely taking off, reaching and maintaining a safe height thereafter, and making a safe landing at the place of intended destination;

(i) that any pre-flight check system established by the operator and set forth in the operations manual or elsewhere has been complied with by each member of the crew of the aircraft.

29. Flight crew members to remain at flight duty stations

(1) The commander of a Malawi aircraft, being a flying machine or glider, shall cause each member of the flight crew required by or under these Regulations to be carried to remain at his flight duty station—

(a) during take-off and landing; and

(b) at all other times during flight except when his absence is necessary for the performance of duties in connexion with the operation of the aircraft or for physiological needs.

(2) Each flight crew member shall be secured in his seat by either a safety belt or a safety harness except that during take-off and landing each pilot at the controls shall be secured in his seat by a safety harness if it is required by regulation 11 to be provided.

30. Transport of passengers—duties of commander

(1) This regulation shall apply to all flights on which passengers are carried by Malawi aircraft.

(2) In relation to every flight to which this regulation applies the commander of the aircraft shall—

(a) before the aircraft takes off, take all reasonable steps to ensure that all passengers are made familiar with the position and method of use of emergency exits, safety belts, safety harnesses, oxygen equipment and lifejackets, and all other devices required by or under these Regulations and intended for use by passengers in case of an emergency occurring to the aircraft:

Provided that in relation to lifejackets this requirement may, except in the case of a seaplane, be complied with at any time before the aircraft reaches a point beyond gliding distance from land;

(b) if the aircraft is not a seaplane but is intended in the course of the flight to reach a point more than 30 minutes flying time (while flying in still air at the speed specified in the relevant certificate of airworthiness as the speed for compliance with regulations governing flights over water) from the nearest land, take all reasonable steps to ensure that before that point is reached, all passengers are

given a practical demonstration of the method of use of the lifejackets required by or under these Regulations for the use of passengers;

(c) if the aircraft is a seaplane, take all reasonable steps to ensure that before the aircraft takes off all passengers are given a practical demonstration of the method of use of the equipment referred to in paragraph (b);

(d) before the aircraft takes off, and before it lands, take all reasonable steps to ensure that the crew of the aircraft are properly secured in their seats and that any persons carried in compliance with regulation 16 (7) are secured in seats which shall be in a passenger compartment and which shall be so situated that they can readily assist passengers;

(e) before the aircraft takes off, and before it lands, and whenever by reason of turbulent air or any emergency occurring during flight he considers the precaution necessary, take all reasonable steps to ensure that all passengers are properly secured in their seats by safety belts or safety harnesses;

(f) in any emergency, take all reasonable steps to ensure that all passengers are instructed in the emergency action which they should take;

(g) except in the case where a pressure greater than 700 millibars is maintained in all passenger and crew compartments throughout the flight, take all reasonable steps to ensure that—

(i) before the aircraft reaches flight level 130 the method of use of the oxygen provided in the aircraft in compliance with the requirements of regulation 11 is demonstrated to all passengers;

(ii) on reaching such altitude all passengers are recommended to use oxygen;

(iii) during any time exceeding 30 minutes when the aircraft is flying above flight level 100 but not above flight level 130, and at all times when the aircraft is flying above flight level 130, oxygen is used by all the crew of the aircraft.

31. Operation of radio in aircraft

(1) The radio station in an aircraft shall not be operated, whether or not the aircraft is in flight, except in accordance with the conditions of the licence issued in respect of that station under the law of the country in which the aircraft is registered, and by a person duly licensed or otherwise permitted to operate the radio station under that law. G.N. 174/1976

(2) Whenever an aircraft is in flight in such circumstances that it is required by or under these Regulations to be equipped with radio communication apparatus, a continuous radio watch shall be maintained by a member of the flight crew listening to the signals transmitted upon the frequency notified, or designated by a message received from an appropriate aeronautical radio station, for use by that aircraft:

Provided that—

(i) the radio watch may be discontinued or continued on another frequency to the extent that a message as aforesaid so permits; and

(ii) the watch may be kept by a device installed in the aircraft if the appropriate aeronautical radio station has been informed to that effect and has raised no objection, and that station is notified or, in the case of a station situated in a country other than Malawi, otherwise designated as transmitting a signal suitable for that purpose.

(3) The radio station in an aircraft shall not be operated so as to cause interference which impairs the efficiency of aeronautical telecommunications or navigational services and in particular emissions shall not be made except as follows—

(a) emissions of the class and frequency for the time being in use, in accordance with general international aeronautical practice, in the airspace in which the aircraft is flying;

(b) distress and urgency messages and signals, in accordance with general international aeronautical practice;

(c) such public correspondence messages as may be permitted by or under the aircraft radio station licence referred to in subregulation (1).

(4) In every Malawi aircraft which is equipped with radio communication apparatus a telecommunication log book shall be kept in which the following entries shall be made—

(a) the identification of the aircraft radio station;

(b) the date and time of the beginning and end of every radio watch maintained in the aircraft and of the frequency on which it was maintained;

(c) the date and time, and particulars of all messages and signals sent or received, including in particular details of any distress traffic sent or received;

(d) particulars of any action taken upon the receipt of a distress signal or message;

(e) particulars of any failure or interruption of radio communications and the cause thereof:

Provided that a telecommunication log book shall not be required to be kept in respect of communication by radiotelephony with a radio station on land or on a ship which provides a radio service for aircraft.

(5) The flight radio operator maintaining radio watch shall sign the entries in the telecommunication log book indicating the times at which he began and ended the maintenance of such watch.

(6) The telecommunication log book shall be preserved by the operator of the aircraft until a date six months after the date of the last entry therein.

(7) In any Malawi aircraft which is engaged on a flight for the purpose of public transport, the pilot and the flight engineer (if any) shall not make use of a hand-held microphone (whether for the purpose of radio communication or of intercommunication within the aircraft) whilst the aircraft is flying in controlled airspace below flight level 150 or is taking off or landing. G.N. 174/1976

32. Use of flight recorders and preservation of records

(1) On any flight on which a flight recorder is required by these Regulations to be carried in an aircraft, it shall always be in use from the beginning of the take-off run to the end of the landing run.

(2) The operator of the aircraft shall, subject to regulation 55, preserve the record made by the flight recorder, together with means of identifying the record with the flight to which it relates, for a period of 30 days after the end of the flight or such longer period as the Chief Civil Aviation Officer may in a particular case require.

33. Towing of gliders

(1) An aircraft in flight shall not tow a glider unless the certificate of airworthiness issued or rendered valid in respect of the towing aircraft under the law of the country in which that aircraft is registered includes an express provision that it may be used for that purpose.

(2) The length of the combination of towing aircraft, tow rope and glider in flight shall not exceed 500 feet.

(3) The commander of an aircraft which is about to tow a glider shall satisfy himself, before the towing aircraft takes off—

(a) that the tow rope is in good condition and is of adequate strength for the purpose, and that the combination of towing aircraft and glider is capable of flying in the manner referred to in regulation 28 (g);

(b) that signals have been agreed and communication established with persons suitably stationed so as to enable the glider to take off safely;

(c) that emergency signals have been agreed between the commander of the towing aircraft and the commander of the glider, to be used, respectively, by the commander of the towing aircraft to indicate that the tow should immediately be released by the glider, and by the commander of the glider to indicate that the tow cannot be released.

(4) The glider shall be attached to the towing aircraft by means of the tow rope before the aircraft takes off.

34. Towing, picking up and raising of persons and articles

(1) Subject to the provisions of this regulation, an aircraft in flight shall not, by means external to the aircraft, tow any article, other than a glider, or pick up or raise any person, animal or article, unless the certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered includes an express provision that it may be used for that purpose. G.N. 174/1976

(2) An aircraft in flight shall not tow any article, other than a glider, at night or when flight visibility is less than 1 mile.

(3) The length of the combination of towing aircraft, tow rope, and article in tow, shall not exceed 150 metres.

(4) A helicopter shall not fly at any height over a congested area of a city, municipality, town or settlement at any time when an article, person or animal is suspended from the helicopter.

(5) Nothing in this regulation shall—

(a) prohibit the towing in a reasonable manner by an aircraft in flight of any radio aerial, any instrument which is being used for experimental purposes, or any signal, apparatus or article required or permitted by or under these Regulations to be towed or displayed by an aircraft in flight;

(b) prohibit the picking up or raising of any person, animal or article in an emergency or for the purpose of saving life;

(c) apply to any aircraft while it is flying in accordance with the “B Conditions” set forth in the Third Schedule;

(d) be taken to permit the towing or picking up of a glider otherwise than in accordance with regulation 33.

35. Dropping of persons and articles

(1) Articles and animals (whether or not attached to a parachute) shall not be dropped, or permitted to drop, from an aircraft in flight so as to endanger persons or property. G.N. 174/1976

(2) Articles, animals and persons (whether or not attached to a parachute) shall not be dropped, or permitted to drop, to the surface from an aircraft flying over Malawi:

Provided that this subregulation shall not apply to the descent of persons by parachute from an aircraft in an emergency, or to the dropping of articles by, or with the authority of, the commander of the aircraft in the following circumstances—

(i) the dropping of articles for the purpose of saving life;

(ii) the jettisoning, in case of emergency, of fuel or other articles in the aircraft;

(iii) the dropping of ballast in the form of fine sand or water;

(iv) the dropping of articles solely for the purpose of navigating the aircraft in accordance with ordinary practice or with the provisions of these Regulations;

(v) the dropping at an aerodrome, in accordance with any regulations made under the Act, of ropes, banners or similar articles towed by aircraft;

(vi) the dropping of articles for the purpose of agriculture, horticulture, forestry or public health or as a measure against weather conditions, oil pollution or for training purposes in dropping any such articles: G.N. 174/1976

Provided that no such articles shall be dropped from an aeroplane except with the prior permission of the Chief Civil Aviation Officer and in accordance with any conditions subject to which that permission may be granted.

(3) For the purposes of this regulation dropping includes projecting and lowering.

(4) Nothing in this regulation shall prohibit the lowering of any person, animal or article from a helicopter to the surface, if the certificate of airworthiness issued or rendered valid in respect of the helicopter under the law of the country in which it is registered includes an express provision that it may be used for that purpose.

(5) Nothing in this regulation shall prohibit the dropping of any person attached to a parachute with the written permission of the Chief Civil Aviation Officer, and subject to such conditions including the place of such dropping as the Chief Civil Aviation Officer shall impose.

36. Carriage of munitions of war

(1) An aircraft shall not carry any munitions of war.

(2) It shall be unlawful for any person to take or cause to be taken on board an aircraft, or to deliver or cause to be delivered for carriage thereon, any goods which he knows or has reason to believe or suspect to be munitions of war. G.N. 174/1976

(3) For the purpose of this regulation "munitions of war" means such weapons and ammunition including parts for such weapons or ammunition as are designed for use in warfare.

37. Carriage of dangerous goods

(1) Dangerous goods shall not be carried in an aircraft except as follows—

(a) goods carried in accordance with any regulations made under the Act to permit dangerous goods to be carried either in aircraft generally or in aircraft of any class or type specified in such regulations;

(b) goods carried with the written permission of the Chief Civil Aviation Officer, and in accordance with any conditions to which such permission may be subject;

(c) goods carried in an aircraft with the consent of the operator thereof for the purpose of ensuring the proper navigation or safety of the aircraft or the well-being of any person on board;

(d) goods permitted to be carried under the laws of the country in which the aircraft is registered, if there is in force in relation to such country an agreement between the Government of Malawi and the government of that country permitting the carriage of dangerous goods within Malawi in aircraft registered in that country.

(2) Dangerous goods permitted by or under these Regulations to be carried in an aircraft shall not be loaded as cargo therein unless—

(a) the consignor of the goods has furnished the operator of the aircraft with particulars in writing of the nature of the goods and the danger to which they give rise; and

(b) the goods or any container in which they are packed are clearly marked so as to indicate that danger to the person loading the goods in the aircraft.

The operator of the aircraft shall, before the flight begins, inform the commander of the aircraft of the identity of the goods, the danger to which they give rise and the weight or quantity of the goods.

(3) It shall be unlawful for any person to take or cause to be taken on board an aircraft, or to deliver or cause to be delivered for loading thereon, any goods which he knows or has reason to believe or suspect to be dangerous goods the carriage of which is prohibited by this regulation.

(4) The provisions of this regulation shall be additional to and not in derogation from the provisions of regulation 36.

38. Method of carriage of persons

A person shall not be in or on any part of an aircraft in flight which is not a part designed for the accommodation of persons and in particular a person shall not be on the wings or undercarriage of an aircraft. A person shall not be in or on any object, other than a glider or flying machine, towed by or attached to an aircraft in flight:

Provided that a person may have temporary access to—

(i) any part of an aircraft for the purpose of taking action necessary for the safety of the aircraft or of any person, animal or goods therein;

(ii) any part of an aircraft in which cargo or stores are carried, being a part which is designed to enable a person to have access thereto while the aircraft is in flight.

39. Exits and break-in markings

(1) This regulation shall apply to every public transport aircraft registered in Malawi. G.N. 174/1976

(2) Whenever an aircraft to which this regulation applies is carrying passengers, every exit therefrom and every internal door in the aircraft shall, during take-off and landing and during any emergency, be kept free of obstruction and shall not be fastened by locking or otherwise so as to prevent, hinder or delay its use by passengers:

Provided that an exit may be obstructed by cargo if it is an exit which, in accordance with arrangements approved by the Chief Civil Aviation Officer, either generally or in relation to a class of aircraft or a particular aircraft, is not required for use by passengers and a door between the flight crew compartment and any adjacent compartment to which passengers have access may be locked or bolted if the commander of the aircraft so determines, for the purpose of preventing access by passengers to the flight crew compartment.

(3) Every exit from the aircraft, being an exit intended to be used by passengers in normal circumstances, shall be marked with the word "Exit" in capital letters and every exit, being an exit intended to be used by passengers in an emergency only, shall be marked with the words "Emergency Exit" in capital letters.

(4)(a) Every exit from the aircraft shall be marked with instructions in English and in such other languages, if any, as may be prescribed, and with diagrams, to indicate the correct method of opening the exit.

(b) The markings shall be placed on or near the inside surface of the door or other closure of the exit and, if it is openable from the outside of the aircraft, on or near the exterior surface.

(5)(a) Every aircraft to which this regulation applies, being an aircraft of which the maximum total weight authorized exceeds 3,700 kilograms, shall be marked upon the exterior surface of its fuselage with markings to show the area (in this paragraph referred to as "break-in areas") which can, for purposes of rescue in an emergency, be most readily and effectively broken into by persons outside the aircraft;

(b) the break-in areas shall be rectangular in shape and shall be marked by right-angled corner markings, each arm of which shall be 10 centimetres in length along its outer edge and 2.5 centimetres in width; G.N. 174/1976

(c) the words "Cut Here in Emergency" in English shall be marked across the centre of each break-in area in capital letters.

(6) The markings required by this Regulation shall—

(a) be painted, or affixed by other equally permanent means;

(b) be red in colour and, in any case in which the colour of the adjacent background is such as to render red markings not readily visible, be outlined in white or some other contrasting colour in such a manner as to render them readily visible;

(c) be kept at all times clean and unobscured.

40. Imperilling safety of aircraft, persons and property

(1) A person shall not wilfully or negligently act in a manner likely to endanger an aircraft or any person therein.

(2) A person shall not wilfully or negligently cause or permit an aircraft to endanger any person or property.

41. Drunkenness in aircraft

(1) A person shall not enter any aircraft when drunk or be drunk in any aircraft.

(2) A person shall not, when acting as a member of the crew of any aircraft or being carried in any aircraft for the purpose of so acting, be under the influence of drink or a drug to such an extent as to impair his capacity so to act.

42. Smoking in aircraft

(1) Notices indicating when smoking is prohibited shall be exhibited in every Malawi aircraft so as to be visible from each passenger seat therein.

(2) A person shall not smoke in any compartment of a Malawi aircraft at a time when smoking is prohibited in that compartment by a notice to that effect exhibited by or on behalf of the commander of the aircraft.

43. Authority of commander of aircraft

Every person in a Malawi aircraft shall obey all lawful commands which the commander of the aircraft may give for the purpose of securing the safety of the aircraft and of persons or property carried therein, or the safety, efficiency or regularity of air navigation.

44. Stowaways

A person shall not secrete himself for the purpose of being carried in an aircraft without the consent of either the operator or the commander thereof or of any other person entitled to give consent to his being carried in the aircraft.

PART V

FATIGUE OF FLIGHT CREW

45. Application, interpretation and modification of Part V

(1) Regulations 46 to 50 inclusive shall apply in relation to an aircraft if, but only if, it is a Malawi aircraft which is either—

- (a) engaged on a flight for the purpose of public transport; or
- (b) operated by an air transport undertaking:

Provided that the said regulations shall not apply in relation to a flight made only for the purpose of instruction in flying given by or on behalf of a flying club or a flying school, or a person who is not an air transport undertaking.

(2) In this Part, except where the context otherwise requires—

“flight time” in relation to any person, means all time spent by that person in an aircraft while it is in flight and he is carried therein as a member of the flight crew thereof;

“duty period” in relation to any person who flies in an aircraft as a member of the flight crew thereof, means any continuous period throughout which he is, under subregulation (3) or subregulation (4), to be treated as being on duty:

Provided that where two or more periods which would, but for this proviso, be separate duty periods are separated by an interval of less than 10 hours, the period starting when the first of those duty periods began and finishing when the last of them ended shall be treated as constituting a single continuous duty period;

“rest period” in relation to any person, means any continuous period no part of which forms part of a duty period of that person;

“day” means a continuous period of twenty-four hours.

(3) For the purposes of this Part, a person who is employed under a contract of service to fly in an aircraft as a member of the flight crew thereof shall be treated as being on duty at any time when in the course of that employment he flies in any aircraft (whether as a member of its crew or as a passenger and whether or not the aircraft is such an aircraft as is referred to in subregulation (1)) or he is otherwise acting in the course of that employment:

Provided that when he is not flying in an aircraft—

(i) subject to paragraph (iii), he shall not be treated as being on duty during any period which he is allowed for rest;

(ii) subject to paragraph (iii), he shall not be treated as being on duty at any time by reason only of his being required at that time to be available at a particular place to report for duty if required to do so;

(iii) he shall be treated as being on duty at any time when he is required to be available at a particular place to report for duty if required to do so if—

- (A) that place is at an aerodrome; or

(B) that place, not being an aerodrome, is a place at which his employer requires persons similarly employed to be available as aforesaid and adequate facilities for rest are not available for his use while he is required to be so available.

(4) For the purposes of this Part, a person who flies in an aircraft as a member of the flight crew thereof, otherwise than in the course of his employment under a contract of service to fly as aforesaid, shall be treated as being on duty at any time when, in connexion with any business of operating aircraft, he flies in any aircraft (whether as a member of its crew or as a passenger and whether or not the aircraft is such as is referred to in subregulation (1)) or does any work.

(5) For the purposes of this Part, references to a person flying in an aircraft as a member of the flight crew thereof include references to the operator of the aircraft who himself flies in the aircraft in any such capacity, and reference to the work and other duties which a person is required or permitted by an operator to carry out shall in any such case be construed as references to any work carried out by that operator in connexion with the management of aircraft or with any business which includes the flying of aircraft.

(6) Notwithstanding the provisions of this regulation and regulations 46 to 52, the Chief Civil Aviation Officer may give directions to modify or replace the provisions of this regulation (other than this subregulation) or any or all of those regulations in their application to Malawi if he considers that the prevention of excessive fatigue to the flight crew of Malawi aircraft will thereby be more suitably ensured.

46. Duties of operators to prevent excessive fatigue of flight crew

It shall be the duty of every operator of an aircraft to which this Part applies to ensure, as respects each person flying as a member of the flight crew of that aircraft, that the periods during which that person is required or permitted by that operator to carry out any work or other duties are so limited in length and frequency, and that that person is afforded such periods for rest, that his said work and duties are not likely to cause him such fatigue while he is flying in the aircraft as may endanger the safety thereof.

47. Establishment of limits on flight times, flying duty periods and rest periods

(1) Without prejudice to the provisions of regulation 46, and for the purposes of securing that the requirements of those provisions are complied with, every operator of an aircraft to which this Part applies shall establish for every person flying in that aircraft as a member of the flight crew thereof—

- (a) limits on the aggregate of all his flight times during every period of 28 consecutive days;
- (b) limits on his flying duty periods; and
- (c) minimum rest periods which he is to have immediately before any duty period in the course of which he makes any such flight as aforesaid,

being limits and minimum rest periods which the operator is satisfied, after taking into account the matters mentioned in subregulation (2), are such that, if every member of the flight crew observes those limits and has those minimum rest periods, the safety of the aircraft on any flight is not likely to be endangered by reason of any fatigue which may be caused by the work or other duties which the members of the flight crew are required or permitted by that operator to carry out.

Different limits and different minimum rest periods may be established either for different persons or for different classes of persons and for different circumstances.

(2) The matters which an operator shall take into account in establishing under subregulation (1) limits and minimum rest periods as therein mentioned for the persons therein mentioned are the nature of the work and other duties which those persons will carry out and all circumstances arising out of the carrying out of the work and those duties which may affect the degree of fatigue from which those persons may suffer while they are making a flight in an aircraft to which this Part applies in any such capacity as is mentioned in the said subregulation (1), including without prejudice to the generality of the foregoing—

- (a) the type of aircraft in which the flight will be made;
- (b) the area in which the flight will be made;
- (c) the number of landings which will be made during the course of each flying duty period;
- (d) the amount of night flying during each flying duty period;
- (e) the number of consecutive occasions on which each member of the flight crew will be required to fly for the maximum period permitted under this regulation.

(3) No limits or minimum rest periods may be established under subregulation (1) which would require or permit any person to fly in any aircraft at a time when such flying would constitute a contravention of any of the provisions of regulations 48,49 and 51.

(4) An operator of an aircraft to which this Part applies shall not permit that aircraft to make a flight unless limits and minimum rest periods have been established in accordance with the foregoing provisions of this regulation so as to apply to every member of the flight crew thereof.

(5) Every operator of an aircraft to which this Part applies shall take all such steps as are reasonably practicable to secure that all limits for the time being established by that operator in accordance with the foregoing provisions of this regulation are observed and that no person for whom minimum rest periods are for the time being so established makes any flight in an aircraft to which this Part applies unless, immediately before the duty period in the course of which he makes the flight, he has had the appropriate rest period established.

(6) Notwithstanding anything contained in the foregoing provisions of this regulation, an operator of an aircraft to which this Part applies may confer upon the commander of that aircraft a

discretion to make, or authorize any person to make, a flight in that aircraft, in such circumstances that the commander or, as the case may be, that other person will not observe the limits or will not have had the minimum rest period established by that operator under the foregoing provisions of this regulation and applicable to the commander or that other person:

Provided that the said discretion shall not be exercisable unless the following conditions are fulfilled, that is to say—

(i) that it appears to the commander that arrangements had been made for the flight to be made with such a crew and so as to begin and end at such times that if the flight had been made in accordance with those arrangements each member of the crew would have observed the limits and have had the minimum rest periods established by the operator and applicable to them as aforesaid, and that since those arrangements were made the flight has been or will be prevented from being made in accordance with those arrangements by reason of exceptional circumstances or by reason of circumstances which were not foreseen as likely to prevent that flight from being so made; or

(ii) that it appears to the commander that the flight is one which ought to be carried out in the interests of the safety or health of any person; and

(iii) that the commander is satisfied that the safety of the aircraft on that flight will not be endangered if he or that other person makes that flight.

(7) Every operator of an aircraft to which this Part applies shall include in every operations manual to be provided under regulation 23 for the use and guidance of the members of the flight crew of that aircraft, or in any case where no such manual is required to be provided by that regulation in a document which shall be provided for the use and guidance of those members, full particulars of all limits and minimum rest periods for the time being established under the foregoing provisions of this regulation which may affect any of those members, and of any discretion conferred upon the commander of that aircraft under subregulation (6) and (without prejudice to the provisions of regulation 23) every such operator shall, whenever requested to do so by a person authorized in that behalf by the Chief Civil Aviation Officer, furnish that person with a copy of all particulars from time to time included in any such operations manual or document in accordance with the requirements of this subregulation.

(8) In this regulation the expression “flying duty period” in relation to any person means the time reckoned from the beginning of each duty period of that person, in the course of which he is permitted to make any flight to which this regulation applies and after the expiration of which he is not in the course of the same duty period, to make any such flight.

48. Maximum flying duty period for flight crew

(1) Without prejudice to the provisions of regulation 46 a person shall not fly in an aircraft to which this Part applies as a member of the flight crew thereof in the course of any duty period of that person after more than the specified time has elapsed since the beginning of that duty period.

(2) In subregulation (1) the expression “the specified time” means—

(a) in relation to a pilot who flies in an aircraft as the only pilot thereof, 11 hours, of which period the total time in flight shall not exceed 8 hours:

Provided that if during the duty period there has been a period of not less than 5 continuous hours throughout which that person has not flown in any aircraft to which this Part applies or performed any duties the foregoing provisions of this paragraph shall have effect in relation to that flight as if 13 hours were substituted therein for 11 hours;

(b) in relation to a person who at all times when he flies as a pilot in the course of his duty period is one of two or more persons carried as pilots of the aircraft, 16 hours:

Provided that the foregoing provisions of this paragraph shall have effect as if 24 hours were substituted therein for 16 hours if that person is one of three or more persons carried in the aircraft as pilots thereof and the following conditions are fulfilled—

(i) at least two of the pilots are qualified to act as commander of the aircraft in the circumstances both by their respective licences and in accordance with the requirements of paragraph 1 (5) (a) (i) of Part B of the Eleventh Schedule (except in respect of their knowledge of the aerodromes of take-off and landing and any alternate aerodromes);

(ii) at least one of the pilots is carried in addition to those members of the flight crew who are required to be carried in the circumstances by or under these Regulations;

(iii) one suitable bunk is always available for the use only of pilots; and

(iv) each of the pilots has, during the duty period, been afforded opportunities of resting for a reasonable time;

(c) in relation to a flight engineer, 16 hours:

Provided that the foregoing provisions of this paragraph shall have effect as if 24 hours were substituted therein for 16 hours in relation to a person who, at all times when he flies as a flight engineer in the course of his duty period, is one of two or more persons carried as flight engineers of the aircraft, if the following conditions are fulfilled—

(i) at least one of the flight engineers is carried in addition to the members of the flight crew who are required to be carried in the circumstances of the flight by or under these Regulations;

(ii) suitable facilities for sleeping are available for the use of at least one of the flight engineers at all times throughout the flight; and

(iii) each of the flight engineers has, during the duty period in the course of which that flight is made and before the end of that flight, been afforded opportunities of resting for a reasonable time.

49. Minimum rest periods for flight crew

Without prejudice to the provisions of regulation 46 a person shall not fly in an aircraft to which this Part applies as a member of the flight crew thereof, unless immediately before the duty period in the course of which he makes that flight he had a sufficient rest period, that is to say, a rest period of a length not less than the minimum length specified in the first column of Table A hereunder and therein set opposite to the length specified in the second column of that Table which corresponds to the length of the duty period of that person which immediately precedes that rest period.

TABLE A

Minimum length of sufficient rest period	Length of immediately preceding duty period
10 hours	Not exceeding 10 hours
11 hours	Exceeding 10 but not exceeding 11 hours
12 hours	Exceeding 11 but not exceeding 12 hours
13 hours	Exceeding 12 but not exceeding 13 hours
14 hours	Exceeding 13 but not exceeding 14 hours
15 hours	Exceeding 14 but not exceeding 15 hours
16 hours	Exceeding 15 but not exceeding 16 hours
18 hours	Exceeding 16 but not exceeding 17 hours
20 hours	Exceeding 17 but not exceeding 18 hours
22 hours	Exceeding 18 but not exceeding 19 hours
24 hours	Exceeding 19 but not exceeding 20 hours
26 hours	Exceeding 20 but not exceeding 21 hours
28 hours	Exceeding 21 but not exceeding 22 hours
30 hours	Exceeding 22 but not exceeding 23 hours
32 hours	Exceeding 23 but not exceeding 24 hours

and an additional 1½ hours of rest period for every hour and every part of an hour of duty period in excess of 24 hours:

Provided that where a rest period is taken by a person at a place which is outside Malawi, and, if he ordinarily resides outside Malawi, is not within 50 miles of his ordinary place of residence, it shall be deemed to be a sufficient rest period if it includes a period of 8 hours falling between 2200 and 0800 hours local time and is of a length not less than the minimum length specified in the first column of Table B in this regulation and therein set opposite to the length specified in the second column of that Table which corresponds to the length of the duty period of that person which immediately precedes that rest period.

TABLE

Minimum length of sufficient rest period	Length of immediately preceding duty period
10 hours	Not exceeding 10 hours
11 hours	Exceeding 10 but not exceeding 11 hours
12 hours	Exceeding 11 but not exceeding 12 hours
13 hours	Exceeding 12 but not exceeding 14 hours
14 hours	Exceeding 14 but not exceeding 17 hours
15 hours	Exceeding 17 but not exceeding 19 hours
16 hours	Exceeding 19 but not exceeding 21 hours
18 hours	Exceeding 21 but not exceeding 23 hours

and an additional 1½ hours of rest period for every hour and every part of an hour of duty period in excess of 24 hours.

50. Records of flight times, duty periods and rest periods

(1) The operator of an aircraft to which this regulation applies shall not cause or permit any person to fly therein as a member of the flight crew thereof unless the operator has in his possession an accurate and up-to-date record maintained by him or by another operator of aircraft in respect of that person and in respect of the 28 days immediately preceding the flight showing—

(a) the times of the beginning and end of each flight in any aircraft made by that person as a member of its flight crew in the course of any of his duty periods; and

(b) the times of the beginning and end of each duty period of that person, in the course of which he makes a flight in any aircraft as a member of its flight crew; and

(c) brief particulars of the nature of the work or other duties carried out by that person during each of his duty periods of which a record is required to be kept under this subregulation.

(2) The Chief Civil Aviation Officer may prescribe the form and manner in which any records required to be kept under subregulation (1) shall be kept and where he has so prescribed the said records shall be kept accordingly.

(3) Subject to the provisions of regulation 55 the operator of the aircraft shall preserve the records referred to in subregulation (1) for a period of at least 12 months after the end of the flight, duty period or rest period to which they relate.

51. Maximum flight times for flight crew

A person shall not fly in any Malawi aircraft as a member of the flight crew thereof at any time on any day after the aggregate of all his flight times (whether arising from flight in an aircraft to which this Part applies or in any other aircraft) during the period of 28 consecutive days expiring at the end of that day amounts to 115 hours:

Provided that the foregoing prohibition shall not apply to a flight made in an aircraft which is not such an aircraft as is described in regulation 45 (1) if at the time of the flight the aggregate of all the flight times of the person making the flight since he was last medically examined under these Regulations and found fit does not exceed 115 hours.

52. Provision for particular cases

(1) Notwithstanding anything contained in regulations 48,49 and 51 (hereinafter referred to as “the relevant regulations”) a person shall be deemed not to have contravened any of the provisions of these Regulations by reason of a flight made at any time by that person or by another person if the first-mentioned person proves—

(a) that it was due to an unavoidable delay in the completion of the flight that the person was flying at that time; and

(b) that the said first-mentioned person could not reasonably be expected to have foreseen before the flight began that the delay was likely to occur.

(2) Without prejudice to the provisions of regulation 76 (2) and notwithstanding anything contained in the relevant regulations, the commander of an aircraft may make, or authorize any other person to make, and that other person if so authorized may make, a flight in that aircraft which he would, but for this subregulation, be prohibited from making by virtue of any provision contained in the relevant regulations if—

(a) it appears to the commander—

(i) that arrangements had been made for the flight to be made with such a crew and so as to begin and end at such times that no member of that crew would have been prohibited from making the flight in accordance with those arrangements by any provision contained in the relevant regulations, and that since those arrangements were made the flight has been or will be prevented from being made in accordance with those arrangements by reason of exceptional circumstances or by reason of circumstances which were not foreseen as likely to prevent that flight from being so made; or

(ii) that the flight is one which ought to be carried out in the interest of the safety or health of any person; and

(b) the commander is satisfied that the safety of the aircraft on that flight will not be endangered if he or that other person makes the flight.

(3) Where the commander or any other person makes a flight in an aircraft which he or that other person is permitted to make under subregulation (2), a report in writing that he or that other person has made that flight giving full particulars of the circumstances in which it was made and the reasons why the commander made that flight, or, as the case may be, authorized that other person to do so, shall be made as soon as is reasonably practicable by the commander to the operator of the aircraft and in any event by the operator to the Chief Civil Aviation Officer; and the operator and the commander shall furnish any authorized person with such further information in his possession relating to the flight and to the circumstances in which it was made as that person may require.

PART VI

DOCUMENTS AND RECORDS

53. Documents to be carried

(1) An aircraft shall not fly unless it carries the documents which it is required to carry under the law of the country in which it is registered.

(2) A Malawi aircraft shall, when in flight, carry documents in accordance with the Twelfth Schedule:

Provided that, if the flight is intended to begin and end at the same aerodrome and does not include passage over the territory of any country other than Malawi, the documents may be kept at that aerodrome instead of being carried in the aircraft.

54. Production of documents and records

(1) The commander of an aircraft shall, within a reasonable time after being requested to do so by an authorized person, cause to be produced to that person—

- (a) the certificates of registration and airworthiness in force in respect of that aircraft;
- (b) the licences of its flight crew;
- (c) such other documents as the aircraft is required by regulation 53 to carry when in flight.

(2) The operator of a Malawi aircraft shall, within a reasonable time after being requested to do so by an authorized person, cause to be produced to that person such of the following documents or records as may have been requested by that person, being documents or records which are required by or under these Regulations to be in force or to be carried, preserved or made available—

- (a) the documents referred to in the Twelfth Schedule as Documents A, B and G;
- (b) the aircraft log book, engine log books and variable pitch propeller log books required under these Regulations to be kept;
- (c) the weight schedule, if any, required to be preserved under regulation 14;
- (d) in the case of a public transport aircraft or aerial work aircraft the documents referred to in the Twelfth Schedule as Documents D, E, F and H;
- (e) any records of flight times, duty periods and rest periods which he is required by regulation 50 (3) to preserve, and such other documents and information in the possession or control of the operator as the authorized person may require for the purpose of determining whether those records are complete and accurate;
- (f) the record made by any flight recorder required to be carried by or under these Regulations.

(3) The holder of a licence granted or rendered valid under these Regulations shall, within a reasonable time after being requested to do so by an authorized person, cause to be produced to that person his licence including any certificate of validation.

(4) Every person required by regulation 20 to keep a personal flying log book shall cause it to be produced within a reasonable time to an authorized person after being requested to do so by him within two years after the date of the last entry therein.

55. Preservation of documents, etc.

A person required by these Regulations to preserve any document or record by reason of his being the operator of an aircraft shall, if he ceases to be the operator of the aircraft, continue to preserve the document and record as if he has not ceased to be the operator, and in the event of his death the duty to preserve the document or record shall fall upon his personal representative: G.N. 174/1976

Provided that if—

(i) another person becomes the operator of the aircraft and it remains registered in Malawi he or his personal representative shall deliver to that other person upon demand the certificates of maintenance and compliance, the log books and the weight schedule and any record made by a flight recorder in accordance with regulation 32 (1) and preserved in accordance with regulation 32 (2) which are in force or required to be preserved in respect of that aircraft;

(ii) an engine or variable pitch propeller is removed from the aircraft and installed in another aircraft operated by another person and registered in Malawi he or his personal representative shall deliver to that other person upon demand the log book relating to that engine or propeller;

(iii) any person in respect of whom a record has been kept by him in accordance with regulation 50 becomes a member of the flight crew of a public transport aircraft registered in Malawi and operated by another person he or his personal representative shall deliver those records to that other person upon demand and it shall be the duty of that other person to deal with the documents delivered to him as if he were the first mentioned operator.

56. Revocation, suspension and variation of certificates, licences and other documents

(1) The Chief Civil Aviation Officer may, if he thinks fit, provisionally suspend any certificate, licence, approval, permission, exemption or other document issued or granted under these Regulations, pending investigation of the case. The Chief Civil Aviation Officer may, on sufficient ground being shown to his satisfaction after due enquiry, revoke, suspend or vary any such certificate, licence, approval, permission, exemption or other document. G.N. 174/1976

(2) Notwithstanding subregulation (1), a flight manual, performance schedule, or any other document incorporated by reference in the certificate of airworthiness may be varied on sufficient ground being shown to the satisfaction of the Chief Civil Aviation Officer.

(3) The holder or any person having the possession or custody of any certificate, licence, approval, permission, exemption, or other document which has been revoked, suspended or varied

under these Regulations shall surrender it to the Chief Civil Aviation Officer within a reasonable time after being required to do so by him.

(4) The breach of any conditions subject to which any certificate, licence, approval, permission, exemption or other document, other than a licence issued in respect of an aerodrome, has been granted or issued under these Regulations shall render the document invalid during the continuance of the breach.

57. Offences in relation to documents and records

(1) A person shall not, with intent to deceive—

(a) use any certificate, licence, approval, permission, exemption or other document issued or required by or under these Regulations which has been forged, altered, revoked or suspended, or to which he is not entitled; or

(b) lend any certificate, licence, approval, permission, exemption or other document issued or required by or under these Regulations to, or allow to be used by, any other person; or

(c) make any false representation for the purpose of procuring for himself or any other person the grant, issue, renewal or variation of any such certificate, licence, approval, permission or exemption or other document.

(2) A person shall not wilfully mutilate, alter or render illegible any log book or other record required by or under these Regulations to be maintained or any entry made therein, or knowingly make, or procure or assist in the making of, any false entry in or material omission from any such log book or record or destroy any such log book or record during the period for which it is required under these Regulations to be preserved.

(3) All entries in such log books and records shall be made in ink or indelible pencil.

(4) A person shall not wilfully or negligently make in a load sheet any entry which is incorrect in any material particular, or any material omission from such a load sheet.

(5) A person shall not purport to issue any certificate for the purpose of these Regulations unless he is authorized to do so under these Regulations.

(6) A person shall not issue any such certificate as aforesaid unless he has satisfied himself that all statements in the certificate are correct.

PART VII

CONTROL OF AIR TRAFFIC

58. Prohibition or restriction of flying

Where the Minister deems it necessary in the public interest to restrict or prohibit flying temporarily over any area of Malawi or along any route therein by reason of—

- (a) the intended gathering or movement of a large number of persons;
- (b) the intended holding of an aircraft race or contest or of an exhibition of flying; or
- (c) national defence or any other reason affecting the public interest,

the Minister may give directions prohibiting, restricting or imposing conditions on flight, either generally or in relation to any class or type of aircraft, over any such area or along any such route, and an aircraft shall not fly in contravention of such directions.

59. Balloons, kites and airships

(1) Within Malawi, except with the written permission of the Chief Civil Aviation Officer and in accordance with any conditions subject to which the permission may be granted— G.N. 174/1976

- (a) a captive balloon or kite shall not be flown at a height of more than 200 feet above the ground level or within 60 metres of any vessel, vehicle or structure;
- (b) a captive balloon shall not be flown within 3 miles of an aerodrome;
- (c) a balloon exceeding 2 metres in any linear dimension at any stage of its flight, including any basket or other equipment attached to the balloon, shall not be flown in controlled airspace;
- (d) a kite shall not be flown within 3 miles of an aerodrome;
- (e) an airship shall not be moored.

(2) A captive balloon when in flight shall be securely moored, and shall not be left unattended unless it is fitted with a device which ensures its automatic deflation if it breaks free of its moorings.

PART VIII

AIR ROUTES AND AIRWAYS, AERODROMES, LIGHTS AND OTHER FACILITIES

60. Designation of air routes and airways

(1) The Chief Civil Aviation Officer may designate as an air route a defined airspace identified to the extent necessary for the application of flight rules and forming a route between two points.

(2) The Chief Civil Aviation Officer may designate as an airway a defined airspace which consists of or is within a control area, forms a path identified by an area of specified width on the surface of the earth and is equipped with radio navigational aids.

(3) The Chief Civil Aviation Officer may determine the conditions of use of any air route or airway so designated by him.

(4) The Chief Civil Aviation Officer shall cause to be notified any such designation or determination as is mentioned in this regulation.

61. Licensing of aerodromes

(1) The Chief Civil Aviation Officer may license any aerodrome in Malawi, subject to such conditions as he thinks fit, for the take-off and landing of aircraft engaged in flights for the public transport of passengers, or for the purpose of instruction in flying, or of any classes of such aircraft.

(2) The licensee of an aerodrome licensed under this regulation shall not cause or permit any condition or restriction of the licence to be contravened, but the licence shall not cease to be valid by reason only of such a contravention.

(3) The licensee of an aerodrome licensed under this regulation shall not cause or permit the landing or manoeuvring area of the aerodrome to be enlarged, reduced or in any other manner altered without the written permission of the Chief Civil Aviation Officer:

Provided that the Chief Civil Aviation Officer may waive the foregoing requirements in the case of an aerodrome licensed for private use only.

(4) The Chief Civil Aviation Officer may give written notice to the licensee of an aerodrome licensed under this regulation specifying the charges, or the maximum charges, which may be made for the use of the aerodrome (including the making of landings thereat) and for any services or facilities performed or provided at the aerodrome to or for or in connexion with aircraft, and such notice may also specify the conditions to be observed in relation to these charges and the performance or provision of these services or facilities; and the licensee shall not cause or permit any charges to be made in contravention of any notice so given to him and shall cause particulars of any notice so given to him to be kept exhibited at the aerodrome in such a place and manner as to be readily available for the information of any person affected thereby.

62. Places authorized as aerodromes

Subject to the provisions of these Regulations the Chief Civil Aviation Officer may, by specific or general description, authorize the use of any place as an aerodrome for the purpose of the landing and taking off of such classes or types of aircraft engaged in such classes of operations and subject to such conditions as the Chief Civil Aviation Officer specifies in the instrument of authorization.

63. Use of aerodromes

(1) Subject to the provisions of these Regulations an aircraft shall not land at or take off from any place in Malawi other than—

- (a) a Government aerodrome notified as available for public use;
- (b) a licensed aerodrome;

(c) a place authorized by the Chief Civil Aviation Officer for use as an aerodrome.

(2) Subject to the provisions of these Regulations an aircraft shall not land at or take off from any such aerodrome or place as is referred to in subregulation (1) except in accordance with the conditions and restrictions, if any, which have been notified with respect to the use of that aerodrome or place.

(3) The prohibitions contained in subregulations (1) and (2) shall not apply in relation to a landing due to accident, stress of weather or other unavoidable cause, but the next subsequent departure from that place at which the landing due to any such cause has been made shall not be made without the consent of the Chief Civil Aviation Officer.

64. Chief Civil Aviation Officer's power to give directions

The Chief Civil Aviation Officer may, in relation to any aerodrome or air route or airway facility, issue such directions as he considers necessary to ensure the safety of aircraft or compliance with any standards or recommended practices or procedures adopted from time to time in pursuance of the Chicago Convention.

65. Rights of Government aircraft

All aircraft belonging to or employed in the service of the Government shall have access, at all times, to any Government or licensed aerodrome.

66. Aerodromes of arrival in or departure from Malawi

The aerodromes at the places named in the Fourteenth Schedule are designated as aerodromes for the arrival or departure of aircraft directly from or to places outside Malawi, and no aircraft shall, except in an emergency, or with the express authority of the Chief Civil Aviation Officer, land at any other aerodrome after a flight directly from a place outside Malawi, or take off from any other aerodrome on a flight which takes the aircraft directly across the Malawi border.

67. Use of aerodromes by aircraft of contracting states

The person in charge of any aerodrome in Malawi which is open to public use by Malawi aircraft (whether or not the aerodrome is a licensed aerodrome) shall cause the aerodrome, and all air navigation facilities provided thereat or in connexion therewith, to be available for use by aircraft registered in other contracting states on the same terms and conditions as for use by Malawi aircraft.

68. Noise and vibration caused by aircraft on aerodromes

With reference to section 13 of the Act, the conditions under which noise and vibration may be caused by aircraft on Government aerodromes, licensed aerodromes or on aerodromes at which the manufacture, repair or maintenance of aircraft is carried out by persons carrying on business as manufacturers or repairers of aircraft, shall be as follows, that is to say that, whether in the course of the manufacture of the aircraft or otherwise—

- (a) the aircraft is taking off or landing; or
- (b) the aircraft is moving on the ground or water; or
- (c) the engines are being operated in the aircraft—
 - (i) for the purpose of ensuring their satisfactory performance; or
 - (ii) for the purpose of bringing them to a proper temperature in preparation for, or at the end of, a flight; or
 - (iii) for the purpose of ensuring the instruments, accessories or other components of the aircraft are in a satisfactory condition.

69. Restriction of trading within Government aerodromes

(1) Subject to the provisions of this regulation a person shall not, within a Government aerodrome, either personally or by his servant or agent, or as the servant or agent of another person, and except under and in accordance with the terms of a lease or licence granted in respect thereof—

- (a) sell for delivery within the aerodrome, or supply any goods or services; or
- (b) carry on, or solicit for, any business; or
- (c) erect, display or distribute, or communicate by sound, any advertisement or public notice.

(2) Subregulation (1) shall not apply to or in relation to—

- (a) the making or performance, by an air transport operator, of contracts for the carriage of passengers or goods by air, or for the carriage by that operator between the aerodrome and any premises of that operator, of passengers or goods that have been, or are to be carried by that operator by air;
- (b) the advertising, by an air transport operator, of the aforesaid services or other transport services or of tourist facilities at or on any premises of that operator;
- (c) the sale or supply to an operator of aircraft of goods or services required for the maintenance or operation of such aircraft or for use or consumption aboard such aircraft;
- (d) the doing of any act or thing in such parts of any Government aerodrome (not being an aerodrome which is under the control of the Chief Civil Aviation Officer) as are not made available for civil aviation purposes.

70. Aeronautical lights and air route and airway facilities

(1) A person shall not establish or maintain within Malawi any aeronautical light or air route or airway facility except with the permission of the Chief Civil Aviation Officer and in accordance with any conditions subject to which the permission may be granted.

(2) A person shall not alter the character of any aeronautical light or air route or airway facility within Malawi except with the permission of the Chief Civil Aviation Officer and in accordance with any conditions subject to which the permission may be granted.

(3) In the case of an aeronautical light, being a beacon, which is or may be visible from any waters within an area of a lighthouse authority, the Chief Civil Aviation Officer shall not give his permission for the purpose of this regulation except with the consent of that authority.

(4) A person shall not wilfully or negligently injure or interfere with any aeronautical light or air route or airway facility established and maintained by or with permission of the Chief Civil Aviation Officer.

71. Dangerous lights

(1) A person shall not in Malawi exhibit at or in the neighbourhood of an aerodrome or in the neighbourhood of an air route or airway facility any light which is liable to endanger the safety of aircraft whether by reason of glare or by causing confusion with or preventing clear reception of any aeronautical light or air route or airway facility established and maintained by or with the permission of the Chief Civil Aviation Officer.

(2) If any light which appears to the Chief Civil Aviation Officer to be such a light as aforesaid is exhibited the Chief Civil Aviation Officer may cause a notice to be served upon the owner or occupier of the place where the light is exhibited or upon the person having charge of the light directing such owner, occupier or person, within a reasonable time to be specified in the notice, to extinguish or to screen effectually the light and to refrain from exhibiting any similar light in the future.

(3) A notice under this regulation may be served personally or may be served by post.

(4) If any owner, occupier or person on whom a notice is served under this regulation fails, within the time specified in the notice, to extinguish or screen effectually the light mentioned in the notice, the Chief Civil Aviation Officer may, without prejudice to the provisions or regulation 75, authorize an officer, with such assistance as he requires, to enter the place where the light is, and extinguish or screen the light, and may recover the expenses incurred in doing so from the owner, occupier or the person on whom the notice has been served.

(5) In the case of a light which is or may be visible from any waters within the area of a lighthouse authority, the powers of the Chief Civil Aviation Officer under this regulation shall not be exercised except with the consent of that authority.

PART IX

GENERAL

72. Power to prevent aircraft flying

(1) If it appears to the Chief Civil Aviation Officer or an authorized person that any aircraft is intended or likely to be flown—

(a) in such circumstances that any provision of regulation 3, 5, 6, 7, 16, 17, 25 or 36 would be contravened in relation to the flight;

(b) in such circumstances that the flight would be in contravention of any other provision of these Regulations and be a cause of danger to any person or property whether or not in the aircraft; or

(c) while in a condition unfit for the flight, whether or not the flight would otherwise be in contravention of any provision of these Regulations,

the Chief Civil Aviation Officer or that authorized person may direct the operator or the commander of the aircraft that he is not to permit the aircraft to make the particular flight or any other flight of such description as may be specified in the direction, until the direction has been revoked by the Chief Civil Aviation Officer or by an authorized person, and the Chief Civil Aviation Officer or that authorized person may take such steps as are necessary to detain the aircraft.

(2) For the purposes of subregulation (1) the Chief Civil Aviation Officer or any authorized person may enter upon and inspect any aircraft.

73. Right of access to aerodromes and other places

(1) The Chief Civil Aviation Officer and any authorized person shall have the right of access at all reasonable times— G.N. 174/1976

(a) to any aerodrome, for the purpose of inspecting the aerodrome;

(b) to any aerodrome for the purpose of inspecting any aircraft on the aerodrome or any document which he has power to demand under these Regulations, or for the purpose of detaining any aircraft under the provisions of these Regulations; or

(c) to any place where an aircraft has landed, for the purpose of inspecting the aircraft or any document which he has power to demand under these Regulations and for the purpose of detaining the aircraft under the provisions of these Regulations.

(2) Without prejudice to subregulation (1) the Chief Civil Aviation Officer may issue aerodrome permits, to such person or persons as he thinks fit; and the holder of such a permit shall at all times have free and unrestricted access to such part of any Government or licensed aerodrome or of any building erected thereon as is endorsed on the permit:

Provided that an aerodrome permit issued under this subregulation shall not entitle the holder thereof to enter any customs bonded warehouse.

74. Obstruction of persons

A person shall not wilfully obstruct or impede any person acting in the exercise of his powers or the performance of his duties under these Regulations.

75. Enforcement of directions

Any person who fails to comply with any direction given either generally or specially by the Chief Civil Aviation Officer or by any authorized person under any provision of these Regulations shall be deemed for the purposes of these Regulations to have contravened that provision.

76. Penalties

(1) If any provision of these Regulations or of any Air Navigation Direction is contravened in relation to an aircraft, the operator of that aircraft and the commander thereof, if the operator or, as the case may be, the commander is not the person who contravened that provision shall (without prejudice to the liability of any other person under these Regulations for that contravention) be deemed for the purposes of subregulations (1) (3), (4), (5) and (6) to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention. G.N. 174/1976

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

(3) Where a person is charged with contravening a provision of these Regulations or any Air Navigation Directions by reason of his having been a member of the flight crew of an aircraft on a flight for the purpose of public transport or aerial work the flight shall be treated (without prejudice to the liability of any other person under these Regulations) as not having been for that purpose if he proves that he neither knew nor had reason to know that the flight was for that purpose.

(4) If any person contravenes any provision of these Regulations or any Air Navigation Directions, not being a provision referred to in subregulation (5) or subregulation (6), he shall be liable for a first offence to a fine of K20, or for a second or subsequent offence to a fine of K40.

(5) If any person contravenes any provision specified in Part A of the Fifteenth Schedule he shall be liable for a first offence to a fine of K100, or for a second or subsequent offence to a fine of K200, and to imprisonment for three months.

(6) If any person contravenes any provision specified in Part B of the said Schedule he shall be liable to a fine of K400 and to imprisonment for six months.

77. Extraterritorial effect of these Regulations

Except where the context otherwise requires, these Regulations—

(a) in so far as they apply (whether by express reference or otherwise) to Malawi aircraft shall apply to such aircraft wherever they may be;

(b) in so far as they apply as aforesaid to foreign aircraft shall apply to such aircraft when they are within Malawi;

(c) in so far as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything by persons in, or by any of the crew of, any Malawi aircraft shall apply to such persons and crew, wherever they may be;

(d) in so far as they prohibit, require or regulate as aforesaid the doing of anything in relation to any Malawi aircraft by other persons, shall, where such persons are Malawian citizens, apply to them wherever they may be.

78. Application of these Regulations to military aircraft, etc.

(1) Save as otherwise expressly provided, the aircraft and crews thereof of any visiting military force shall be exempt from the provisions of these Regulations.

(2) Where a military aircraft is flown by a civilian pilot and is not commanded by a person who is acting in the course of his duty as a member of the armed forces of Malawi or a visiting military force, the following provisions of these Regulations shall apply on the occasion of that flight, that is to say, regulations 40,41 and 58.

79. Delegation

(1) The Minister may, by writing under his hand, delegate any of his powers and functions under these Regulations (except this power of delegation), in relation to any matter or class of matters, to the Chief Civil Aviation Officer so that the delegated powers and functions may be exercised by the Chief Civil Aviation Officer with respect to the matter specified in the instrument of delegation as fully and effectually as by the Minister.

(2) The Chief Civil Aviation Officer may, by writing under his hand, delegate any of his powers and functions under these Regulations (except this power of delegation) in relation to any matter or class of matters, or in relation to any part of Malawi so that the delegated powers or functions may be exercised by the delegate with respect to the matter or class of matters, or the part of Malawi, specified in the instrument of delegation as fully and effectually as by the Chief Civil Aviation Officer.

80. Saving

Subject to the provisions of regulations 65 and 67 nothing in these Regulations shall confer any right to land in any place as against the owner of the land or other persons interested therein.

81. Exemption from liability

The Government and the servants or agents of the Government shall not be liable for loss or damage by any cause to aircraft, or for loss or damage from whatever cause arising to goods, mails or other articles, or for loss or injury from whatever cause arising to passengers or other persons (including pilots, engineers or other personnel of aircraft) landing at, departing from, or accommodated in or at any Government aerodrome or flying in Malawi airspace even if such loss, damage or injury is caused by or arises from negligence on the part of any servants or agents of the Government.

[SubL7001s1-AVIATION (AIR NAVIGATION) REGULATIONS-81A]81A. Exemption from application

(1) The Minister may, by notice published in the Gazette, exempt from the application of any of these Regulations, any aircraft or person or classes of aircraft or persons, either absolutely or subject to such conditions as he deems fit. G.N. 174/1976

(2) The Chief Civil Aviation Officer may, under his hand, exempt from the application of any of these Regulations, any aircraft or person or classes of aircraft or persons, either absolutely or subject to such conditions as he deems fit.

82. Statistical returns

Monthly returns or such other returns or information as and when required for statistical purposes shall be rendered to the Chief Civil Aviation Officer by all operators.

83. Small aircraft

The provisions of these Regulations, other than regulations 40 and 59, shall not apply to— G.N. 174/1976

(a) any balloon which at any stage of its flight is not more than 2 metres in any linear dimension including any basket or other equipment attached to the balloon;

(b) any kite weighing not more than 2 kilograms;

(c) any other aircraft weighing not more than 5 kilograms without its fuel.

FIRST SCHEDULE (regs. 2 (6), 4 (6), 21 (1))

PART A

TABLE OF GENERAL CLASSIFICATION OF AIRCRAFT

Column 1	Column 2	Column 3	Column 4	Aircraft	Lighter than air aircraft	Non-mechanically driven	Free Balloon	Captive	Mechanically driven	Balloon	Airship	Aircraft	Non-mechanically driven	Glider
----------	----------	----------	----------	----------	---------------------------	-------------------------	--------------	---------	---------------------	---------	---------	----------	-------------------------	--------

Kite Aeroplane

(Land plane)Aeroplane

(Sea plane)Heavier than air aircraft Mechanically driven Aeroplane

(Amphibian) Aeroplane

(Self-launching Motor Glider) Gyroplane Helicopter

PART B

NATIONALITY AND REGISTRATION MARKS OF MALAWI AIRCRAFT

(reg. 3 (2))

1. The nationality mark of the aircraft shall be the characters 7Q and the registration mark of the aircraft shall be a group of three capital letters in Roman characters assigned by the Chief Civil Aviation Officer on the registration of the aircraft. The letters shall be without ornamentation and a hyphen shall be placed between the nationality mark and the registration mark.

2. The nationality and registration marks shall be painted on the aircraft or shall be affixed thereto by any other means ensuring a similar degree of permanence in the following manner—

A. POSITION OF MARKS

(a) Flying Machines and Gliders

(i) Wings: Except on aircraft having no fixed wing surface, the marks shall appear once on the lower surface of the wing structure. They shall be on the left half of the lower surface of the wing structure unless they extend across the whole surface of both wings. So far as is possible the marks shall be located equidistant from the leading and trailing edges of the wings. The tops of the letters shall be towards the leading edge of the wing.

(ii) Fuselage (or equivalent structure) or Vertical Tail Surface: The marks shall also be either on each side of the fuselage (or equivalent structure) between the wings and the tail surface, or on the upper halves of the vertical tail surfaces. When on a single vertical tail surface they shall be on both sides of the tail. When there is more than one vertical tail surface, the marks shall appear on the outboard side of the outer tails.

(b) Airships and Balloons

(i) Airships: The marks shall be on each side of the airship and also on the upper surface on the line of symmetry. They shall be placed lengthwise near the maximum cross-section of the airship.

(ii) Spherical Balloons: The marks shall be in two places diametrically opposite. They shall be placed near the maximum horizontal circumference of the balloon.

(iii) Non-spherical Balloons: The marks shall be on each side. They shall be placed near the maximum cross-section of the balloon immediately above either the rigging band or the points of attachment of the basket suspension cables.

(iv) In the case of all airships and balloons the side marks shall be so placed as to be visible both from the sides and from the ground.

B. SIZE OF MARKS

(a) Flying Machines and Gliders G.N. 174/1976

(i) Wings: The letters constituting each group of marks shall be of equal height. The height of the letters shall be at least 50 centimetres.

(ii) Fuselage (or equivalent structure) or Vertical Tail Surfaces: The marks on the fuselage (or equivalent structure) shall not interfere with the visible outlines of the fuselage (or equivalent structure). The marks on the vertical tail surfaces shall be such as to leave a margin of at least 5 centimetres along each side of the vertical tail surface. The letters constituting each group of marks shall be of equal height. The height of the marks shall be at least 30 centimetres:

Provided that where, owing to the structure of the aircraft, a height of 30 centimetres is not reasonably practicable, the height shall be the greatest height reasonably practicable in the circumstances, but not less than 15 centimetres.

(b) Airships and Balloons

The letters constituting each group of marks shall be of equal height. The height of the letters shall be at least 75 centimetres.

C. WIDTH AND SPACING OF MARKS

(a) The width of each letter (except the letter I) and the length of the hyphen between the nationality mark and registration mark shall be two thirds of the height of a letter.

(b) The letters and the hyphen shall be formed by solid lines and shall be of a colour clearly contrasting with the background on which they appear. The thickness of the lines shall be one-sixth of the height of the letter.

(c) Each letter shall be separated from the letter which it immediately precedes or follows by a space equal to half the width of a letter. A hyphen shall be regarded as a letter for this purpose.

3. The nationality and registration marks shall be displayed to the best advantage, taking into consideration the constructional features of the aircraft, and shall always be kept clean and visible.

In addition to the foregoing requirements of this Schedule the nationality and registration marks shall also be inscribed, together with the name and address of the registered owner of the aircraft, on a

fireproof metal plate affixed in a prominent position to the fuselage or car or basket, as the case may be, and near the main entrance to the aircraft.

SECOND SCHEDULE (reg. 2), G.N. 174/1976

The following table lays down in Greenwich Mean Time the times of sunrise and sunset at intervals of seven days throughout the year for every other parallel of latitude between 9 degrees south and 17 degrees south calculated for the 33rd meridian of east longitude.

From the times stated shall be subtracted one minute for every 15 minutes of longitude in excess of 33 degrees east.

The times of sunrise and sunset on dates other than those stated and locations between the parallels of latitude listed shall be proportionally interpolated to the nearest minute.

Date	Latitude	Latitude	Latitude	Latitude	Latitude	9° South	11° South	13° South	15° South	17° South	
1st	0333	1611	0329	1615	0325	1619	0322	1622	0318	1626	
8th	0336	1613	0332	1616	0329	1620	0325	1623	0322	1627	
15th	0339	1615	0336	1618	0332	1621	0329	1625	0325	1628	
22nd	0343	1616	0340	1619	0337	1622	0333	1625	0330	1629	
29th	0346	1617	0343	1620	0340	1623	0337	1625	0335	1628	FEBRUARY
5th	0348	1616	0346	1619	0344	1621	0341	1624	0339	1626	
12th	0350	1615	0348	1617	0346	1619	0344	1621	0341	1623	
19th	0352	1613	0350	1615	0348	1617	0346	1619	0345	1620	
26th	0353	1611	0352	1612	0350	1613	0349	1615	0347	1616	MARCH
5th	0353	1608	0352	1609	0351	1610	0350	1611	0349	1612	
12th	0353	1604	0352	1604	0351	1606	0351	1606	0350	1606	
19th	0352	1600	0352	1600	0352	1600	0352	1601	0351	1601	
26th	0352	1556	0352	1556	0352	1556	0353	1556	0353	1565	APRIL
2nd	0351	1552	0352	1551	0353	1550	0353	1550	0354	1549	
9th	0351	1549	0352	1548	0353	1547	0354	1546	0356	1544	
16th	0352	1546	0353	1544	0354	1543	0356	1541	0357	1540	
23rd	0352	1542	0353	1540	0355	1538	0357	1537	0358	1535	
30th	0352	1540	0354	1538	0356	1536	0358	1534	0359	1531	MAY
7th	0352	1538	0355	1535	0357	1532	0400	1530	0402	1527	
14th	0354	1537	0357	1534	0400	1531	0402	1528	0406	1525	
21st	0354	1535	0357	1532	0400	1529	0403	1525	0407	1522	
28th	0356	1535	0359	1532	0402	1528	0406	1525	0409	1521	JUNE
4th	0358	1535	0401	1531	0404	1528	0408	1524	0411	1521	
11th	0400	1536	0403	1532	0407	1529	0410	1525	0414	1522	
18th	0401	1537	0404	1538	0408	1530	0412	1526	0415	1523	
25th	0402	1538	0405	1544	0409	1531	0413	1527	0416	1524	JULY

2nd0404154004071536041115330414152904181526
9th0405154204081539041215350415153204191528
16th0405154404081541041115370415153404181530
23rd0404154504071542041015390413153504171532
30th0403154604061543040915400411153704141534AUGUST
6th0401154604041544040715410409153904121536
13th0400154704021545040415430407154104091538
20th0357154703591545040115430402154104041539
27th0353154703551545035715440358154204001541SEPTEMBER
3rd0350154603511545035215440353154303551542
10th0346154603471545034715440348154303481543
17th0341154403411544034115440341154403421543
24th0337154403371544033715440337154403361544OCTOBER
1st0333154403331544033315450332154503321546
8th0330154303291544032815450327154603271547
15th0326154303251544032315450322154703201548
22nd0322154303201545031915470317154803161550
29th0320154403181546031615480314155003121552NOVEMBER
5th0318154603161548031415410311155303091556
12th0318151803151551031215530309155603071559
19th0317155003141553031115560308155903051603
26th0318155303151556031115590308160203041606DECEMBER
3rd0320155703161600031316030309160703061610
10th0322160003181604031516080311161103081615
17th0325160403211608031716120314161503101619
24th0328160703241610032016140317161803131621

THIRD SCHEDULE

A AND B CONDITIONS

The A Conditions or the B Conditions referred to in regulation 3 (1), regulation 6 (1) and regulation 34 (5) are as follows—

A Conditions

(1) The aircraft shall be either an aircraft in respect of which a certificate of airworthiness or validation has previously been in force under the provisions of these Regulations, or an aircraft identical in design with an aircraft in respect of which such a certificate is or has been in force.

(2) The aircraft shall fly only for the purpose of enabling it to—

(a) qualify for the issue or renewal of a certificate of airworthiness or of the validation thereof or the approval of a modification of the aircraft, after an application has been made for such issue, renewal, validation or approval, as the case may be; or

(b) proceed to or from a place at which any inspection, test or weighing of the aircraft is to take place for a purpose referred to in subparagraph (a).

(3) The aircraft and its engines shall be certified as fit for flight by the holder of a licence as an aircraft maintenance engineer entitled in accordance with the provisions of the Fifth Schedule so to certify, or by a person approved by the Chief Civil Aviation Officer for the purpose of issuing certificates under this condition.

(4) The aircraft shall carry the minimum flight crew specified in any certificate of airworthiness or validation which has previously been in force under these Regulations in respect of the aircraft, or is or has been previously in force in respect of any other aircraft of identical design.

(5) The aircraft shall not carry any passengers or cargo except passengers performing duties in the aircraft in connexion with the flight.

(6) The aircraft shall not fly over any congested area of a city, municipality, town or settlement except to the extent that is necessary to do so in order to take off from or land at a Government aerodrome in accordance with normal aviation practice.

(7) Without prejudice to the provisions of regulation 16 (2), the aircraft shall carry such flight crew as may be necessary to ensure the safety of the aircraft.

B Conditions

(1) The flight shall be made under the supervision of a person approved by the Chief Civil Aviation Officer for the purposes of these Conditions, and subject to any additional conditions which may be specified in such approval.

(2) If it is not registered in Malawi or under the law of any country referred to in regulation 3, the aircraft shall be marked in a manner approved by the Chief Civil Aviation Officer for the purposes of these Conditions, and the provisions of regulations 12, 13, 17, 28, 31, 53 and 54 shall be complied with in relation to the aircraft as if it was registered in Malawi so far as such provisions are applicable to the aircraft in the circumstances.

(3) The aircraft shall fly only for the purpose of—

(a) experimenting with or testing the aircraft (including in particular its engines) and its equipment;

(b) enabling the aircraft to qualify for the issue or validation of a certificate of airworthiness or the approval of a modification of the aircraft; or

(c) proceeding to or from a place at which any experiment, test, inspection or weighing of the aircraft is to take place for a purpose referred to in subparagraph (a) or (b).

(4) The aircraft shall carry such flight crew as may be necessary to ensure the safety of the aircraft.

(5) The aircraft shall not carry any cargo, or any person other than the flight crew except the following—

(a) persons employed by the operator who carry out during the flight duties in connexion with the purposes specified in paragraph (3) of these Conditions;

(b) persons employed by manufacturers of component parts of the aircraft (including the engines) who carry out during the flight duties in connexion with the purposes so specified;

(c) persons approved by the Chief Civil Aviation Officer under regulation 7 (8) as qualified to furnish reports for the purposes of that regulation;

(d) persons, other than those carried under the preceding provisions of this paragraph, who are carried in the aircraft in order to carry out a technical evaluation of the aircraft or its operation.

(6) The aircraft shall not fly, except in accordance with procedures which have been approved by the Chief Civil Aviation Officer in relation to that flight, over any congested area of a city, municipality, town or settlement.

FOURTH SCHEDULE (reg. 7)

(1) Categories of Aircraft

Transport Category (Passenger)

Transport Category (Cargo)

Aerial Work Category

Private Category

Special Category

(2) The purposes for which the aircraft may fly are as follows—

Transport Category (Passenger)—any purpose.

Transport Category (Cargo)—any purpose other than the public transport of passengers.

Aerial Work Category—aerial work only.

Private Category—any purpose other than public transport or aerial work.

Special Category—any other purpose specified in the certificate of airworthiness but not including the carriage of passengers unless expressly permitted.

FIFTH SCHEDULE (reg. 10), G.N. 143/1980

MAINTENANCE ENGINEERS—PRIVILEGES OF LICENCES

An aircraft maintenance engineer may, subject to the conditions of his licence, issue certificates as follows—

Aircraft Maintenance Engineers—Category A (Aircraft)

In relation to aircraft (not including engines) of a description specified in his licence, being aircraft in respect of which a type rating has been included in his licence—

(a) certificates of maintenance in accordance with the maintenance schedules approved under these Regulations;

(b) certificates of compliance in respect of inspections, repairs, replacements and modifications so approved;

(c) certificates of fitness of aircraft for flight under the A Conditions set out in the Third Schedule.

Aircraft Maintenance Engineers—Category B (Aircraft)

In relation to aircraft (not including engines) of a description specified in his licence, being aircraft in respect of which a type rating has been included in his licence—

certificates of compliance in respect of inspections, overhauls, repairs, replacements and modifications approved under these Regulations.

Aircraft Maintenance Engineers—Category C (Engines)

In relation to engines of a description specified in his licence, being engines in respect of which a type rating has been included in his licence—

(a) certificates of maintenance in accordance with the maintenance schedules approved under these Regulations;

(b) certificates of compliance in respect of inspections, repairs, replacements and modifications so approved;

(c) certificates of fitness of aircraft engines for flight under the A Conditions set out in the Third Schedule.

Aircraft Maintenance Engineers—Category D (Engines)

In relation to engines of a description specified in his licence, being engines in respect of which a type rating has been included in his licence—

certificates of compliance in respect of inspections, overhauls, repairs, replacements and modifications approved under these Regulations.

Aircraft Maintenance Engineers—Category X

Compasses

Instruments

Electrical Equipment

Automatic Pilots

In relation respectively to compasses, instruments, electrical equipment or automatic pilots of a description specified in his licence, being compasses, instruments, electrical equipment or automatic pilots in respect of which a type rating has been included in his licence—

(a) certificates of maintenance in accordance with the maintenance schedules approved under these Regulations;

(b) certificates of compliance in respect of inspections, repairs, replacements and modifications so approved.

Aircraft Maintenance Engineers—Category R (Radio)

In relation to aircraft radio stations of a description specified in his licence, being radio stations in respect of which a type rating has been included in his licence—

(a) certificates of maintenance in accordance with the maintenance schedules approved under these Regulations;

(b) certificates of compliance in respect of inspections, repairs, replacements and modifications so approved.

The privileges of the licence shall also include the issue of certificates of compliance in respect of inspections, repairs, replacements and modifications of any aircraft radio apparatus approved under these Regulations, if the licence bears an endorsement to that effect.

SIXTH SCHEDULE (regs. 9 (2), 11 (2))

AIRCRAFT EQUIPMENT

(1) Every Malawi aircraft shall be provided, when flying in the circumstances specified in the first column of the Table set forth in paragraph 4, with adequate equipment, and for the purpose of this paragraph the expression “adequate equipment” shall mean the scales of equipment respectively

indicated in that Table: Provided that if the aircraft is flying in a combination of such circumstances the scales of equipment shall not on that account be required to be duplicated.

(2) The equipment carried in an aircraft as being necessary for the airworthiness of the aircraft shall be taken into account in determining whether this Schedule is complied with in respect of that aircraft.

(3) The following items of equipment shall not be required to be of a type approved by the Chief Civil Aviation Officer—

- (i) the equipment referred to in Scale A (v);
- (ii) first aid equipment and handbook, referred to in Scale A (viii);
- (iii) timepieces, referred to in Scale F;
- (iv) torches, referred to in Scales G, H and J;
- (v) whistles, referred to in Scale H;
- (vi) sea anchors, referred in Scales I and J;
- (vii) rocket signals, referred to in Scale I;
- (viii) equipment for mooring, anchoring or manoeuvring aircraft on the water, referred to in Scale I;
- (ix) paddles, referred to in Scale J;
- (x) food and water, referred to in Scale J.

4.delete

TABLE

Scale of Equipment Required	ABC	DEFG	HIJK	LMNOP	QRSE	Extras	(1)	Flying machines flying for purposes other than public transport—
			(a)	when flying at night	A C EFG			(b) when flying under the instrument flight rules
	A	EF	E	(iv) duplicated	(c)	when carrying out aerobatic manoeuvres	A	F (v) and (vii) M
			(d)	when flying over water—	(i)	seaplanes, including amphibians operated as seaplanes on all flights	A	F (v) and (vii) H I
					(ii)	single-engine landplanes, including single-engine amphibians operated as landplanes, when beyond gliding distance from land, and all flying machines when at a distance of more than 50 miles from land suitable for making an emergency landing	A	F (v) and (vii) H
					(iii)	all flying machines when at a distance of more than 100 miles, or more than 200 miles in the case of multi-engine flying machines capable of continuing flight with one engine inoperative, from land suitable for making an emergency landing	A	F (v) and (vii) H J
					(f)	on all other flights	A	F (v) and (vii)
(2)	Flying machines flying for the purpose of public transport—							(a) when flying under the

instrument flight rulesAB EF E (iv) duplicated (b)when flying at nightABC EFG E (iv) duplicated (c)when flying over water beyond gliding distance from landAB D F H (d)when flying over water— (i)in the case of an aeroplane— (a)classified in its certificate of airworthiness as being of performance group A, C or X, or (b)having no performance group classification in its certificate of airworthiness and of such a weight and performance that with any one of its power units inoperative and the remaining power unit or units operating within the maximum continuous power conditions specified in the certificate of airworthiness, performance schedule or flight manual relating to the aeroplane, it is capable of a gradient of climb of at least 1 in 200 at an altitude of 5,000 feet in the International Standard Atmosphere specified in or ascertainable by reference to the certificate of airworthiness in force in respect of that aircraft, when either more than 400 miles or more than 90 minutes flying timeFor the purposes of this Table, flying time shall be calculated on the assumption that the aircraft is flying in still air at the speed specified in the relevant certificate of airworthiness as the speed for compliance with regulations governing flights over water.* from the nearest aerodrome at which an emergency landing can be made: (ii)in the case of all other flying machines, when more than 30 minutes flying timeFor the purposes of this Table, flying time shall be calculated on the assumption that the aircraft is flying in still air at the speed specified in the relevant certificate of airworthiness as the speed for compliance with regulations governing flights over water.* from such an aerodromeAB D F H J (e)on all flights which involve manoeuvres on waterAB D F HIJ (f)when flying above flight level 100AB D F K (g)on flights when weather reports or forecasts available at the aerodrome at the time of departure indicate that conditions favouring ice formation are likely to be metAB D F L (h)when carrying out aerobatic manoeuvresAB D F M (i)on all flights on which the aircraft carries a flight crew of more than one person N (j)on all flights by— (i)flying machines powered by turbine jet engines, and of which the maximum total weight authorized exceeds 5,700 kg. (ii)pressurized aircraft of which the maximum total weight authorized exceeds 11,400 kg. (iii)any other flying machine, if the Chief Civil Aviation Officer so directs in a particular case, with the exception of any flight on which the radar set specified in Scale O in paragraph 5 of this Schedule is unserviceable on take-off but the weather report or forecast available to the commander of the aircraft at that time indicates that cumulonimbus clouds or other potentially hazardous weather conditions which can be detected on the set when in working order are unlikely to be encountered on the intended route or any planned diversion therefrom, or the commander of the aircraft has satisfied himself that any such weather conditions will be encountered in daylight and can be seen and avoided, and the aircraft is in either case operated throughout the flight in accordance with any relevant instructions given in the operations manual O (k)on all flights for the purpose of the public transport of passengers Q (l)on all other flightsAB CD F (3)Gliders flying for purposes other than public transport or aerial work—when flying by nightA (v) only F (vii) (4)Gliders flying for the purposes of public transport or aerial work— (a)when outside controlled airspace under instrument flight rulesAB D F (v) and (vii) (b)when flying by nightABCD FG (v) and (vii) (c)when carrying out aerobatic manoeuvresAB D F (v) and (vii) M (d)on all other flightsAB D F (v) and (vii) (5)Turbine-engined aeroplanes over 5,700 kg. maximum total weight authorized—which are operated by an air transport undertaking under a certificate of airworthiness of the Transport Category (Cargo) or Transport Category (Passenger), or in respect of which application has been made and not withdrawn or refused for such a certificate, and

which fly under the A Conditions or under a certificate of airworthiness of the Special Category when flying on any flight G.N. 174/1976 P (6)All aircraft when operating over land areas designated by international air navigation agreements or by Malawi or any other foreign Government air navigation regulations as areas in which search or rescue operations would be difficult to conduct. G.N. 2/1979 (7)Aeroplanes— (a)which are turbo-jet and which have a maximum total authorized weight exceeding 15,000 kg. or which are authorized to carry 30 or more passengers by the certificate of airworthiness in force in respect thereof; (b)which are not turbo-jet and which have a maximum total authorized weight exceeding 15,000 kg. or which are authorized to carry 30 or more passengers by the certificate of airworthiness in force in respect thereof S

5. The scales of equipment indicated in the foregoing Table shall be as follows—

Scale A

- (i) A seat or berth for each person over the age of two years carried aboard the aircraft.
- (ii) Subject to Scale B (ii) a safety belt or safety harness for every seat in use.
- (iii) A portable fire extinguisher of a type which, when discharged, will not cause dangerous contamination of the air within the aircraft. At least one shall be located in—
 - (a) the pilot's compartment; and
 - (b) each passenger compartment that is separate from the pilot's compartment and not readily accessible to a flight crew member.
- (iv) Spare fuses for all electrical circuits the fuses of which can be replaced in flight, consisting of 25 per cent. of the number installed or three of each rating, whichever is the greater.
- (v) Maps, charts, codes and other documents and navigational equipment necessary, in addition to any other equipment required under these Regulations, for the intended flight of the aircraft, including any diversion which may be reasonably expected.
- (vi) The aircraft flight manual or other documents or information concerning any operating limitations prescribed for the aircraft by the Chief Civil Aviation Officer.
- (vii) The ground-air signal codes for search and rescue purposes, (viii) Accessible first aid equipment of good quality, sufficient in quantity, having regard to the number of persons on board the aircraft, and including the following—
 - roller bandages, triangular bandages, absorbent gauze, adhesive plaster, white absorbent lint, cotton wool (or wound dressings in place of the lint and cotton wool), burn dressings, safety pins; haemostatic bandages or tourniquet, haemostatic forceps, scissors;
 - antiseptic, analgesic and stimulant drugs; a handbook on first aid.

Scale B

(i) In addition to the first aid equipment listed in Scale A (viii), narcotic drugs.

(ii) If the maximum total weight authorized of the aircraft exceeds 2,750 kgs., a safety harness for every pilot's seat in use in place of the safety belt referred to under Scale A:

Provided that the Chief Civil Aviation Officer may permit a safety belt to be fitted if he is satisfied that it is not reasonably practicable to fit a safety harness.

(iii) If the commander cannot, from his own seat, see all the passengers' seats in the aircraft, a means of indicating to the passengers that seat belts should be fastened.

(iv) In the case of an aircraft used for the public transport of passengers, in which the sill of any external door intended for the disembarkation of passengers, in normal circumstances or in an emergency— G.N. 174/1976

(a) is more than 1.82 metres from the ground when the undercarriage of the aircraft is in the normal position for taxiing; or

(b) would be more than 1.82 metres from the ground if the undercarriage or any part thereof should collapse, break or fail to function,

such aircraft shall have an apparatus available for use at each such door consisting of a device or devices, which can readily be fixed in position for use, enabling passengers to reach the ground safely in case of an emergency, while the aircraft is on the ground.

Scale C

(i) Equipment for displaying the lights required by the Aviation (Rules of the Air and Air Traffic Control) Regulations, 1970.

(ii) Electrical equipment, supplied from the main source of supply in the aircraft, to provide sufficient illumination to enable the flight crew properly to carry out their duties during flight.

Scale D

(i) Either

(a) a turn and slip indicator; or

(b) a gyroscopic bank and pitch indicator and a gyroscopic direction indicator.

(ii) A sensitive pressure altimeter adjustable for changes in barometric pressure.

Scale E

(i) A turn and slip indicator.

(ii) A gyroscopic bank and pitch indicator.

(iii) A gyroscopic direction indicator.

(iv) A sensitive pressure altimeter adjustable for changes in barometric pressure:

Provided that any aircraft may, at the option of the operator, be equipped with an additional gyroscopic bank and pitch indicator in lieu of the turn indicator referred to in paragraph (1).

Scale F

(i) A timepiece with a sweep second hand.

(ii) A means of indicating whether the power supply to the gyroscopic instruments is adequate.

(iii) A rate of climb and descent indicator.

(iv) A means of indicating in the flight crew compartment the outside air temperature.

(v) If the aircraft is to be flown in instrument meteorological conditions, an airspeed indicating system with a means of preventing malfunctioning due to either condensation or icing. G.N. 174/1976

(vi) If the maximum total weight authorized of the aircraft is more than 5,700 kgs. two airspeed indicators.

(vii) A magnetic compass.

Scale G

(i) Landing lights consisting of two single filament lamps, or one dual filament lamp with separately energized filaments.

(ii) An electric lighting system to provide illumination in every passenger compartment.

(iii) (a) If, in accordance with its certificate of airworthiness, the aircraft is licensed to carry more than nineteen persons of over three years of age; two electric torches and an emergency lighting system to provide illumination in the passenger compartments sufficient to facilitate the evacuation of the aircraft notwithstanding the failure of the lighting system specified in paragraph (ii); G.N. 174/1976

(b) In the case of any other aircraft, one electric torch for each member of the crew of the aircraft.

(iv) In the case of an aircraft of which the total authorized maximum weight exceeds 5,700 kg., means of observing the existence and build up of ice on the aircraft.

Scale H

For each person on board, a lifejacket equipped with a whistle and waterproof torch:

Provided that lifejackets constructed and carried solely for use by children under three years of age need not be equipped with a whistle.

Scale I

(i) Additional flotation equipment, capable of supporting one-fifth of the number of persons on board, and provided in a place of stowage accessible from outside the flying machine.

(ii) Parachute distress rocket signals capable of making, from the surface of the water, the pyrotechnical signal of distress specified in the Aviation (Rules of the Air and Air Traffic Control) Regulations, 1970.

(iii) A sea anchor and other equipment necessary to facilitate mooring, anchoring, or manoeuvring the flying machine on water, appropriate to its size, weight and handling characteristics.

(iv) Equipment for making the sound signals prescribed in the International Regulations for the Prevention of Collisions at Sea.

Scale J

Liferafts sufficient to accommodate all persons on board the flying machine with the following equipment—

(a) means for maintaining buoyancy;

(b) a sea anchor;

(c) life lines, and means of attaching one liferaft to another;

(d) paddles or other means of propulsion;

(e) means of protecting the occupants from the elements;

(f) a waterproof torch;

(g) marine type pyrotechnical distress signals;

(h) means of making sea water drinkable;

(i) for each person the liferaft is designed to carry—8 ounces of glucose toffee tablets; 4 ounces of sweetened condensed milk in durable containers; 2 pints of fresh water in durable containers:

Provided that in any case which it is not reasonably practicable owing to the lack of storage space in the liferaft to carry the quantities of condensed milk or water above prescribed, an equal quantity by weight of glucose toffee tablets may be substituted for the former and as large a quantity of fresh water as is reasonably practicable in the circumstances may be substituted for the latter. In no

case, however, shall the quantity of water carried be less than is sufficient, when added to the amount of fresh water capable of being produced by means of the equipment specified in item (h), to provide 2 pints of water for each person the liferaft is designed to carry;

(j) first aid equipment.

Items (f) to (j) inclusive shall be contained in a pack stowed with the liferaft.

For every four, or proportion of four, liferafts—one liferaft radio transmitter.

Scale K

PART I

(i) In every flying machine which is provided with means for maintaining a pressure greater than 700 millibars throughout the flight in the control compartment and in the compartments in which passengers are carried—

(a) a supply of oxygen sufficient, in the event of failure to maintain such pressure occurring in the circumstances specified in columns 1 and 2 of the Table set forth in Part II of this scale, for continuous use during the periods specified in column 3 of the said Table, by the persons for whom oxygen is to be provided in accordance with column 4 of that Table; and

(b) in addition, in every case where the flying machine flies above flight level 350, a supply of oxygen in a portable container sufficient for the simultaneous first aid treatment of two passengers, together with suitable and sufficient apparatus to enable such persons to use the oxygen.

(ii) In any other flying machines—

(a) a supply of oxygen sufficient for continuous use by all the crew, and, if passengers are carried, by ten per cent. of the number of passengers, for any period exceeding 30 minutes during which the flying machine flies above flight level 100 but not above flight level 130;

(b) a supply of oxygen sufficient for continuous use by all persons on board for the whole time during which the flying machine flies above flight level 130,

together with suitable and sufficient apparatus to enable such persons to use the oxygen.

(iii) The quantity of oxygen required for the purpose of complying with paragraphs (i) and (ii) of this Part of this scale shall be computed in accordance with the information and instructions relating thereto specified in the operations manual relating to the aircraft pursuant to item (viii) of Part A of the Eleventh Schedule.

PART II

Column 1	Column 2	Column 3	Column 4	Vertical displacement of flying machine in relation to flight levels
Capability of flying machine to descend (where relevant)	Period of supply of oxygen	Persons for		

whom oxygen is to be provided Above flight level 100 —30 minutes or the period specified at A hereunder whichever is the greater. In addition to any passengers for whom oxygen is provided as specified below, all the crew. Above flight level 100 but not above flight level 300 Flying machine is either flying at or below flight level 150 or is capable of descending and continuing to destination as specified at X hereunder. 30 minutes or the period specified at A hereunder whichever is the greater 10 per cent. of number of passengers. Flying machine is flying above flight level 150 and is not so capable. 10 minutes or the period specified at B hereunder whichever is the greater. All passengers. and in addition 30 minutes or the period specified at C hereunder whichever is the greater 10 per cent. of number of passengers. Above flight level 300 but not above flight level 350 Flying machine is capable of descending and continuing to destination as specified at Y hereunder. 30 minutes or the period specified at A hereunder whichever is the greater 15 per cent. of number of passengers. —10 minutes or the period specified at B hereunder whichever is the greater. All passengers. Flying machine is not so capable. and in addition 30 minutes or the period specified at C hereunder whichever is the greater. 15 per cent. of number of passengers. Above flight level 350—10 minutes or the period specified at B hereunder whichever is the greater. All passengers. and in addition 30 minutes or the period specified at C hereunder whichever is the greater. 15 per cent. of number of passengers.

A—The whole period during which, after a failure to maintain a pressure greater than 700 millibars in the control compartment and in the compartments in which the passengers are carried has occurred, the flying machine flies above flight level 100.

B—The whole period during which, after failure to maintain such pressure has occurred, the flying machine flies above flight level 150.

C—The whole period during which, after a failure to maintain such pressure has occurred, the flying machine flies above flight level 100 but not above flight level 150.

X—The flying machine is capable, at the time when a failure to maintain such pressure occurs, of descending in accordance with the emergency descent procedure specified in the relevant flight manual and without flying below the minimum altitudes for safe flight specified in the operations manual relating to the aircraft, to flight level 150 within 6 minutes, and of continuing at or below that flight level to its place of intended destination or any other place at which a safe landing can be made.

Y—The flying machine is capable, at the time when a failure to maintain such pressure occurs, of descending in accordance with the emergency descent procedure specified in the relevant flight manual and without flying below the minimum altitudes for safe flight specified in the operations manual relating to the aircraft, to flight level 150 within 4 minutes and of continuing at or below that flight level to its place of intended destination or any other place at which a safe landing can be made.

Scale L

Equipment to prevent the impairment through ice formation of the functioning of the controls, means of propulsion, lifting surfaces, windows or equipment of the aircraft so as to endanger the safety of the aircraft.

Scale M

A safety harness for every seat in use.

Scale N

An intercommunication system for use by all members of the flight crew and including microphones, not of a hand-held type, for use by the pilot and flight engineer (if any).

Scale O

A radar set capable of giving warning to the pilot in command of the aircraft of the presence of cumulonimbus clouds and other potentially hazardous weather conditions.

Scale P

A flight recorder which is capable of recording, by reference to a timescale, the following data—

- (a) indicated airspeed;
- (b) indicated altitude;
- (c) vertical acceleration;
- (d) magnetic heading;
- (e) pitch attitude, if the equipment provided in the aircraft is of such a nature as to enable this item to be recorded;
- (f) engine power, if the equipment provided in the aircraft is of such a nature as to enable this item to be recorded. G.N. 174/1976

The recorder shall be so constructed that the record would be likely to be preserved in the event of an accident to the aircraft.

Scale Q

If the maximum total weight authorized of the flying machine exceeds 5,700 kg., a door between the flight crew compartment and any adjacent compartment to which passengers have access, which door shall be fitted with a lock or bolt capable of being worked from the flight crew compartment.

6. The items specified in this paragraph shall be carried by free balloons—

- (a) for all flights—
 - (i) equipment necessary for making the pyrotechnical signals of distress specified in regulation 56 of the Aviation (Rules of the Air and Air Traffic Control) Regulations;

(ii) such other instruments and equipment as the Chief Civil Aviation Officer may, at his discretion, require to be carried in any particular case;

(b) in addition, for flights by night, equipment for displaying the lights described in regulation 17 of the Aviation (Rules of the Air and Air Traffic Control) Regulations.

7. The items specified in this paragraph shall be carried by captive balloons for all flights—

(a) such instruments and equipment as the Chief Civil Aviation Officer may, at his discretion, require to be carried in any particular case;

(b) equipment for displaying the lights described in regulation 18 of the Aviation (Rules of the Air and Air Traffic Control) Regulations.

Scale R

(i) 1 survival beacon radio apparatus of a type approved by the Chief Civil Aviation Officer: G.N. 174/1976

(ii) marine type pyrotechnical distress signals;

(iii) for each 4 or proportion of 4 persons on board 100 grammes of glucose toffee tablets and 1/2 litre of fresh water in durable containers;

(iv) life saving, signalling and survival equipment appropriate to the area overflown, and, in the case of aircraft flying for the purpose of public transport such equipment must be approved by the Chief Civil Aviation Officer.

Scale S

Equipment capable of giving warning to the pilot of the potentially dangerous proximity of ground or water, provided that if the equipment becomes unserviceable the aircraft may fly or continue to fly until it first lands at a place at which it is reasonably practicable for the equipment to be repaired or replaced. G.N. 2/1979

SEVENTH SCHEDULE reg. 12 (2)

RADIO APPARATUS TO BE CARRIED IN AIRCRAFT

1. Every Malawi aircraft and every aircraft flying within Malawi irrespective of the state of registry shall be provided, when in the circumstances specified in the first column of the Table set forth in paragraph 2, with the scales of equipment respectively indicated in that Table:

Provided that, if the aircraft is flying in a combination of such circumstances the scales of equipment shall not on that account be required to be duplicated.

2.

Aircraft and circumstances of FlightScale of Equipment required(1)All aircraft— (a)When flying under the instrument flight rules— (i)while making an approach to landingABD (ii)on all other occasionsAB (b)When flying under the visual flight rules— (i)outside controlled airspaceAUnless the appropriate air traffic service unit otherwise permits in relation to the particular flight and provided that the aircraft complies with any instructions which the air traffic service unit may give in the particular case.* (ii)within controlled airspaceAUnless the appropriate air traffic service unit otherwise permits in relation to the particular flight and provided that the aircraft complies with any instructions which the air traffic service unit may give in the particular case.*BUnless the appropriate air traffic service unit otherwise permits in relation to the particular flight and provided that the aircraft complies with any instructions which the air traffic service unit may give in the particular case.* (iii)when flying over areas over which navigation cannot be accomplished by visual reference to land marksAB(2)All aircraft exceeding 5,700 kilogrammes maximum total weight authorized when flying for the purpose of public transport into or over areas for which routine meteorological broadcasts are providedABC

3. The scale of radio apparatus indicated in the foregoing Table shall be as follows—

Scale A

Radio apparatus capable of maintaining two-way communication with the appropriate aeronautical radio stations.

Scale B

Radio apparatus capable of enabling the aircraft to be navigated—

- (a) in accordance with its flight plan; and
- (b) in accordance with the requirements of the air traffic services,

which apparatus shall be such that, in the event of the failure of any one unit at any stage of a flight, the remaining apparatus will enable the aircraft to proceed in accordance with these requirements.

Scale C

Radio apparatus capable of receiving from the appropriate aeronautical radio stations meteorological broadcasts relevant to the intended flight.

Scale D

Radio apparatus capable of receiving signals from one or more aeronautical radio stations on the surface to enable the aircraft to be guided to a point from which visual landing can be made at the aerodrome at which the aircraft is to land.

4. Radio Communication and radio navigation apparatus provided in accordance with this Schedule shall be such that the failure of any single unit required for either communication or navigation

purposes or both will not result in the failure of another unit required for communication or navigation purposes.

EIGHTH SCHEDULE (reg. 13)

AIRCRAFT, ENGINE AND PROPELLER LOG BOOKS

1. Aircraft Log Book

The following entries shall be included in the aircraft log book—

- (a) the name of the constructor, the type of the aircraft, the number assigned to it by the constructor and the date of the construction of the aircraft;
- (b) the nationality and registration marks of the aircraft;
- (c) the name and the address of the operator of the aircraft;
- (d) the date of each flight and duration of the period between take-off and landing, or if more than one flight is made on that day, the number of flights and the total duration of the periods between take-offs and landings on that day;
- (e) particulars of all maintenance work carried out on the aircraft or its equipment;
- (f) particulars of any defects occurring in the aircraft or in any equipment required to be carried therein by or under these Regulations, and of the action taken to rectify such defects including a reference to the relevant entries in the technical log required by regulation 8 (5) and (6);
- (g) particulars of any overhauls, repairs, replacements and modifications relating to the aircraft or any such equipment as aforesaid:

Provided that entries shall not be required to be made under subparagraphs (a), (f) and (g) in respect of any engine or variable pitch propeller.

2. Engine Log Book

The following entries shall be included in the engine log book—

- (a) the name of the constructor, the type of the engine, the number assigned to it by the constructor and the date of the construction of the engine;
- (b) the nationality and registration marks of each aircraft in which the engine is fitted;
- (c) the name and address of the operator of such aircraft;
- (d) the date of each flight and duration of the period between take-off and landing, or if more than one flight is made on that day, the number of flights and the total duration of the periods between take-offs and landings on that day;

- (e) particulars of all maintenance work done on the engine;
- (f) particulars of any defects occurring in the engine, and of the rectification of such defects, including a reference to the relevant entries in the technical log required by regulation 8 (5) and (6);
- (g) particulars of all overhauls, repairs, replacements and modifications relating to the engine or any of its accessories.

3. Variable Pitch Propeller Log Books

The following entries shall be included in the variable pitch propeller log book—

- (a) the name of the constructor, the type of the propeller, the number assigned to it by the constructor and the date of the construction of the propeller;
- (b) the nationality and registration marks of each aircraft, and the type and number of each engine, to which the propeller is fitted;
- (c) the name and address of the operator of each such aircraft;
- (d) the date of each flight and duration of the period between take-off and landing, or if more than one flight is made on that day the number of flights and the total duration of the periods between, take-offs and landings on that day;
- (e) particulars of all maintenance work done on the propeller;
- (f) particulars of any defects occurring in the propeller, and of the rectification of such defects, including a reference to the relevant entries in the technical log required by regulation 8 (5) and (6);
- (g) particulars of any overhauls, repairs, replacements and modifications relating to the propeller.

NINTH SCHEDULE (reg. 16 (4))

AREAS SPECIFIED IN CONNEXION WITH THE CARRIAGE OF FLIGHT NAVIGATORS AS MEMBERS OF THE FLIGHT CREWS OF PUBLIC TRANSPORT AIRCRAFT

Area A—Sahara

All that area enclosed by rhumb lines joining successively the following points—

32° north latitude 03° west longitude 24° north latitude 14° west longitude 14° north latitude 14° west longitude 18° north latitude 28° east longitude 24° north latitude 28° east longitude 28° north latitude 23° east longitude 32° north latitude 03° west longitude

Area B—Indian Ocean

All that area enclosed by rhumb lines joining successively the following points—

50° south latitude 110° east longitude 20° south latitude 110° east longitude 13° south latitude 120° east longitude 10° south latitude 100° east longitude 18° north latitude 89° east longitude 00° north latitude 80° east longitude 24° north latitude 65° east longitude 05° south latitude 43° east longitude 20° south latitude 60° east longitude 25° south latitude 60° east longitude 30° south latitude 35° east longitude 50° south latitude 35° east longitude 50° south latitude 110° east longitude

Area C—Atlantic Ocean

All that area enclosed by rhumb lines joining successively the following points—

50° south latitude 15° east longitude 05° south latitude 10° east longitude 02° north latitude 05° east longitude 02° north latitude 10° west longitude 15° north latitude 25° west longitude 55° north latitude 15° west longitude 67° north latitude 40° west longitude 67° north latitude 60° west longitude 45° north latitude 45° west longitude 40° north latitude 63° west longitude 19° north latitude 63° west longitude 05° south latitude 30° west longitude 50° south latitude 55° west longitude 50° south latitude 15° east longitude

TENTH SCHEDULE (reg. 18)

FLIGHT CREW OF AIRCRAFT—LICENCES AND RATINGS

PART A

LICENCES

Minimum Age, Period of Validity, Privileges

1. Student Pilots

Student Pilot's Licence (Flying machines, Balloons and Airships)

Minimum Age—17 years

Maximum Period of Validity—

(a) 24 months, if the holder is less than 40 years of age on the date on which the licence is granted or renewed; or

(b) 12 months, if the holder is 40 years of age or more on that date.

Privileges—

The licence—

(a) shall entitle the holder to fly as pilot in command of an aircraft for the purpose of becoming qualified for the grant or renewal of a pilot's licence;

- (b) shall be valid only for flights within Malawi;
- (c) shall not entitle the holder to fly as pilot in command of an aircraft in which any person is carried;
- (d) shall be valid only for flights carried out in accordance with instructions given by a person holding a pilot's licence granted under these Regulations, being a licence which includes a flying instructor's rating or an assistant flying instructor's rating entitling him to give instruction in flying the type of aircraft to be flown;
- (e) shall not entitle the holder to fly as pilot in command of an aircraft unless he has undergone an examination in aviation law to the satisfaction of the Director.

2. Aeroplane Pilots

Private Pilot's Licence (Aeroplanes)

Minimum Age—17 years

Maximum Period of Validity—

- (a) 24 months, if the holder is less than 40 years of age on the date on which the licence is granted or renewed;
- (b) 12 months, if the holder is 40 years of age or more on that date.

Privileges—

The holder of the licence shall be entitled to fly as pilot in command or co-pilot of an aeroplane of any of the types specified in the aircraft rating included in the licence:

Provided that—

- (a) he shall not fly such an aeroplane for the purpose of public transport or aerial work;
- (b) he shall not receive any remuneration in respect of the flight, other than remuneration for the giving of instruction in an aeroplane owned, or operated under arrangements entered into, by a flying club of which the person giving and the person receiving the instruction are members;
- (c) he shall not fly as pilot in command of such an aeroplane at night on a flight on which any passenger is carried unless—
 - (i) his licence includes a night rating (aeroplanes); and
 - (ii) his licence includes an instrument rating (aeroplanes) or he has within the immediately preceding 90 days carried out as pilot in command not less than 5 take-offs and 5 landings at night.

Commercial Pilot's Licence (Aeroplanes)

Minimum Age—18 years

Maximum Period of Validity—

(a) 12 months if the holder is less than 40 years of age on the date on which the licence is granted or renewed;

(b) 6 months if the holder is 40 years of age or more on that date.

Privileges—

In addition to the privileges above for the Private Pilot's Licence (Aeroplanes) the holder of the licence shall be entitled to fly as—

(i) pilot in command of any aeroplane of a type specified in Group 1 of the aircraft rating included in the licence, when the aeroplane is engaged in a flight for any purpose whatsoever:

Provided that—

(a) he shall not, unless his licence includes an instrument rating, fly such an aeroplane on any scheduled Journey;

(b) he shall not fly such an aeroplane at night on a flight on which any passenger is carried unless an instrument rating is included in his licence or he has within the immediately preceding 90 days carried out as pilot in command not less than 5 take-offs and 5 landings at night;

(c) he shall not, unless his licence includes an instrument rating, fly any such aeroplane of which the maximum total weight authorized exceeds 2,300 kgs. on any flight for the purpose of public transport, except a flight beginning and ending at the same aerodrome and not extending beyond 25 miles from that aerodrome;

(d) he shall not fly such an aeroplane on a flight for the purpose of public transport if its maximum total weight authorized exceeds 5,700 kgs.;

(ii) co-pilot of any aeroplane of a type specified in Group 1 or Group 2 of the aircraft rating included in the licence when the aeroplane is engaged in a flight for any purpose whatsoever:

Provided that he shall not, unless his licence includes an instrument rating (aeroplanes), fly as co-pilot on a flight for the purpose of public transport conducted under the instrument flight rules.

Senior Commercial Pilot's Licence (Aeroplanes)

Minimum Age—21 years

Maximum Period of Validity—6 months

Privileges—

In addition to the privileges given above for the Private Pilot's Licence (Aeroplanes) the holder of the licence shall be entitled to fly as—

(i) pilot in command of any aeroplane of a type specified in Group 1 of the aircraft rating included in the licence, when the aeroplane is engaged in a flight for any purpose whatsoever:

Provided that—

(a) he shall not, unless his licence includes an instrument rating, fly such aeroplane on any scheduled journey;

(b) he shall not fly such an aeroplane at night on a flight on which any passenger is carried unless an instrument rating is included in his licence or he has within the preceding 90 days carried out as pilot in command not less than 5 take-offs and 5 landings at night;

(c) he shall not, unless his licence includes an instrument rating, fly any such aeroplane of which the maximum total weight authorized exceeds 2,300 kgs. on any flight for the purpose of public transport, except a flight beginning and ending at the same aerodrome and not extending beyond 25 miles from that aerodrome;

(d) he shall not fly such an aeroplane on a flight for the purpose of public transport if its maximum total weight authorized exceeds 20,000 kgs.;

(ii) co-pilot of any aeroplane of a type specified in Group 1 or Group 2 of such aircraft rating when the aeroplane is engaged in a flight for any purpose whatsoever:

Provided that he shall not, unless his licence includes an instrument rating (aeroplanes), fly as co-pilot on a flight for the purpose of public transport conducted under the instrument flight rules.

Airline Transport Pilot's Licence (Aeroplanes)

Minimum Age—21 years

Maximum Period of Validity—6 months

Privileges—

In addition to the privileges given above for the Private Pilot's Licence (Aeroplanes) the holder of the licence shall be entitled to fly as—

(i) pilot in command of any aeroplane of a type specified in Group 1 of the aircraft rating included in the licence when the aeroplane is engaged in a flight for any purpose whatsoever:

Provided that—

(a) he shall not, unless his licence includes an instrument rating, fly such an aeroplane on any scheduled journey;

(b) he shall not fly such an aeroplane at night on a flight on which any passenger is carried unless an instrument rating is included in his licence or he has within the immediately preceding 90 days carried out as pilot in command not less than 5 take-offs and 5 landings at night;

(c) he shall not, unless his licence includes an instrument rating, fly any such aeroplane of which the maximum total weight authorized exceeds 2,300 kgs. on any flight for the purpose of public transport except a flight beginning and ending at the same aerodrome and not extending beyond 25 miles from that aerodrome;

(d) he shall not at any time after he attains the age of 60 years, fly such an aeroplane on a flight for the purpose of public transport if its maximum total weight authorized exceeds 20,000 kgs.;

(ii) co-pilot of any aeroplane of a type specified in Group 1 or Group 2 of such aircraft rating when the aeroplane is engaged on a flight for any purpose whatsoever:

Provided that he shall not, unless his licence includes an instrument rating (aeroplanes), fly as co-pilot on a flight for the purpose of public transport conducted under the instrument flight rules.

3. Helicopter and Gyroplane Pilots

Private Pilot's Licence (Helicopters and Gyroplanes)

Minimum Age—17 years

Maximum Period of Validity—

(a) 24 months if the holder is less than 40 years of age on the date on which the licence is granted or renewed; or

(b) 12 months if the holder is 40 years of age or more on that date.

Privileges—

The licence—

(i) shall entitle the holder to fly as pilot in command or co-pilot of a helicopter or gyroplane of any of the types specified in the aircraft rating included in the licence, except when—

(a) the helicopter or gyroplane is flying for the purpose of public transport or aerial work; or

(b) the holder of the licence receives any remuneration in respect of the flight, not being remuneration for the giving of instruction in a helicopter or gyroplane owned, or operated under

arrangements entered into, by a flying club of which the person giving and the person receiving the instruction are members;

(ii) shall not entitle the holder to act as pilot in command at night on a flight on which any passenger is carried unless—

(a) his licence includes a night rating (helicopters and gyroplanes); and

(b) his licence includes an instrument rating (helicopters and gyroplanes) or he has within the immediately preceding 90 days carried out as pilot in command not less than 5 flights each consisting of a take-off, a transition from hover to forward flight, a climb to at least 500 feet, and a landing, at night.

Commercial Pilot's Licence (Helicopters and Gyroplanes)

Minimum Age—18 years

Maximum Period of Validity—

(a) 12 months if the holder is less than 40 years of age on the date on which the licence is granted or renewed; or

(b) 6 months if the holder is 40 years of age or more on that date.

Privileges—

In addition to the privileges given above for the Private Pilot's Licence (Helicopters and Gyroplanes), the holder of the licence shall be entitled to fly as—

(i) pilot in command of any helicopter or gyroplane of a type specified in Group 1 of the aircraft rating included in the licence when the helicopter or gyroplane is engaged on a flight for any purpose whatsoever:

Provided that—

(a) he shall not fly such a helicopter or gyroplane at night on a flight on which any passenger is carried unless his licence includes an instrument rating (helicopters and gyroplanes) or he has within the preceding 90 days carried out as pilot in command not less than 5 flights, each consisting of a take-off, a transition from hover to forward flight, a climb to at least 500 feet, and a landing, at night;

(b) he shall not fly such a helicopter or gyroplane on a flight for the purpose of public transport if its maximum total weight authorized exceeds 5,700 kgs.;

(ii) co-pilot of any helicopter or gyroplane of a type specified in Group 1 or Group 2 of such aircraft rating when the helicopter or gyroplane is engaged in a flight for any purpose whatsoever:

Provided that he shall not, unless his licence includes an instrument rating (helicopters and gyroplanes) fly as co-pilot on a flight for the purpose of public transport conducted under the instrument flight rules.

Airline Transport Pilot's Licence (Helicopters and Gyroplanes)

Minimum Age—21 years

Maximum Period of Validity—6 months

Privileges—

In addition to the privileges given above for the Private Pilot's Licence (Helicopters and Gyroplanes) the holder of the licence shall be entitled to fly as—

(i) pilot in command of any helicopter or gyroplane of a type specified in Group 1 of the aircraft rating included in the licence when the helicopter or gyroplane is engaged in a flight for any purpose whatsoever:

Provided that he shall not fly such a helicopter or gyroplane at night on a flight on which any passenger is carried unless his licence includes an instrument rating (helicopters and gyroplanes) or he has within the immediately preceding 90 days carried out as pilot in command not less than 5 flights, each consisting of a take-off, a transition from hover to forward flight, a climb to at least 500 feet, and a landing, at night;

(ii) co-pilot of any helicopter or gyroplane of a type specified in Group 1 or Group 2 of such aircraft rating when the helicopter or gyroplane is engaged in a flight for any purpose whatsoever:

Provided that he shall not, unless his licence includes an instrument rating (helicopters and gyroplanes), fly as co-pilot on a flight for the purpose of public transport conducted under the instrument flight rules.

4. Balloon and Airship Pilots

Private Pilot's Licence (Balloons and Airships)

Minimum Age—17 years

Maximum Period of Validity—

(a) 24 months if the holder is less than 40 years of age on the date on which the licence is granted or renewed;

(b) 12 months if the holder is 40 years of age or more on that date.

Privileges—

The holder of the licence shall be entitled to fly, when the balloon or airship is flying for any purpose other than public transport or aerial work, as—

- (i) pilot in command of any type of balloon or airship specified in Group 1 of the aircraft type rating included in the licence;
- (ii) co-pilot of any type of balloon or airship specified in Group 1 or Group 2 of such aircraft rating.

Commercial Pilot's Licence (Balloons)

Minimum Age—18 years

Maximum Period of ValidityIn respect of the privileges of a Private Pilot's Licence the maximum period of validity shall be as given for that licence.*—

- (a) 12 months if the holder is less than 40 years of age on the date on which the licence is granted or renewed; or
- (b) 6 months if the holder is 40 years of age or more on that date.

Privileges—

In addition to the privileges given above for the Private Pilot's Licence in respect of balloons, the holder of the licence shall be entitled to fly as pilot in command or co-pilot of any type of balloon specified in the aircraft rating included in the licence.

Commercial Pilot's Licence (Airships)

Minimum Age—18 years

Maximum Period of ValidityIn respect of the privileges of a Private Pilot's Licence the maximum period of validity shall be as given for that licence.*—

- (a) 12 months if the holder is less than 40 years of age on the date on which the licence is granted or renewed; or
- (b) 6 months if the holder is 40 years of age or more on that date.

Privileges—

In addition to the privileges given above for the Private Pilot's Licence in respect of airships, the holder of the licence shall be entitled to fly as—

- (i) pilot in command of any airship of a type specified in Group 1 of the aircraft rating included in the licence;
- (ii) co-pilot of any airship of a type specified in Group 1 or Group 2 of such aircraft rating.

5. Glider Pilots

Commercial Pilot's Licence (Glanders)

Minimum Age—18 years

Maximum Period of Validity—

(a) 12 months if the holder is less than 40 years of age on the date on which the licence is granted or renewed; or

(b) 6 months if the holder is 40 years of age or more on that date.

Privileges—

The holder of the licence shall be entitled to fly as pilot in command or co-pilot of—

(a) any glider of which the maximum total weight authorized does not exceed 700 kgs.;

(b) any glider of which the maximum total weight authorized exceeds 700 kgs. and which is of a type specified in the rating included in the licence:

Provided that before carrying passengers in aero-tow flights, he shall have carried out not less than six aero-tow flights of a total duration of not less than one hour as the sole occupant of a glider.

6. Other Flight Crew

Flight Navigator's Licence

Minimum Age—21 years

Maximum Period of Validity—12 months

Privileges—

The holder of the licence shall be entitled to act as flight navigator in any aircraft.

Flight Engineer's Licence

Minimum Age—21 years

Maximum Period of Validity—12 months

Privileges—

The holder of the licence shall be entitled to act as flight engineer in any type of aircraft specified in the aircraft rating included in the licence.

Flight Radiotelephony Operator's General Licence

Minimum Age—18 years

Maximum Period of Validity—12 months

Privileges—

The holder of the licence shall be entitled to operate radiotelephony apparatus in any aircraft.

Flight Radiotelephony Operator's Restricted Licence

Minimum Age—17 years

Maximum Period of Validity—12 months

Privileges—

The holder of the licence shall be entitled to operate radiotelephony apparatus in any aircraft if the stability of the frequency radiated by the transmitter is maintained automatically but shall not be entitled to operate the transmitter, or to adjust its frequency, except by the use of external switching devices.

Flight Radiotelegraphy Operator's Licence

Minimum Age—20 years

Maximum Period of Validity—12 months

Privileges—

The holder of the licence shall be entitled to operate radiotelegraphy and radiotelephony apparatus in any aircraft.

Flight Radiotelegraphy Operator's Temporary Licence

Minimum Age—18 years

Maximum Period of Validity—12 months

Privileges—

The holder of the licence shall be entitled to operate radiotelegraphy and radiotelephony apparatus in any aircraft under the supervision of a person who is the holder of a Flight Radiotelegraphy Operator's licence.

PART B

RATINGS

1. The following ratings may be included in a pilot's licence (other than a student pilot's licence) granted under Part III of these Regulations and, subject to the provisions of these Regulations and of the licence, the inclusion of a rating in a licence shall have the consequences respectively specified as follows—

Aircraft Rating—The licence shall entitle the holder to act as pilot only of aircraft of the types specified in the aircraft rating and different types of aircraft may be specified in respect of different privileges of a licence.

Instrument Rating (aeroplanes)—Shall entitle the holder of an aeroplane pilot's licence to act as pilot in command of an aeroplane on a flight conducted in accordance with the instrument flight rules.

Instrument Rating (helicopters and gyroplanes)—Shall entitle the holder of a helicopter and gyroplane pilot's licence to act as pilot in command of a helicopter or gyroplane on a flight conducted in accordance with the instrument flight rules.

Night Rating (aeroplanes)—Shall entitle the holder of a private pilot's licence (aeroplanes) to act as pilot in command at night of an aeroplane in which any passenger is carried.

Night Rating (helicopters and gyroplanes)—Shall entitle the holder of a private pilot's licence (helicopters and gyroplanes) to act as pilot in command at night of a helicopter or gyroplane in which any passenger is carried.

Towing Rating (flying machines)—Shall entitle the holder of the licence to act as pilot of a flying machine while towing a glider in flight for the purpose of public transport or aerial work.

Flying Instructor's Rating—Shall entitle the holder of the licence to give instruction in flying aircraft of such types as may be specified in the rating for that purpose.

Assistant Flying Instructor's Rating—Shall entitle the holder of the licence to give instruction in flying aircraft of such types as may be specified in the rating for that purpose:

Provided that— G.N. 174/1976

(a) subject to the directions of the Chief Civil Aviation Officer such instruction shall only be given under the supervision of a person present during the take-off and landing at the aerodrome at which the instruction is to begin and end and holding a pilot's licence endorsed with the flying instructor's rating; and

(b) an assistant flying instructor's rating shall not entitle the holder of the licence to give directions to the person undergoing the instruction in respect of the performance by that person of—

- (i) his first solo flight;
- (ii) his first solo flight by night;
- (iii) his first solo cross-country flight otherwise than by night; or

- (iv) his first solo cross-country flight by night.

For the purposes of this Schedule—

“solo flight” means a flight on which the pilot of the aircraft is not accompanied by a person holding a pilot’s licence granted or rendered valid under these Regulations;

“cross-country flight” means any flight during the course of which the aircraft is more than 3 miles from the aerodrome of departure.

ELEVENTH SCHEDULE (regs. 23, 24)

PUBLIC TRANSPORT—OPERATIONAL REQUIREMENTS

Part A—Operations Manual

1. Information and instructions relating to the following matters shall be included in the operations manual referred to in regulation 23 (2)—

- (i) the number of the crew to be carried in the aircraft, on each stage of any route to be flown, and the respective capacities in which they are to act, and instructions as to the order and circumstances in which the command is to be assumed by members of the crew;

- (ii) the respective duties of each member of the crew and the other members of the operating staff;

- (iii) the particulars referred to in regulation 47 (7);

- (iv) such technical particulars concerning the aircraft, its engines and equipment, and concerning the performance of the aircraft as may be necessary to enable the flight crew of the aircraft to perform their respective duties;

- (v) the manner in which the quantities of fuel and oil to be carried by the aircraft are to be computed and records of fuel and oil carried and consumed on each stage of the route to be flown are to be maintained; the instructions shall take account of all circumstances likely to be encountered on the flight including the possibility of failure of one or more of the aircraft engines;

- (vi) the manner in which the quantity, if any, of oxygen and oxygen equipment to be carried in the aircraft for the purpose of complying with Scale K in the Sixth Schedule is to be computed;

- (vii) the check system to be followed by the crew of the aircraft prior to and on take-off, on landing and in an emergency, so as to ensure that the operating procedures contained in the operations manual and the flight manual or performance schedule forming part of the relevant certificate of airworthiness are complied with;

- (viii) the circumstances in which a radio watch is to be maintained;

(ix) the circumstances in which oxygen is to be used by the crew of the aircraft, and by passengers;

(x) communication, navigational equipment, navigational aids, aerodromes, local regulations, in-flight procedures, instrument approach and landing procedures and such other information as the operator may deem necessary for the proper conduct of flight operations; the information referred to in this subparagraph shall be contained in a route guide, which may be in the form of a separate volume;

(xi) the reporting in flight to the notified authorities of meteorological observations;

(xii) the minimum altitudes for safe flight on each stage of the route to be flown and any planned diversion therefrom, such minimum altitudes being not lower than any which may be applicable under the law of Malawi or of the countries whose territory is to be flown over;

(xiii) such matters as are specified in the Thirteenth Schedule relating to weather conditions for take-off and landing;

(xiv) emergency flight procedures, including procedures for the instruction of passengers in the position and use of emergency equipment, and procedures to be adopted when the commander of the aircraft becomes aware that another aircraft or a vessel is in distress and needs assistance;

(xv) the contents of the operational flight plan:

Provided that in relation to any flight which is not a scheduled journey or any part thereof it shall be sufficient if, to the extent that it is not practicable to comply with subparagraph (x), (xii) or (xiii), the manual contains such information and instructions as will enable the equivalent data to be ascertained before take-off and instructions for the inclusion of such data in the operational flight plan.

2.(a) For the purpose of this Schedule the expression “operational flight plan” means a record, in a form approved by the Chief Civil Aviation Officer, of the planning carried out prior to the commencement of the flight by the commander of the aircraft to ensure the safe conduct of the flight based on considerations of aircraft performance, other operating limitations and relevant expected conditions along the route to be followed and at the aerodromes of expected landing and alternate aerodromes.

(b) The operational flight plan shall be—

(i) completed prior to every intended flight except as provided for in subparagraph (c);

(ii) signed by the commander of the aircraft;

(iii) lodged with the operator or his agent, or, if this is not possible, the aerodrome authority at the aerodrome of first departure;

(iv) preserved by the operator, his agent or the aerodrome authority with whom it is lodged until the expiration of a period of six months thereafter.

(c) In the event that the commander of an aircraft is planning a journey which comprises a series of flights with landings at intermediate aerodromes along the route to be followed, a single operational flight plan may be completed for the said journey provided that all necessary data relating to each flight comprising the said journey is available to the commander of the aircraft prior to the commencement of the said journey.

Part B—Crew Training and Tests

1. The training, experience, practice and periodical tests required under regulation 24 (2) in the case of members of the crew of an aircraft engaged on a flight for the purpose of public transport shall be as follows—

(1) The Crew

Every member of the crew shall—

(a) have been tested within the relevant period by or on behalf of the operator as to his knowledge of the use of the emergency and life saving equipment required to be carried in the aircraft on the flight; and

(b) have practised within the relevant period under the supervision of the operator or of a person appointed by him for the purpose of carrying out the duties required of him in case of an emergency occurring to the aircraft, either in an aircraft of the type to be used on the flight or in apparatus approved by the Chief Civil Aviation Officer for the purpose and controlled by persons so approved.

(2) Pilots

(a) Every pilot included in the flight crew who is intended by the operator to serve at the flight controls during take-off and landing shall within the relevant period have served at the flight controls in an aircraft of the type to be used on the flight.

(b) Every pilot included in the flight crew who is intended by the operator to fly as pilot in conditions requiring compliance with instrument flight rules (which conditions are hereafter in this Schedule referred to as “IMC”) shall within the relevant period have been tested by or on behalf of the operator as to his competence to perform his duties in an aircraft of the type to be used on the flight, including a test of his ability—

(i) to execute normal and emergency manoeuvres and procedures in flight in such aircraft in IMC, actual or simulated;

(ii) to use in IMC, actual or simulated, the instruments and equipment provided for use in such conditions in the aircraft to be used on the flight; and

(iii) to use in IMC, actual or simulated, instrument approach-to-land systems of the type in use at the aerodrome of intended landing and any alternate aerodromes.

The tests required by this subparagraph may be conducted either in the aircraft in flight or, under the supervision of a person approved by the Chief Civil Aviation Officer for the purpose, by means of apparatus so approved in which flight conditions are simulated on the ground. G.N. 174/1976

(c) Every pilot included in the flight crew whose licence does not include an instrument rating or who, notwithstanding the inclusion of such a rating in his licence, is not intended by the operator to fly as pilot in IMC, shall within the relevant period have been tested, by or on behalf of the operator, in flight in an aircraft of the type to be used on the flight as to his competence to act as pilot thereof, including a test of his ability to execute normal and emergency manoeuvres and procedures.

(3) Flight Engineers

Every flight engineer included in the flight crew shall within the relevant period have been tested by or on behalf of the operator, either in flight or, under the supervision of a person approved by the Chief Civil Aviation Officer for the purpose, by means of apparatus so approved in which flight conditions are simulated on the ground, as to his competence to perform the duties of flight engineer in aircraft of the type to be used on the flight, including his ability to execute emergency procedures in the course of such duties.

(4) Flight Navigators and Flight Radio Operators

Every flight navigator and flight radio operator whose inclusion in the flight crew is required under regulation 16 (4) and (5) shall within the relevant period have been tested by or on behalf of the operator as to his competence to perform his duties in conditions corresponding to those likely to be encountered on the flight—

(a) in the case of a flight navigator, using equipment of the type to be used in the aircraft on the flight for purposes of navigation;

(b) in the case of a flight radio operator, using radio equipment of the type installed in the aircraft to be used on the flight, and including a test of his ability to carry out emergency procedures.

(5) Aircraft Commanders

(a) The pilot designated as commander of the aircraft for the flight shall within the relevant period—

(i) have demonstrated to the satisfaction of the operator that he has adequate knowledge of the route to be taken, the aerodromes of take-off and landing, and any alternate aerodromes, including in particular his knowledge of—

the terrain;

the seasonal meteorological conditions;

the meteorological, communications, and air traffic facilities, services and procedures;

the search and rescue procedures; and the navigational facilities,

relevant to the route;

(ii) have carried out as pilot in command not less than three take-offs and three landings in aircraft of the type to be used on the flight.

(b) In determining whether a pilot's knowledge of the matters referred to in subparagraph (a) (i) is sufficient to render him competent to perform the duties of aircraft commander on the flight, the operator shall take into account the pilot's flying experience in conjunction with the following—

(i) the experience of other members of the intended flight crew;

(ii) the influence of terrain and obstructions on departure and approach procedures at the aerodromes of take-off and intended landing and at alternate aerodromes;

(iii) the similarity of the instrument approach procedures and let down aids to those with which the pilot is familiar;

(iv) the dimensions of runways which may be used in the course of the flight in relation to the performance limits of aircraft of the type to be used on the flight;

(v) the reliability of meteorological forecasts and the probability of difficult meteorological conditions in the areas to be traversed;

(vi) the adequacy of the information available regarding the aerodrome of intended landing and any alternate aerodromes;

(vii) the nature of air traffic control procedures and the familiarity of the pilot with such procedures;

(viii) the influence of terrain on route conditions and the extent of the assistance obtainable en route from navigational aids and air-to-ground communication facilities;

(ix) the extent to which it is possible for the pilot to become familiar with unusual aerodrome procedures and features of the route by means of ground instruction and training devices.

(6) Cabin Attendants

Every person whose inclusion in the crew is required under regulation 16 (7) shall within the relevant period have been tested by or on behalf of the operator as to his knowledge of—

(a) the effect of lack of oxygen;

(b) the physiological phenomena accompanying a loss of pressurization;

(c) the assignments and functions of other crew members in the event of an emergency in so far as is necessary to fulfil his own individual duties:

Provided that the requirement of subparagraph (b) shall apply only to such persons included in the crew of a pressurized aircraft.

(7) For the purpose of this Schedule, the expression "relevant period" means a period which immediately precedes the commencement of the flight being a period—

(a) in the case of subparagraphs (2) (a) and (5) (a) (ii), of three months;

(b) in the case of subparagraphs (2) (b), (2) (c) and (3), of six months;

(c) in the case of subparagraphs (1), (4), (5) (a) (i) and (6), of twelve months:

Provided that—

(i) any pilot of the aircraft to whom the provisions of subparagraph (2) (b) or (2) (c) and any flight engineer of the aircraft to whom the provisions of subparagraph (3) apply shall for the purposes of the flight be deemed to have complied with such requirements respectively within the relevant period if he has qualified to perform his duties in accordance therewith on two occasions within the period of twelve months immediately preceding the flight, such occasions being separated by an interval of not less than four months;

(ii) the requirements of subparagraph (5) (a) (i) shall be deemed to have been complied with within the relevant period by a pilot designated as commander of the aircraft for the flight if, having become qualified so to act on flights between the same places over the same route more than twelve months before commencement of the flight, he has within the period of twelve months immediately preceding the flight flown as pilot of an aircraft between those places over that route.

2.—(1) The records required to be maintained by an operator under regulation 24 (2) shall be accurate and up-to-date records so kept as to show, on any date, in relation to each person who had during the period of two years immediately preceding that date flown as a member of the crew of any public transport aircraft operated by that operator—

(a) the date and particulars of each test required by this Schedule undergone by that person during the said period including the name and qualifications of the examiner;

(b) the date upon which that person last practised the carrying out of the duties referred to in paragraph 1 (1) (b);

(c) the operator's conclusions based on each such test and practice as to that person's competence to perform his duties;

(d) the date and particulars of any decision taken by the operator during the said period in pursuance of paragraph 1 (5) (a) (i) including particulars of the evidence upon which that decision was based.

(2) The operator shall, whenever called upon to do so by any authorized person, produce for the inspection of any person so authorized all records referred to in subparagraph (1) and furnish to any such person all such information as he may require in connexion with any such records and produce for his inspection all log books, certificates, papers and other documents whatsoever which he may reasonably require to see for the purpose of determining whether such records are complete or of verifying the accuracy of their contents.

(3) The operator shall, at the request of any person in respect of whom he is required to keep records as aforesaid, furnish to that person, or to any other operator of aircraft for the purpose of public transport by whom that person may subsequently be employed, particulars of any qualifications in accordance with this Schedule obtained by such person whilst in his service.

TWELFTH SCHEDULE (regs. 53, 54)

DOCUMENTS TO BE CARRIED BY AIRCRAFT REGISTERED IN MALAWI

On a flight for the purpose of public transport—

Documents A, B, C, D, E, F, H and, if the flight is international air navigation, document G.

On a flight for the purpose of aerial work—

Documents A, B, C, E, F and, if the flight is international air navigation, document G.

On a flight, being international air navigation, for a purpose other than public transport or aerial work—

Documents A, B, C and G.

For the purposes of this Schedule—

“document A” means any licence to install and operate radio apparatus in the aircraft for the time being in force, and the current telecommunication log book required by these Regulations;

“document B” means the certificate of airworthiness in force in respect of the aircraft;

“document C” means the licences of the members of the flight crew of the aircraft;

“document D” means one copy of the load sheet, if any, required by regulation 25 in respect of the flight;

“document E” means one copy of each certificate of maintenance, if any, in force in respect of the aircraft;

“document F” means the technical log, if any, in which entries are required to be made under regulation 8 (5);

“document G” means the certificate of registration in force in respect of the aircraft;

“document H” means the operations manual, if any, required by regulation 23 (2) (a) (ii) to be carried on the flight.

For the purposes of this Schedule—

“international air navigation” means any flight in which a landing is made outside the state in which the aircraft commences the flight.

THIRTEENTH SCHEDULE (reg. 26 (3))

MINIMUM WEATHER CONDITIONS FOR TAKE-OFF, APPROACH TO LANDING AND LANDING BY PUBLIC TRANSPORT AIRCRAFT REGISTERED IN MALAWI

1. In this Schedule—

“approach to landing” means that portion of the flight of the aircraft in which it is descending below a height of 1,000 feet above the critical height of the relevant minimum for landing;

“cloud ceiling” in relation to an aerodrome means the vertical distance from the elevation of an aerodrome to the lowest part of any cloud visible from the aerodrome which is sufficient to obscure more than one-half of the sky so visible; G.N. 174/1976

“decision height” means the minimum height above the elevation of the aerodrome to which an approach to landing can safely be continued without visual reference to the ground;

“ground visibility” means the visibility at an aerodrome as reported by an accredited observer;

“minimum weather conditions” in relation to an aerodrome means the cloud ceiling and ground visibility for take-off and the critical height and ground visibility for the landing below which the aircraft cannot safely take off or land (as the case may be) at that aerodrome and the expression “relevant minimum” shall be construed accordingly;

“specified” in relation to an aircraft means specified in or ascertainable by reference to the operations manual relating to that aircraft.

2. In compliance with regulation 23 (2) and paragraph (xiii) of Part A of the Eleventh Schedule the operator of every aircraft to which that regulation applies shall establish and include in the operations manual relating to the aircraft particulars of minimum weather conditions appropriate to every aerodrome of intended departure or landing, every alternate aerodrome and every aerodrome along the routes to be flown suitable for use in an emergency:

Provided that, in respect of aerodromes to be used only on a flight which is not a scheduled journey or any part thereof it shall be sufficient to include in the operations manual data and instructions by means of which the appropriate minimum weather conditions can be calculated by the commander of the aircraft, who shall enter the minimum weather conditions so calculated on the operational flight plan.

3. The minimum weather conditions specified shall not, in respect of any aerodrome, be less favourable than any declared in respect of that aerodrome by the competent authority, unless that authority otherwise permits in writing.

4. In establishing minimum weather conditions for the purpose of regulation 26 the operator of the aircraft shall take into account the following matters—

(a) the type and performance and handling characteristics of the aircraft and any relevant conditions in its certificate of airworthiness;

(b) the composition of its crew;

(c) the physical characteristics of the relevant aerodrome and its surroundings;

(d) the dimensions of the runway which may be selected for use;

(e) whether or not there are in use at the relevant aerodrome any aids, visual or otherwise, to assist aircraft in approach, landing or take-off, being aids which the crew of the aircraft are trained and equipped to use; the nature of any such aids that are in use; and the procedures for approach, landing and take-off which may be adopted according to the existence or absence of such aids,

and shall establish in relation to each runway which may be selected for use minimum weather conditions appropriate to each set of circumstances which can reasonably be expected.

5. With reference to regulation 26 (3), an aircraft shall not commence flight at a time when—

(a) the cloud ceiling or the ground visibility at the aerodrome of departure is less than the minimum respectively specified for takeoff; or

(b) according to the information available to the commander of the aircraft it would not be able, without contravening paragraph 6, to commence or continue an approach to landing at the aerodrome of intended destination at the estimated time of arrival there and at any alternate aerodrome at any time which, according to a reasonable estimate, the aircraft would arrive there.

6. With reference to regulation 26 (3), an aircraft shall not—

(a) commence or continue an approach to landing at any aerodrome if the ground visibility at that aerodrome, established or determined as aforesaid, is at the time less than the relevant minimum for landing; or

(b) continue an approach to landing at any aerodrome by flying below the decision height of the relevant minimum for landing if, from that height, the approach to landing cannot be completed entirely by visual reference to the ground. G.N. 174/1976

7. If, according to the information available, an aircraft would, as regards any flight, be required by the Aviation (Rules of the Air and Air Traffic Control) Regulations, 1970, to be flown in accordance with the instrument flight rules at the aerodrome of intended landing, the commander of the aircraft shall select prior to take-off an alternate aerodrome unless no aerodrome suitable for that purpose is available.

FOURTEENTH SCHEDULE reg. 66

ChilekaLuchenzaKarongaSalimaLilongwe (Kamuzu International Airport)

FIFTEENTH SCHEDULE reg. 76, G.N. 105/1981

PENALTIES

Part A—Provisions referred to in regulation 76 (5)Regulation 5Regulation 41 (1)Regulation 13Regulation 42 (1)Regulation 20Regulation 50Regulation 22Regulation 55Regulation 23Regulation 61 (3)Regulation 25 (5)Regulation 71 (1)Regulation 31 (except subreg. (2))Regulation 74Part B—Provisions referred to in regulation 76 (6)Regulation 6Regulation 41 (2)Regulation 8 (1)Regulation 42 (2)Regulation 9 (except subreg. (5))Regulation 43Regulation 11Regulation 44Regulation 12Regulations 46 to 49 inclusiveRegulation 14 (except subreg. (3))Regulation 51Regulation 16Regulation 57 (except subreg. (3))Regulation 17 Regulation 21Regulation 58Regulation 24Regulation 59Regulation 25 (except subreg. (5))Regulation 61 (2)Regulations 26 to 30 inclusiveRegulation 63Regulation 31 (2)Regulation 69Regulations 32 to 40 inclusiveRegulation 70(except Regulation 32 (2)Regulation 75

AVIATION (AIR NAVIGATION CHARGES) REGULATIONS

under s. 19

G.N. 133/1987

94/1992

97/1993

89/1996

1. Citation

These Regulations may be cited as the Aviation (Air Navigation Charges) Regulations.

2. Interpretation

In these regulations, unless the context otherwise requires—

“Flight Information Region” means the airspace under the jurisdiction of the Flight Information Centre at Lilongwe;

“Journey in Malawi” means flight conducted, wholly or partly, in the Flight Information Region;

“all up weight” means the maximum total weight authorized in the certificate of airworthiness in force in respect of the aircraft or, if no such certificate is in force, in the certificate of airworthiness last in force in respect of that aircraft or, in any other cases the maximum total weight authorized of the prototype or modification thereof to which the aircraft, in the opinion of the Chief Civil Aviation Officer, conforms;

“owner” in relation to an aircraft, means any person having a legal beneficial interest in such aircraft or a share therein, or any person in whose name the aircraft is registered and includes any person who is or has been acting as an agent in Malawi for a foreign owner;

“operator”, in relation to an aircraft, means any person who at any relevant point in time has the management of that aircraft.

3. Charges for use of air navigation facilities, etc.

There shall be payable to the Government by the owner or operator of an aircraft making a journey in Malawi the air navigation charges in respect of air navigation facilities or services as specified in the Schedule hereto.

4. Detention of aircraft for non-payment

(1) The Chief Civil Aviation Officer, or any person authorized by him may detain any aircraft the owner or operator of which has refused or neglected to pay the air navigation charges payable under these Regulations.

(2) Any aircraft which has been detained under paragraph (1) shall be released only upon payment in full of the air navigation charges owed by the owner or operator.

(3) The Chief Civil Aviation Officer or any person authorized by him under paragraph (1) shall not be liable to any suit or other proceedings on account of any act lawfully performed by him pursuant to that paragraph.

5. Exemption from payment of charges

No air navigation charge shall be payable in respect of any journey in Malawi for any of the following purposes—

(a) the testing of an aircraft or its engines, instruments, radio or other equipment, provided that prior notice is given to the person in charge of the aerodrome that the flight is for that purpose and that the aircraft returns to the point of departure without making any intermediate landing;

(b) the search for, or relief or rescue of persons or aircraft in distress;

(c) the use of an aircraft owned or operated by any flying club approved by the Chief Civil Aviation Officer if the flight is not for hire or reward or any purpose other than club flying;

(d) a flight which has departed from an aerodrome and has returned to the same aerodrome because of any hazard caused by weather or any other circumstances without making any intermediate landing;

(e) the use of an aircraft belonging to an owner or operator who has a place of business in Malawi for the sole purpose of giving instructional training or practice in the flying of that type of aircraft or in the operation of let down facilities in Malawi to aircraft employed by the owner or operator:

Provided that—

(i) no freight (except as ballast) or any fare-paying passenger is carried;

(ii) the journey in Malawi begins and ends at the same aerodrome with no intermediate landing at any other place, other than for an emergency landing;

(iii) prior notice of the journey in Malawi is given to the person in charge of the aerodrome;

(f) the use of an aircraft within Malawi to and from an aerodrome solely for customs, immigration or health clearance provided that the aircraft is proceeding to, or has arrived from, an aerodrome in Malawi where such facilities are not available; and

(g) the use of an aircraft solely for diplomatic purposes.

SCHEDULE r. 3

AIR NAVIGATION CHARGES

1. Where an aircraft in the course of a flight originates at a place outside Malawi and terminates at a place outside Malawi without landing in Malawi, the journey from the time it enters such airspace to the time it leaves the Flight Information Region—G.N. 133/1987 94/1992 97/1993 89/1996

All aircraft and weight US\$60 00

2. Where an aircraft makes a flight which originates at a place inside Malawi and terminates at any other place inside Malawi, the journey from the time it leaves the first place of departure to the time it returns to the first place of departure, provided that the aircraft returns to the first place of departure on the same day—

Aircraft weight Charge in respect of each journey in Malawi US\$ Up to 5,000 kg 12 005,001 to 20,000 kg 16 0020,001 to 70,000 kg 20 5070,001 to 180,000 kg 25 60 Over 180,000 kg 37 50

3. Where an aircraft in the course of a flight originates at a place outside Malawi and terminates at a place outside Malawi, enters and lands in the Flight Information Region in the course of such flight, the journey from the time it enters such airspace, to the time it leaves it, provided that it leaves the airspace the same day—

Aircraft weight Charge in respect of each journey in Malawi US\$ Up to 5,000 kg 30 005,001 to 20,000 kg 42 0020,001 to 70,000 kg 48 0070,001 to 180,000 kg 66 00 Over 180,000 kg 72 00

4. Where an aircraft in the course of a flight originates at a place inside Malawi leaves the Flight Information Region, the journey from the time it leaves the place of departure and leaves the Flight Information Region to the time it enters such airspace, lands and terminates the flight at a place inside Malawi, provided that it lands and terminates the flight at a place inside Malawi the same day—

Aircraft weight Charge in respect of each journey in Malawi US\$ Up to 5,000 kg 30 005,001 to 20,000 kg 42 0020,001 to 70,000 kg 48 0070,001 to 180,000 kg 66 00 Over 180,000 kg 72 00

AVIATION (AERODROMES) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Acts prohibited on aerodromes
4. Acts prohibited on aerodromes without permission
5. Running engines on aerodromes
6. Operation of radio equipment on aerodromes
7. Safety of aircraft
8. Destruction of livestock
9. Removal of persons from aerodromes
10. Cost of removal
11. Duties of occupiers
12. Offences and penalties

G.N. 19/1971

AVIATION (AERODROMES) REGULATIONS

under s. 19

1. Citation

These Regulations may be cited as the Aviation (Aerodromes) Regulations.

2. Interpretation

(1) In these Regulations except when the context otherwise requires—

“aerodrome” means any aerodrome licensed for public use or any Government aerodrome;

“Airport Commandant” means the person appointed by the Chief Civil Aviation Officer to be or to act as Commandant of a Government airport;

“authorized person” in relation to an aerodrome means a person duly authorized for the matter in question by the Minister, the Chief Civil Aviation Officer, the Airport Commandant or the officer in charge, as the case may be;

“livestock” includes horses, cattle, mules, donkeys, sheep, goats, pigs, dogs and cats;

“officer in charge” means the person appointed by the Chief Civil Aviation Officer to be in charge of a Government aerodrome in respect of which an Airport Commandant has not been appointed; or in the case of a private aerodrome licensed for public use, the person appointed by the licensee to be in charge of the aerodrome;

“traffic sign” includes any speed limit sign, any mark on the surface of a roadway, any signal whether an automatic electric signal or otherwise, warning sign post, direction post or sign or any other device for the guidance and direction of persons using the roadways in an aerodrome which the Minister causes or permits to be placed on or near any such roadway;

“vehicle” does not include an aircraft.

(2) Subject to subregulation (1) expressions used in these Regulations shall, unless the contrary intention appears, have the same meaning as in the Aviation (Air Navigation) Regulations, 1970.

3. Acts prohibited on aerodromes

Within an aerodrome the following acts are prohibited—

(i) obstructing or interfering with the proper use of the aerodrome;

(ii) obstructing any person acting in the execution of his duty in relation to the aerodrome;

(iii) remaining on the aerodrome after having been required by a police officer or an authorized person to leave it;

(iv) allowing any vehicle or animal to be on the aerodrome after being required by a police officer or an authorized person to remove it or after its presence on the aerodrome has been forbidden by an authorized person;

(v) boarding or attempting to board any aircraft without the authority of the person in charge of it;

(vi) tampering or interfering with any aircraft or anything used in connexion with an aircraft;

(vii) smoking in or otherwise bringing or lighting any naked light into or in—

(a) any place where any such act is prohibited by notice; or

(b) any place within 50 feet of any aircraft or a store of inflammable liquid or explosives;

(viii) any act causing or tending to cause an outbreak of fire;

(ix) throwing, leaving or dropping any thing capable of causing injury to any person or property;

(x) climbing any wall, fence, barrier, railing or post;

(xi) wilfully giving a false fire or ambulance alarm;

(xii) failing to place an aircraft in the place and position;

(xiii) failing properly to moor or otherwise secure any stationary aircraft which is not in a hangar;

(xiv) driving or placing a vehicle carelessly or dangerously or without due consideration for persons using the aerodrome;

(xv) failure by the driver of a vehicle to stop when required by a police officer to do so;

(xvi) failure by the driver of a vehicle which is involved in an accident to give his name and address and the name and address of the owner of the vehicle to any person having reasonable grounds for requiring them;

(xvii) failure by the driver of a vehicle forthwith to report to a police officer or to the person in charge of the aerodrome any accident in which the vehicle is involved;

(xviii) failure by the driver of a vehicle to obey a traffic sign or to comply with any direction;

(xix) parking a vehicle elsewhere than in a place provided for that purpose or otherwise than in the manner required by a police officer or an authorized person;

(xx) failure by the person in charge of a vehicle to remove it from any place provided for the purpose of parking when required by a police officer or an authorized person to do so;

(xxi) loading a vehicle with passengers or goods, or unloading passengers or goods from a vehicle, elsewhere than in a place provided for that purpose;

(xxii) driving a motor vehicle on any roadway in an aerodrome at a speed greater than 30 miles per hour or such other speed as may be prescribed by a traffic sign;

(xxiii) removing, picking or otherwise damaging any tree, shrub or plant or walking on any flower bed;

(xxiv) failing to keep any animal under control;

(xxv) using obscene or indecent language;

(xxvi) behaving in an indecent or disorderly manner;

(xxvii) dropping or leaving litter elsewhere than in a receptacle provided for the purpose:

(xxviii) failing to comply with directions given by the Chief Civil Aviation Officer in relation to refuelling aircraft;

(xxix) disposing of garbage, sewage, waste oil, refuse or other material from aircraft or other sources except in the place and the receptacles provided for that purpose.

4. Acts prohibited on aerodromes without permission

Within an aerodrome the following acts are prohibited unless the permission of the Airport Commandant or officer in charge or an authorized person has first been obtained—

(i) entering or leaving the aerodrome otherwise than through a gate or entrance for the time being provided for that purpose;

(ii) entering any part of the aerodrome to which members of the public are not for the time being admitted;

(iii) damaging, defacing, removing, displacing or altering any building, structure, traffic sign, notice or other thing, whether movable or immovable, forming part of, or provided for or in connexion with, the aerodrome;

(iv) digging soil or cutting or removing turf;

(v) grazing animals;

(vi) selling or distributing any thing, offering any thing for sale or hire, or making any offer of services including specifically the offering of taxicab service or operating any hackney carriage or other vehicle carrying passengers for hire or reward;

(vii) exhibiting any notice or advertisement except on premises which the person exhibiting it is authorized to occupy and in accordance with the terms of his occupation;

(viii) leaving a vehicle on the aerodrome longer than twenty-four hours or such shorter time as is reasonably necessary for the transaction of the business for the purpose for which it was brought there;

(ix) driving a vehicle elsewhere than in a place provided for the passage or accommodation of such a vehicle;

(x) taking a motor vehicle into a hangar used for the maintenance or storage of aircraft;

(xi) running an aircraft engine in a hangar;

(xii) filling with liquid fuel or discharging liquid fuel from any container (including any part of a vehicle) elsewhere than in a place approved for that purpose by the person in charge of the aerodrome;

(xiii) lighting a fire elsewhere than in a place constructed for that purpose and approved by an authorized person;

(xiv) conducting flight or ground demonstrations;

(xv) taking still, motion or sound pictures for commercial purposes;

(xvi) entering the following restricted areas—

(a) air traffic services rooms;

(b) aeronautical radio stations;

(c) radio transmitter and receiver rooms;

(d) fuel company installations;

(e) storage buildings;

(f) landing and manoeuvring areas;

(g) aircraft hangars;

(h) fire stations;

(i) customs areas;

(xvii) repairing aircraft, engines or accessories and running engines for test purposes in any area of an aerodrome other than that designated by the Airport Commandant or officer in charge for the purpose.

5. Running engines on aerodromes

(1) No person shall start or run any engine in any aircraft on an aerodrome unless a competent person is in the aircraft attending the engine controls. Blocks equipped with ropes or other suitable means of pulling them shall always be placed in front of the wheels of the aircraft before starting the engine or engines unless the aircraft is provided with adequate parking brakes and use is made of such brakes.

(2) For the purpose of this regulation a competent person means a person holding a pilot's or aircraft maintenance engineer's licence.

6. Operation of radio equipment on aerodromes

(1) No person shall operate any radio equipment in any aircraft when such aircraft is in a hangar on an aerodrome.

(2) No person shall operate on an aerodrome any device that may cause interference to aircraft communications or ground communications services.

7. Safety of aircraft

No person shall enter upon or remain in an aerodrome in circumstances in which the safety of any aircraft or its passengers or crew is likely to be imperilled or the proper functioning of the aerodrome impeded.

8. Destruction of livestock

(1) It shall be lawful for the Airport Commandant or officer in charge or a police officer, where in the opinion of the Airport Commandant or officer in charge or such police officer such action is necessary to ensure the safety of aircraft, to shoot or destroy any livestock found trespassing on an aerodrome.

(2) This regulation shall not apply in respect of any animal which has arrived by air or is intended for despatch by air at an aerodrome and which is restrained by leash or confined in such other manner as to be under control or in respect of any animal which is on an aerodrome in accordance with permission granted by the Airport Commandant or officer in charge.

9. Removal of persons from aerodromes

Any person suspected of having contravened or of being about to contravene any of the provisions of these Regulations shall, upon being requested so to do by the Airport Commandant or

officer in charge or a police officer or an authorized person, correctly state his name and address and the purpose of his being at the aerodrome and upon his failure so to do and without prejudice to the provisions of the next succeeding regulation may be removed from the aerodrome or any part thereof by the Airport Commandant or officer in charge or a police officer or authorized person, as the case may be.

10. Cost of removal

Any person found contravening any of the provisions of these Regulations may be removed from the area to which these Regulations apply by the Airport Commandant or officer in charge or a police officer or an authorized person and any vehicle, animal or thing found in the area in contravention of any provision of these Regulations may be removed by the Airport Commandant or officer in charge or a police officer or an authorized person and upon conviction for such contravention the owner or person in charge of such vehicle, animal or thing may in addition to any other penalty be ordered by the court to pay the cost of such removal.

11. Duties of occupiers

All occupiers of premises in an aerodrome shall provide on the premises readily accessible first aid and fire fighting equipment of a type and in such quantity as the Chief Civil Aviation Officer shall require.

12. Offences and penalties

(1) Any person who contravenes any provision of these Regulations, not being a provision referred to in subregulation (2), shall be guilty of an offence and shall be liable to a fine of K200 and to imprisonment for three months.

(2) Any person who contravenes any provision as specified in the Table at the foot of this regulation shall be guilty of an offence and shall be liable to a fine of K400 and to imprisonment for six months.

TABLE

Regulation 3(v) Regulation 3 (xxviii) (vi) 4 (xii) (vii) (xiii) (viii) 6 (2) (xi) 7

AVIATION (RULES OF THE AIR AND AIR TRAFFIC CONTROL) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

PRELIMINARY

1. Citation
2. Interpretation

PART II

GENERAL

3. Application of Regulations
4. Responsibility of the commander of an aircraft
5. Violation of these Regulations in an emergency
6. Misuse of signals and markings
7. Reporting hazardous conditions
8. Low flying
9. Simulated instrument flight
10. Practice instrument approaches

PART III

LIGHTS AND OTHER SIGNALS

11. Lights and other signals to be shown by aircraft
12. Display of lights by aircraft, general
13. Failure of navigation lights
14. Display of lights by aircraft on water
15. Display of lights by certain aircraft flying at night
16. Gliders
17. Free balloons
18. Captive balloons and kites

19. Airships

PART IV

GENERAL FLIGHT RULES

20. Weather reports and forecasts
21. Aerodrome meteorological minima
22. Emergency action
23. Search and rescue services
24. Fitness of flight crew members
25. Rules for avoiding aerial collision
26. Acrobatic manoeuvres
27. Right-hand traffic rule
28. Flight plan and arrival notification
29. Radio watch routine reports
30. Flights in notified airspace and controlled airspace
31. Semi-circular flight rule
32. Fuel and oil supply

PART V

VISUAL FLIGHT RULES

33. Visual flight rules
34. Limitations imposed by weather conditions

PART VI

INSTRUMENT FLIGHT RULES REGULATION

35. Instrument flight rules
36. Minimum height
37. Air traffic control clearance
38. Position reports
39. Communication failure
40. Limitations imposed by weather conditions

PART VII

AERODROME TRAFFIC RULES

41. Application of aerodrome traffic rules
42. Visual signals
43. Access to and movement on the manoeuvring area and other parts of the aerodrome used by aircraft
44. Right of way on the ground
45. Dropping of tow ropes, etc.
46. Aerodromes not having air traffic control units
47. Aerodromes having air traffic control units
48. Air traffic control unit to be informed

PART VIII

AERODROME SIGNALS AND MARKINGS: VISUAL AND AURAL SIGNALS

49. General
50. Signals in the signals area
51. Markings for paved runways and taxiways
52. Markings on unpaved manoeuvring areas
53. Signals visible from the ground

54. Lights and pyrotechnic signals for control of aerodrome traffic
55. Marshalling signals
56. Distress and urgency
57. Warning signals to aircraft in flight
58. Offences and penalties

G.N. 17/1971

156/1973

AVIATION (RULES OF THE AIR AND AIR TRAFFIC CONTROL) REGULATIONS

under s. 19

PART I

PRELIMINARY

1. Citation

These Regulations may be cited as the Aviation (Rules of the Air and Air Traffic Control) Regulations.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“aerodrome traffic zone” in relation to any aerodrome means the airspace extending from the aerodrome to a height of 2,000 feet above the level of the aerodrome and within a distance of 3,000 yards of its boundaries or such other height and distance as may be prescribed from time to time in respect of a specific aerodrome;

“air traffic control clearance” means authorization by an air traffic control unit for an aircraft to proceed under conditions specified by that unit;

“anti-collision light” means a flashing red light showing in all directions for the purpose of enabling the aircraft to be more readily detected by pilots of distant aircraft;

“cloud ceiling” in relation to an aerodrome means the distance measured vertically from the notified elevation of that aerodrome to the lowest part of the lowest layer of cloud below 20,000 feet visible from the aerodrome which is to obscure more than one half of the sky so visible;

“current flight plan” means the flight plan including changes, if any, brought about by subsequent air traffic control clearances;

“filed flight plan” means the flight plan as filed with an air traffic control unit by the pilot or his designated representative, without any subsequent changes;

“flight plan” means specified information provided to an air traffic services unit relative to an intended flight or portion of a flight of an aircraft;

“flight visibility” means the visibility forward from the flight deck of an aircraft in flight;

“ground visibility” means the horizontal visibility at an aerodrome as reported by an accredited observer at ground level;

“IFR flight” means a flight conducted in accordance with the instrument flight rules provided in Part VI;

“instrument meteorological conditions” means, subject to regulation 33 (2), weather precluding VFR flight;

“runway” means a rectangular area, whether or not paved, which is provided for the take-off or landing of an aircraft;

“VFR flight” means a flight conducted in accordance with the visual flight rules provided in Part V;

“visual meteorological conditions” means weather permitting VFR flight.

(2) Subject to subregulation (1), and unless the context otherwise requires, expressions used in these Regulations shall have the same respective meanings as in the Aviation (Air Navigation) Regulations, 1970, hereinafter referred to as the Air Navigation Regulations.

PART II

GENERAL

3. Application of Regulations

These Regulations, in so far as they are applicable in relation to aircraft shall, subject to the provisions of regulation 41, apply in relation to—

- (a) all aircraft within Malawi; and
- (b) all Malawi aircraft wherever they may be.

4. Responsibility of the commander of an aircraft

The commander of an aircraft shall be responsible for the operation and safety of the aircraft and the safety of all persons on board during flight time.

5. Violation of these Regulations in an emergency

If an emergency situation which endangers the safety of the aircraft or persons necessitates the taking of action which involves a violation of these Regulations, the commander shall notify the appropriate air traffic control unit without delay. The commander shall submit a report on any such violation in writing to the Chief Civil Aviation Officer within ten days of the date of the occurrence.

6. Misuse of signals and markings

(1) A signal or marking to which a meaning is given by these Regulations or which is required by these Regulations to be used in circumstances or for a purpose therein specified, shall not be used except with that meaning, or for that purpose.

(2) A person in an aircraft or on an aerodrome or at any place at which an aircraft is taking off or landing shall not make any signal which he knows or ought reasonably to know to be a signal in use for signalling to or from any naval, military or air force aircraft.

7. Reporting hazardous conditions

The commander of an aircraft shall, on meeting with hazardous conditions in the course of a flight, or as soon as possible thereafter, send to the appropriate air traffic service unit by the quickest means available information containing such particulars of the hazardous conditions as may be pertinent to the safety of other aircraft.

8. Low flying

(1) Subject to the provisions of subregulations (2), (2A) and (3) an aircraft shall not fly—

(a) over any congested area of a city, municipality, township or settlement below whichever is the higher of the following—

(i) such height as would enable the aircraft to alight clear of the area and without danger to persons or property on the surface, in the event of failure of a power unit; or

(ii) a height of 1,000 feet above the highest fixed object within 2,000 feet of the aircraft; or

(b) elsewhere at a height of less than 500 feet.

(2) The alternatives in subregulations (1) (a) (ii) and (1) (b) shall not apply to—

(a) any aircraft engaged on a flight or series of flights in relation to which the Chief Civil Aviation Officer has given special permission in writing and in accordance with any conditions therein specified;

(b) any aircraft while it is landing or taking off in accordance with normal aviation practice;

(c) any glider while it is hill-soaring.

(2A) The alternative in subparagraph (1) (a) (ii) shall not apply to an aircraft flying on a special VFR flight, as defined in regulation 33 (2), in accordance with instructions given for the purposes of that regulation by the appropriate air traffic control unit.

(3) Nothing in this regulation shall prohibit any aircraft from—

(a) taking off, landing or practising approaches to landing;

(b) flying for the purpose of checking navigational aids or procedures in accordance with normal aviation practice at a Government or licensed aerodrome in Malawi or at any aerodrome in any other country; or

(c) flying in such a manner as may be necessary for the purpose of saving life:

Provided that in the case of practising approaches to landing as aforesaid such practising is confined to the airspace customarily used by aircraft when landing or taking off in accordance with normal aviation practice at the aerodrome concerned.

(4) Nothing in this regulation shall apply to any captive balloon or kite.

9. Simulated instrument flight

An aircraft shall not be flown in simulated instrument flight conditions unless—

(a) the aircraft is fitted with dual controls which are functioning properly;

(b) an additional pilot (in this regulation called a “safety pilot”) is carried in a second control seat of the aircraft for the purposes of rendering such assistance as may be necessary to the pilot flying the aircraft;

(c) if the safety pilot’s field of vision is not adequate both forward and to each side of the aircraft, a third person, being a competent observer, occupies a position in the aircraft from which his field of vision makes good the deficiencies in that of the safety pilot, and from which he can readily communicate with the safety pilot.

For the purpose of this regulation the expression “simulated instrument flight” means a flight during which mechanical or optical devices are used in order to reduce the field of vision or the range of visibility from the cockpit of the aircraft.

10. Practice instrument approaches

Within Malawi an aircraft shall not carry out instrument approach practice when flying in visual meteorological conditions unless—

(a) the appropriate air traffic control unit has previously been informed that the flight is to be made for the purpose of instrument approach practice; and

(b) if the flight is not being carried out in simulated instrument flight conditions, a competent observer is carried in such a position in the aircraft that he has an adequate field of vision and can readily communicate with the pilot flying the aircraft.

PART III

LIGHTS AND OTHER SIGNALS

11. Lights and other signals to be shown by aircraft

(1) For the purposes of this Part the horizontal plane of a light shown by an aircraft means the plane which would be the horizontal plane passing through the source of that light if the aircraft were in level flight.

(2) Where by reason of the physical construction of an aircraft it is necessary to fit more than one lamp in order to show a light required by these Regulations, the lamps shall be so fitted and constructed that, so far as is reasonably practicable, not more than one such lamp is visible from any one point outside that aircraft.

(3) Where in these Regulations a light is required to show through specified angles in the horizontal plane, the lamps giving such light shall be so constructed and fitted that the light is visible from any point in any vertical plane within those angles, throughout angles of 90° above and below the horizontal plane, but so far as is reasonably practicable, though no greater angle, either in the horizontal plane or the vertical plane.

(4) Where in these Regulations a light is required to show in all directions, the lamps giving such light shall be so constructed and fitted that, so far as is reasonably practicable, the light is visible from any point in the horizontal plane and in any vertical plane passing through the source of that light.

12. Display of lights by aircraft, general

(1) By night an aircraft shall display such of the lights specified in these Regulations as may be appropriate to the circumstances of the case, and shall not display any other lights which might obscure or otherwise impair the visibility of, or be mistaken for, such lights:

Provided that nothing in this subregulation shall prevent the display of an anti-collision light.

(2) An aircraft on a land aerodrome in Malawi at which aircraft normally land or take off at night shall, unless it is stationary on a part of the aerodrome set aside for the embarkation or disembarkation of passengers, the loading or unloading of cargo or the maintenance or parking of aircraft, display by night the lights which it would be required to display if it were flying.

13. Failure of navigation lights

In Malawi, in the event of the failure of any light which is required by these Regulations to be displayed in flight, if the light cannot be immediately repaired or replaced, the aircraft shall land as soon as in the opinion of the commander of the aircraft it can safely do so, unless authorized by the appropriate air traffic control unit to continue its flight.

14. Display of lights by aircraft on water

(1) An aircraft on the surface of the water in Malawi at night shall display lights as follows—

(a) when under way, the lights described in regulation 15 (1) appearing as steady lights, and in addition a steady white light visible forward through a dihedral angle of 220° bisected by a vertical plane through the longitudinal axis of the aircraft and visible at a distance of at least 3 miles, except that it shall display—

(i) when towing another aircraft or vessel, in addition a steady white light of the same construction and character as the additional steady white light described in paragraph (a) in a vertical line at least 2 metres above or below such light;

(ii) when being towed, only the steady lights described in regulation 15 (1);

(iii) when not under command, in addition to the lights described in regulation 15 (1), two steady red lights placed where they can best be seen, one vertically over the other and not less than one metre apart, and of such a character as to be visible all around the horizon at a distance of at least 2 miles:

Provided that if the aircraft is not making way it shall not display the red and green lights described in regulation 15 (1);

(b) when at anchor—

(i) if less than 45 metres in length, where it can best be seen, a steady white light visible all around the horizon at a distance of at least 2 miles;

(ii) if 45 metres or more in length, where they can best be seen, a steady white forward light and a steady white rear light both visible all around the horizon at a distance of at least 3 miles;

(iii) if 45 metres or more in span, a steady white light on each side to indicate the maximum span and visible, so far as is practicable, all around the horizon at a distance of at least 1 mile;

(c) when around, the lights specified in paragraph (b) and in addition two steady red lights in vertical line, at least one metre apart, so placed as to be visible all around the horizon.

(2) For the purpose of this regulation—

(a) an aircraft on the surface of the water is “under way” when it is not aground or moored to the ground or to any fixed object on the land or in the water;

(b) an aircraft on the surface of the water is “under command” when it is able to execute manoeuvres as required by these Regulations or by the International Regulations for Preventing Collisions at Sea;

(c) an aircraft on the surface of the water is “Making way” when it is under way and has a velocity relative to the water;

(d) the word “visible” when applied to lights in these Regulations means visible on a dark night in a clear atmosphere.

15. Display of lights by certain aircraft flying at night

(1) Subject to regulations 16, 17, 18 and 19 an aircraft when flying at night shall display lights as follows—

(a) a green light of at least 5 candles showing to the starboard side through an angle of 110° from dead ahead in the horizontal plane;

(b) a red light of at least 5 candles showing to the port side through an angle of 110° from dead ahead in the horizontal plane; and

(c) a white light of at least 3 candles showing through angles of 70° from dead astern to each side in the horizontal plane.

(2) The lights described in subregulation (1) may be displayed either as steady lights or as flashing lights.

(3) When the lights described in subregulation (1) are displayed as flashing lights either one or both of the following additional lights may be displayed—

(a) a flashing red rear light of at least 20 candles which alternates with the flashing white rear light;

(b) a flashing white light of at least 20 candles visible in all directions which alternates with the signal emitted by the lights described in subregulations (1) (a), (b) and (c).

(4) When the lights described in subregulation (1) are displayed as steady lights, an additional flashing red anti-collision light or lights visible as far as is practicable in all directions within 30° above and 30° below the horizontal plane of the aircraft may be displayed, and shall be displayed on flying machines of a maximum total weight authorized exceeding 5,700 kilograms.

(5) In addition wing tip clearance lights comprising steady lights of the colours described for the navigation lights in subregulations (1) (a) and (b) may be provided if there are no navigation lights within 2 metres of the wing tips.

16. Gliders

A glider while flying at night shall display either a steady red light of at least 5 candles showing in all directions or lights in accordance with regulation 15 (1).

17. Free balloons

A free balloon while flying at night shall display a steady red light, of at least 5 candles showing in all directions suspended not less than 5 metres and not more than 10 metres below the lowest part of the balloon.

18. Captive balloons and kites

(1) A captive balloon or kite while flying at night at a height exceeding 60 metres above the surface shall display lights as follows—

(a) a group of two steady lights consisting of a white light placed 4 metres above a red light, both being of at least 5 candles and showing in all directions, the white light being placed not less than 5 metres or more than 10 metres below the basket, or if there is no basket, below the lowest part of the balloon or kite;

(b) on the mooring cable, at intervals of not more than 300 metres measured from the group of lights referred to in paragraph (a), groups of two lights of the colour and power and in the relative positions specified in that paragraph, and, if the lowest group of light is obscured by cloud, an additional group below the cloud base;

(c) on the surface, a group of three flashing lights arranged in a horizontal plane at the apexes of a triangle approximately equilateral each side of which measures at least 25 metres; one side of the triangle shall be approximately at right angles to the horizontal projection of the cable and shall be delimited by two red lights; the third light shall be a green light so placed that the triangle encloses the object on the surface to which the balloon or kite is moored.

(2) A captive balloon while flying by day at a height exceeding 60 metres above the surface shall have attached to its mooring cable at intervals of not more than 200 metres measured from the basket, or, if there is no basket, from the lowest part of the balloon, tubular streamers not less than 40 centimetres in diameter and 2 metres in length, and marked with alternate bands of red and white 50 centimetres wide.

(3) A kite flown in the circumstances referred to in subregulation (2) shall have attached to its mooring cable either—

(a) tubular streamers as specified in subregulation (2); or

(b) at intervals of not more than 100 metres measured from the lowest part of the kite streamers of not less than 80 centimetres long and 30 centimetres wide at their widest part and marked with alternate bands of red and white 10 centimetres wide.

19. Airships

(1) Except as provided in subregulation (2), an airship while flying at night shall display the following steady lights—

(a) a white light of at least 5 candles showing through angles of 110° from dead ahead to each side of the horizontal plane;

(b) a green light of at least 5 candles showing to the starboard side through an angle of 110° from dead ahead in the horizontal plane;

(c) a red light of at least 5 candles showing to the port side through an angle of 110° from dead ahead in the horizontal plane; and

(d) a white light of at least 5 candles showing through angles of 70° from dead astern to each side in the horizontal plane.

(2) An airship while flying at night shall display, if it is not under command, or has voluntarily stopped its engines or is being towed, the following steady lights—

(a) the white lights referred to in subregulation (1);

(b) two red lights, each of at least 5 candles and showing in all directions suspended below the control car so that one is at least 4 metres above the other and at least 8 metres below the control car; and

(c) if the airship is making way but not otherwise, the green and red lights referred to in subregulation (1):

Provided that an airship while picking up its moorings, notwithstanding that it is not under command, shall display only the lights specified in subregulation (1).

(3) An airship, while moored within Malawi by night, shall display the following lights—

(a) when moored to a mooring mast, at or near the rear a white light of at least 5 candles showing in all directions;

(b) when moored otherwise than to a mooring mast—

(i) a white light of at least 5 candles showing through angles of 110° from dead ahead to each side in the horizontal plane;

(ii) a white light of at least 5 candles showing through angles of 70° from dead astern to each side in the horizontal plane.

(4) An airship while flying by day, if it is not under command or has voluntarily stopped its engines, or is being towed, shall display two black balls suspended below the control car so that one is at least 4 metres above the other and at least 8 metres below the control car.

(5) For the purpose of this regulation—

(a) an airship shall be deemed not to be under command when it is unable to execute a manoeuvre which it may be required to execute by or under these Regulations;

(b) an airship shall be deemed to be making way when it is not moored and is in motion relative to the air.

PART IV

GENERAL FLIGHT RULES

20. Weather reports and forecasts

(1) Before commencing a flight the commander shall familiarize himself with all available meteorological information appropriate to the intended flight.

(2) Preparations for a flight away from the vicinity of the place of departure and for every flight under the instrument flight rules shall include—

(a) a study of available current weather reports and forecasts; and

(b) the planning of an alternative course of action to provide for the eventuality that the flight cannot be completed as planned because of weather conditions.

21. Aerodrome meteorological minima

The commander of an aircraft shall not operate to or from an aerodrome using meteorological minima lower than that prescribed for that aerodrome except with the specific approval of the Chief Civil Aviation Officer.

22. Emergency action

In an emergency during flight the commander of an aircraft shall ensure that all persons on board are instructed in such emergency action as may be appropriate to the circumstances.

23. Search and rescue services

The commander of an aircraft shall have available on board the aircraft essential information concerning the search and rescue services in the areas over which it is intended the aircraft will be flown.

24. Fitness of flight crew members

The commander of an aircraft shall ensure that a flight—

(a) is not commenced if any flight crew member is incapacitated from performing his duties by any cause;

(b) is not continued beyond the nearest suitable aerodrome if the capacity of any flight crew member to perform his duties is significantly reduced by impairment of faculties from any cause.

25. Rules for avoiding aerial collision

(1)(a) Notwithstanding that the flight is being made with air traffic control clearance it shall remain the duty of the commander of an aircraft to take all possible measures to ensure that his aircraft does not collide with another aircraft.

(b) An aircraft shall not be flown in such proximity to other aircraft as to create a danger of collision.

(c) Aircraft shall not fly in formation unless the commanders of the aircraft have agreed to do so and have obtained prior permission from the appropriate air traffic control unit.

(d) An aircraft which is obliged under this regulation to give way to another aircraft shall avoid passing over or under the other aircraft, or crossing ahead of it, unless passing well clear of it.

(e) An aircraft which has the right of way under this regulation shall maintain its course and speed.

(f) For the purposes of this regulation a glider and an aircraft which is towing it shall be considered to be a single aircraft under the command of the towing aircraft.

(2)(a) Subject to the provisions of subregulations (3) and (4), an aircraft in the air shall give way to other converging aircraft as follows—

(i) flying machines shall give way to airships, gliders and balloons;

(ii) airships shall give way to gliders and balloons;

(iii) gliders shall give way to balloons.

(b) Subject to the provisions of paragraph (a), when two aircraft are converging in the air at approximately the same altitude, the aircraft which has the other on its right shall give way:

Provided that mechanically driven aircraft shall give way to aircraft which are towing or refuelling other aircraft or towing objects.

(3) When two aircraft are approaching head-on or approximately so in the air and there is danger of collision, each shall alter its course to the right.

(4) An aircraft which is being overtaken in the air shall have the right of way and the overtaking aircraft, whether climbing, descending or in horizontal flight shall keep out of the way of the other aircraft by altering course to the right, and shall not cease to keep out of the way of the other aircraft until that other aircraft has been passed and is clear, notwithstanding any change in the relative positions of the two aircraft:

Provided that a glider overtaking another glider may alter its course to the right or to the left.

(5) An aircraft while landing or on final approach to land shall have the right of way over other aircraft in flight or on the ground or water.

(6) In the case of two or more aircraft approaching any place for the purpose of landing, the aircraft at the lower altitude shall, subject to subregulation (2) (a), have the right of way, but it shall not cut in front of another aircraft which is on final approach to land or overtake that aircraft:

Provided that—

(i) when an air traffic control unit has communicated to any aircraft an order of priority for landing, the aircraft shall approach to land in that order;

(ii) when the commander of an aircraft is aware that another aircraft is making an emergency landing, he shall give way to that aircraft, and at night, notwithstanding that he may have received permission to land, shall not attempt to land until he has received further permission to do so;

(iii) the commander of an aircraft who anticipates being compelled to land because of factors affecting the safe operation of his aircraft or the commander of an aircraft carrying any sick or seriously injured person requiring immediate medical attention may request priority and shall submit a report explaining the necessity for such priority if so required by an air traffic control unit.

26. Acrobatic manoeuvres

An aircraft shall not carry out any acrobatic manoeuvres—

(a) over the congested area of any city, municipality, township or settlement; or

(b) within controlled airspace except with the consent of the appropriate air traffic control unit.

27. Right-hand traffic rule

An aircraft which is flying within Malawi below 3,000 feet above mean sea level or 1,000 feet above ground level whichever is the higher, in sight of the ground and following a road, railway, river or coastline, or any other line of landmarks, shall keep such line of landmarks on its left at such a distance as will ensure avoidance of collision with any aircraft following the same line of landmarks in the reverse direction.

28. Flight plan and arrival notification

(1) Before an aircraft—

(a) takes off from a point within controlled airspace; or

(b) enters controlled airspace; or

(c) takes off on a flight during which it is intended to cross international boundaries,

the commander of the aircraft shall cause to be submitted to the appropriate air traffic control unit a flight plan containing such particulars as may be prescribed and as may be necessary to enable the air traffic control unit to issue an air traffic control clearance, or for search and rescue purposes.

(2) The commander of an aircraft on any flight for which a flight plan has been submitted shall take all reasonable steps to ensure upon landing that notice of the arrival of the aircraft is given to the aerodrome of departure.

(3) The commander of an aircraft who has caused notice of its intended arrival at any aerodrome to be given to the air traffic control unit or other authority at that aerodrome shall ensure that the air traffic control unit or other authority at that aerodrome is informed as quickly as possible of any change of intended destination and any estimated delay in arrival of 30 minutes or more.

29. Radio watch routine reports

The commander of an aircraft flying within a flight information region outside controlled airspace shall, if equipped with suitable two-way radio communications, maintain radio watch on a radio station furnishing communication for the unit providing flight information service in the flight information region and shall transmit to the said radio station routine reports as follows—

(a) not more than 30 minutes after take-off and thereafter at intervals of not more than one hour, the position of the aircraft and such other information as may be notified for the purpose of this regulation;

(b) during the period 20 to 40 minutes following the time of the last contact, the phrase “operations normal”.

30. Flights in notified airspace and controlled airspace

(1) In relation to flights in visual meteorological conditions in controlled airspace notified for the purpose of this regulation, the commander of an aircraft shall comply with regulations 36, 37 and 38 as if the flights were IFR flights:

Provided that in Malawi an aircraft flying at night shall be flown in accordance with the instrument flight rules, or in a control zone in accordance with the instrument flight rules or the proviso to regulation 33 (2).

(2) In relation to flights in instrument meteorological conditions in controlled airspace notified for the purpose of this regulation, other than a flight in a control zone made in accordance with the proviso to regulation 33 (2), the commander of an aircraft shall be qualified for IFR flight in accordance with international standards of personnel licensing and there shall be included in his pilot's licence a valid instrument rating.

31. Semi-circular flight rule

An aircraft when in level flight outside controlled airspace and at a height of more than 3,000 feet above mean sea level or 1,000 feet above ground level, whichever is the higher, shall be flown at the flight level appropriate to its magnetic track in accordance with the appropriate table set forth in this regulation. The flight level shall be measured by an altimeter set according to the system notified, or in the case of a flight over a country other than Malawi, otherwise published by the competent authority, in relation to the area over which the aircraft is flying:

Provided that an aircraft may be flown at a flight level other than the flight level required by this regulation if it is flying in conformity with instructions given by an air traffic control unit or in accordance with holding procedures notified in relation to an aerodrome.

TABLE I

FLIGHTS UNDER VISUAL FLIGHT RULES

Magnetic Track Flight Level (1)(2) 000°–179° Flight level 35, 55, 75 etc. (incl.) to flight level 135 180°–359° Flight level 45, 65, 85 etc. (incl.) to flight level 145

Above flight level 145 all flights shall be under instrument flight rules.

TABLE II

FLIGHTS UNDER INSTRUMENT FLIGHT RULES

Magnetic track Flight Level (1)(2) 000°–179° (incl.) Flight level 30, 50, 70 etc. to flight level 290 180°–359° (incl.) Flight level 40, 60, 80 etc. to flight level 280

TABLE III

ALL FLIGHTS ABOVE FLIGHT LEVEL 290

Magnetic track Flight Level (1)(2) 000°–179° (incl.) Flight level 290, 330, 370 etc. 180°–359° (incl.) Flight level 310, 350, 390 etc.

32. Fuel and oil supply

An aircraft shall not commence a flight unless, taking into account the meteorological conditions reported and forecast and any traffic delays that can reasonably be expected, the aircraft carries sufficient fuel and oil to safely complete the flight. In addition, a reserve shall be carried to provide for contingencies and to enable the aircraft to reach an alternate aerodrome when such is declared in the flight plan required in accordance with regulation 28(1).

PART V

VISUAL FLIGHT RULES

33. Visual flight rules

(1) An aircraft flying outside controlled airspace shall remain at least 1 mile horizontally and 1,000 feet vertically away from cloud and in a flight visibility of at least 5 miles and shall comply with regulation 31:

Provided that at or below 3,000 feet above mean sea level or 1,000 feet above ground level, whichever is the higher, this subregulation shall be deemed to be complied with if the aircraft is flown clear of cloud and in sight of the surface in a visibility of at least 1 mile except that a helicopter may fly in a visibility of less than 1 mile if manoeuvred at a speed that will give adequate opportunity to observe other traffic or any obstruction in time to avoid collision.

(2) An aircraft flying within controlled airspace shall remain at least 1 mile horizontally and 1,000 feet vertically away from cloud and in a flight visibility of at least 5 miles and shall be flown in accordance with any instructions given by the appropriate air traffic control unit:

Provided that in a control zone, in the case of a special VFR flight, the aircraft shall be flown in accordance with any instructions given by the appropriate air traffic control unit.

For the purpose of this subregulation "special VFR flight" means a flight made in instrument meteorological conditions or at night in a control zone notified for the purposes of regulation 30 in respect of which the appropriate air traffic control unit has given permission for the flight to be made in accordance with special instructions given by that unit instead of in accordance with the instrument flight rules.

34. Limitations imposed by weather conditions

A flight, other than a flight within the immediate vicinity of the aerodrome of departure in visual meteorological conditions, to be conducted in accordance with the visual flight rules shall not be commenced unless available current meteorological reports or a combination of current reports and forecasts indicate that the meteorological conditions along the route, or that part of the route to be flown under the visual flight rules, will at the appropriate time be such as to render compliance with the visual flight rules possible.

PART VI

INSTRUMENT FLIGHT RULES

35. Instrument flight rules

(1) In relation to flights outside controlled airspace, regulations 36 and 37 shall apply.

(2) In relation to flights within controlled airspace, regulations 36, 37, 38 and 39 shall apply.

36. Minimum height

Without prejudice to the provisions of regulation 8, in order to comply with the instrument flight rules an aircraft shall not fly at a height of less than 1,000 feet, or over mountainous areas or high

terrain at a height of less than 2,000 feet, above the highest obstacle within a distance of 5 miles of the aircraft unless flying on a route notified for the purposes of this regulation or otherwise authorized by the competent authority or unless it is necessary to do so in order to take off or land.

37. Air traffic control clearance

(1) In order to comply with the instrument flight rules, before an aircraft either takes off from a point within any controlled airspace or enters any controlled airspace, the commander of the aircraft shall obtain from the appropriate air traffic control unit an air traffic control clearance based on the flight plan submitted in accordance with regulation 28 (1).

(2) The commander of the aircraft shall fly in conformity with—

(a) the air traffic control clearance issued for the flight as amended by any further instructions given by an air traffic control unit; and

(b) the holding and instrument approach procedures, notified in relation to the aerodrome of destination, unless he is otherwise authorized by the air traffic control unit serving that aerodrome:

Provided that if an emergency arises which requires an immediate deviation from the air traffic control clearance, the commander of the aircraft shall, as soon as possible, inform the appropriate air traffic control unit of the deviation.

(3) The commander of the aircraft after it has flown in controlled airspace shall forthwith inform that unit when the aircraft lands within or leaves the controlled airspace.

38. Position reports

In order to comply with the instrument flight rules the commander of an aircraft in IFR flight who flies in or is intending to enter controlled airspace shall report to the appropriate air traffic control unit the time and the position and the altitude of the aircraft at such reporting points or at such intervals of time as may be notified for this purpose or as may be directed by the air traffic control unit.

39. Communication failure

In order to comply with the instrument flight rules the commander of an aircraft flying in controlled airspace who is unable to establish or maintain a two-way communication with the appropriate air traffic control unit shall—

(a) proceed to and land at the nearest aerodrome suitable for landing, if it is possible to do so by flying only in conditions not inferior to those specified in regulation 33 (2); or

(b) if he is unable to comply with the provisions of paragraph (a)—

(i) continue to fly in accordance with the current flight plan to the appropriate designated navigational aid serving the aerodrome of intended landing;

(ii) arrange the flight so as to arrive over the navigation aid specified in subparagraph (i) at, or as close as possible to, the estimated time of arrival as indicated in the filed flight plan and revised in accordance with the current flight plan;

(iii) after arrival over the navigational aid specified in subparagraph (i), commence descent at, or as close as possible to, the expected approach time last received and acknowledged or, if no expected approach time has been received and acknowledged, at, or as close as possible to, the estimated time of arrival as indicated in the filed flight plan and revised in accordance with the current flight plan;

(iv) complete a normal instrument approach procedure as notified for the designated navigational aid; and

(v) land, if possible, within 30 minutes after the estimated time of arrival as indicated in the filed flight plan and revised in accordance with the current flight plan or the last acknowledged expected approach time, whichever is the later; or

(c) if he is unable to comply with the provisions of paragraph (a) or paragraph (b), leave controlled airspace and either—

(i) fly to an area in which flight may be continued in visual meteorological conditions and land at an aerodrome there; or

(ii) select a suitable area in which to descend through cloud and land at an aerodrome there.

40. Limitations imposed by weather conditions

(1) When, in the flight plan required to be submitted by regulation 28 (1), an alternate aerodrome is declared, a flight to be conducted in accordance with the instrument flight rules shall not be commenced unless the available current meteorological information indicates that meteorological conditions, at the estimated time of arrival, will be at or above the meteorological minima for the aerodrome of intended landing and additionally for at least one alternate aerodrome.

(2) When, in the flight plan required to be submitted by regulation 28 (1), no alternate aerodrome is declared, a flight to be conducted in accordance with the instrument flight rules shall not be commenced unless—

(a) a standard instrument approach procedure is prescribed for the aerodrome of intended landing; and

(b) available current meteorological information indicates that the following meteorological conditions will exist from two hours before to two hours after the estimated time of arrival—

(i) a cloud base of at least 1,000 feet above the minimum associated with the instrument approach procedure; and

(ii) visibility of at least 4 kilometres more than the minimum associated with the instrument approach procedure.

(3) A flight shall not be continued towards the aerodrome of intended landing unless the latest available meteorological information indicates that conditions at that aerodrome, or at least one alternate aerodrome, will, at the expected time of arrival, be at or above the specified meteorological minima for that aerodrome.

(4) Except in the case of an emergency an aircraft shall not continue its approach to land beyond the point at which the limits of the meteorological minima for the aerodrome would be infringed.

PART VII

AERODROME TRAFFIC RULES

41. Application of aerodrome traffic rules

The provisions of this Part shall apply particularly to flying machines but shall also be observed so far as is practical in relation to all other aircraft.

42. Visual signals

The commander of an aircraft on or in the traffic zone of an aerodrome shall observe such visual signals as may be displayed at, or directed to him from, the aerodrome by the authority of the Chief Civil Aviation Officer and shall obey any instructions which may be given to him by means of such signals:

Provided that he shall not be required to obey the signals referred to in regulation 55 (relating to marshalling signals) if in his opinion it is inadvisable to do so in the interests of safety.

43. Access to and movement on the manoeuvring area and other parts of the aerodrome used by aircraft

(1) A person or vehicle shall not go on to any part of an aerodrome provided for the use of aircraft and under the control of the person in charge of the aerodrome without the permission of the person in charge of the aerodrome, and except in accordance with any conditions subject to which that permission may have been granted.

(2) A vehicle shall not move on the manoeuvring area of an aerodrome having an air traffic control unit without the permission of that unit, and except in accordance with any conditions subject to which that permission may have been granted.

(3) Any permission granted for the purposes of this regulation may be granted either in respect of persons or vehicles generally, or in respect of any particular person or vehicle or any class of person or vehicle.

44. Right of way on the ground

(1) Notwithstanding any air traffic control clearance it shall remain the duty of the commander of an aircraft to take all possible measures to ensure that his aircraft does not collide with any other aircraft or with any vehicle.

(2)(a) Aircraft and vehicles shall give way to aircraft which are taking off or landing.

(b) Vehicles, and aircraft which are not taking off or landing, shall give way to vehicles towing aircraft.

(c) Vehicles which are not towing aircraft shall give way to aircraft.

(3) Subject to the provisions of subregulation (2) and of regulation 46 (3) (b), in case of danger of collision between two aircraft—

(a) when the two aircraft are approaching head-on or approximately so, each shall alter course to the right;

(b) when the two aircraft are on converging courses, the one which has the other on its right shall give way to the other and shall avoid crossing ahead of the other unless passing well clear of it;

(c) an aircraft which is being overtaken shall have the right of way, and the overtaking aircraft shall keep out of the way of the other aircraft by altering its course to the right until that other aircraft has been passed and is clear, notwithstanding any change in the relative positions of the two aircraft.

(4) Subject to the provisions of subregulation (2) (b) a vehicle shall—

(a) overtake another vehicle so that the other vehicle is on the left of the overtaking vehicle;

(b) keep to the left when passing another vehicle which is approaching head-on or approximately so.

45. Dropping of tow ropes, etc.

Tow ropes, banners or similar articles towed by aircraft shall not be dropped from aircraft except at an aerodrome and—

(a) in accordance with arrangements made with an air traffic control unit at the aerodrome or, if there is no such unit, with the person in charge of the aerodrome; or

(b) in the area designated by the marking described in regulation 52 (4), and the ropes, banners or similar articles shall be dropped when the aircraft is flying in the direction appropriate for landing.

46. Aerodromes not having air traffic control units

(1)(a) An aircraft shall not fly within a zone which the commander of the aircraft knows or ought reasonably to know to be the aerodrome traffic zone of an aerodrome where no air traffic control unit is for the time being notified as being on watch, except for the purpose of taking off or landing at that aerodrome or observing the signals in the signals area with a view to landing there, unless he has the permission of the person in charge of the aerodrome.

(b) An aircraft flying within such a zone for the purpose of observing the signals shall remain clear of cloud and at least 500 feet above the level of the aerodrome.

(2) The commander of an aircraft flying in such a zone or moving on such an aerodrome shall—

(a) conform to the pattern of traffic formed by other aircraft, or keep clear of the airspace in which the pattern is formed;

(b) make all turns to the left unless ground signals otherwise indicate; and

(c) take off and land in the direction indicated by the ground signals, or if no such signals are displayed, into the wind, unless good aviation practice demands otherwise.

(3)(a) An aircraft shall not land on a runway at such an aerodrome unless the runway is clear of other aircraft.

(b) Where take-offs and landings are not confined to a runway—

(i) an aircraft when landing shall leave clear on its left any aircraft which has already landed or is already landing or is about to take off; if such an aircraft is obliged to turn it shall turn to the left after the commander of the aircraft has satisfied himself that such action will not interfere with other traffic movements; and

(ii) an aircraft about to take off shall take up position and manoeuvre in such a way as to leave clear on its left and aircraft which is already taking off or is about to take off.

(4) An aircraft after landing shall move clear of the landing area in use as soon as it is possible to do so.

47. Aerodromes having air traffic control units

(1) An aircraft shall not fly within a zone which the commander of the aircraft knows or ought reasonably to know to be the aerodrome traffic zone of an aerodrome where an air traffic control unit is for the time being on watch, except for the purpose of taking off or landing at that aerodrome, or observing the signals in the signals area with a view to landing there, unless he has the permission of the appropriate air traffic control unit.

(2) The commander of an aircraft flying in the aerodrome traffic zone of an aerodrome where an air traffic control unit is for the time being notified as being on watch, or moving on the manoeuvring area of such an aerodrome, shall—

(a) cause a continuous watch to be maintained on the appropriate radio frequency notified for air traffic control communications at the aerodrome, or, if this is not possible, cause a watch to be kept for such instructions as may be issued by visual means;

(b) not taxi at the aerodrome or take off or land anywhere in the zone except with the permission of the air traffic control unit;

(c) comply with the provisions of regulation 46 (1) (b), (2), (3) and (4) as if the aerodrome did not have an air traffic control unit, unless he has permission of the air traffic control unit at the aerodrome, or has been instructed by that unit, to do otherwise.

48. Air traffic control unit to be informed

Without prejudice to the provisions of regulations 28 and 37, the commander of an aircraft shall, immediately upon arrival at, or prior to departure from an aerodrome within Malawi having an air traffic control unit, ensure that such unit is informed of the flight which he has just made or which he is about to undertake.

PART VIII

AERODROME SIGNALS AND MARKINGS: VISUAL AND AURAL SIGNALS

49. General

(1) Whenever any signal specified in this Part is given or displayed, or whenever any marking so specified is displayed, by any person in an aircraft, or at an aerodrome, or at any other place which is being used by aircraft for landing or take-off, it shall when given or displayed in Malawi have the meaning assigned to it in this Part.

(2) All dimensions specified in this Part shall be subject to a tolerance of 10 per cent., plus or minus.

50. Signals in the signals area

(1) When any signal specified in the following subregulations is displayed it shall be placed in a signals area, which shall be a square visible in all directions bordered by a white strip 30 centimetres wide, the internal sides measuring not less than 10 metres.

(2) A white landing T, as illustrated—

signifies that aeroplanes and gliders taking off or landing shall do so in a direction parallel with the shaft of the T and towards the cross arm unless otherwise authorized by the appropriate air traffic control unit.

(3) A white dumb-bell, as illustrated—

signifies that movements of aeroplanes and gliders on the ground shall be confined to paved, metalled or similar hard surfaces.

(4) A white dumb-bell as described in subregulation (3) but with a black strip 60 centimetres wide across each disc at right angles to the shaft of the dumb-bell as illustrated—

signifies that aeroplanes and gliders taking off or landing shall do so on a runway but that movement on the ground is not confined to paved, metalled or similar hard surfaces.

(5) A red and yellow striped arrow, as illustrated—

the shaft of which is at least 1 metre wide placed along the whole or not less than a total of 11 metres of two adjacent sides of the signals area and pointing in a clockwise direction signifies that a right-hand circuit is in force.

(6) A red panel 3 metres square with a yellow strip along one diagonal at least 50 centimetres wide, as illustrated—

signifies that the state of the manoeuvring area is poor and that pilots must exercise special care when landing.

(7) A red panel 3 metres square with a yellow strip at least 50 centimetres wide along each diagonal, as illustrated—

signifies that the aerodrome is unsafe for the movement of aircraft and that landing on the aerodrome is prohibited.

(8) A white double cross as illustrated—

signifies that glider flying is in progress.

51. Marking for paved runways and taxiways

(1) Two or more white crosses as illustrated—

displayed on a runway or taxiway, with the arms or the crosses at an angle of 45° to the centre-line of the runway, at intervals of not more than 300 metres signify that the section of the runway or taxiway marked by them is unfit for the movement of aircraft.

(2) A broken white line and continuous white line across a taxiway as illustrated—

signify the holding position beyond which no part of an aircraft or vehicle shall project in the direction of the runway without permission from an air traffic control unit.

52. Markings on unpaved manoeuvring areas

(1) Markings with orange and white stripes of an equal width of not less than 50 centimetres with an orange stripe at each end as illustrated—

alternating with flags not less than 60 centimetres square showing equal orange and white triangular areas, indicate the boundary of an area unfit for the movement of aircraft, and one or more white crosses as specified in regulation 51 (1) indicate the said area. The distance between any two successive orange and white flags shall not exceed 90 metres.

(2) Striped markers, as specified in subregulation (1) spaced, not more than 45 metres apart, indicate the boundary of an aerodrome.

(3) White flat rectangular markers 3 metres long and 1 metre wide at intervals not exceeding 100 metres flush with the surface of the unpaved runway or stopway, as the case may be, indicate the boundary of an unpaved runway or stopway.

(4) A yellow cross with two arms 6 metres long by 1 metre wide at right angles indicated that tow ropes and similar articles towed by aircraft shall only be dropped in the area in which the cross is placed.

(5) A white double cross as illustrated—

indicates an area which shall be used only for the taking off and landing of gliders.

(6) A white letter H as illustrated—

indicates an area that shall be used only for the landing and take-off of helicopters.

53. Signals visible from the ground

A black letter C against a yellow background as illustrated—

indicates the place at which a pilot can report to the air traffic control unit or to the person in charge of the aerodrome.

54. Lights and pyrotechnic signals for control of aerodrome traffic

Each signal described in the first column of the Table hereunder, when directed from an aerodrome to an aircraft or to a vehicle, or from an aircraft, shall have the meanings respectively appearing in the second, third and fourth columns of that Table opposite the description of the signal. An aircraft to which any signal described in the first column of the Table has been directed from an aerodrome shall acknowledge receipt of the signal in the following manner—

(a) when in flight—

(i) during the hours of daylight by rocking the aircraft's wings, provided that this acknowledgement shall not be made if, in the opinion of the commander of an aircraft, such action would prejudice the safety of his aircraft;

(ii) during the hours of darkness by flashing on and off twice the aircraft's landing lights or, if not so equipped, by switching off and on twice the aircraft's navigation lights;

(b) when on the ground—

(i) during the hours of daylight by moving the aircraft's rudder and ailerons;

(ii) during the hours of darkness by making the signals described in paragraph (a)

(ii).

TABLE—MEANING OF LIGHTS AND PYROTECHNIC SIGNALS

Characteristic and colour of light beam or pyrotechnic	FROM AN AERODROME	From an aircraft in flight to an aerodrome	to an aircraft in flight	to an Aircraft or vehicle on the aerodrome
Give way to other aircraft and continue circling	(a) Continuous red light	Stop—		(b) Red pyrotechnic light, or red flare
Do not land, wait for permission		Move clear		(c) Red flashes
Do not land, aerodrome not available for landing		Immediate assistance is required		(d) Green flashes
Return to aerodrome, wait for permission to approach and land		You may move on manoeuvring area—		(e) Continuous green light
You may land		You may take off (not applicable to a vehicle)—		(f) White flashes
Land at this aerodrome and proceed to the apron		Return to starting point on the aerodrome		(g) Switching on and off the navigation lights or landing lights—
I am compelled to land immediately		I am compelled to land immediately		

55. Marshalling signals

(1) Each of the signals for the guidance of aircraft manoeuvring on or off the ground described and illustrated in the Schedule shall have in Malawi the meaning set forth in that Schedule relative to the description of the signal. By day any such signals shall be given by hand or by circular bats and by night by torches or illuminated wands.

(2) The following signals made by a pilot in an aircraft to a marshaller on the ground shall have respectively the following meanings—

Description of Signal	Meaning of Signal
(a) Raise arm and hand with fingers extended horizontally in front of face, then clench fist.	Brakes engaged
(b) Raise arm with fist clenched horizontally in front of face, then extended fingers.	Brakes released
(c) Arms extended palms facing outwards, move hands inwards to cross in front of face.	Insert chocks
(d) Hands crossed in front of face, palms facing outwards, move arms outwards.	Remove chocks
(e) Raise the number of fingers on one hand indicating the number of the engine to be started. For this purpose the aircraft engines shall be numbered in relation to the marshaller facing the aircraft, from his right to his left, for example, No. 1 engine shall be the port outer engine, No. 2 engine shall be the port inner engine, No. 3 engine shall be the starboard inner engine and No. 4 engine shall be the starboard outer engine.	Ready to start engines

56. Distress and urgency

(1) The following signals, given either together or separately before the sending of a message, signify that an aircraft is threatened by grave and imminent danger and requests immediate assistance—

- (a) by radiotelephony—the spoken word “MAYDAY”;
- (b) by visual signalling—
 - (i) the signals SOS in the Morse Code;
 - (ii) a succession of pyrotechnic lights fired at short intervals each showing a single red light;
 - (iii) a parachute flare showing a red light;
- (c) by sound signalling other than radiotelephony—the signal SOS in the Morse Code.

(2) The following signals, given either together or separately, before the sending of a message, signify that the commander of the aircraft wishes to give notice of difficulties but that he does not require immediate assistance—

- (a) the repeated switching on and off of the aircraft landing lights;
- (b) the repeated switching on and off of the navigation lights, in such a manner as to be clearly distinguished from the flashing navigation lights described in regulation 15.

(3) The following signals, given either together or separately, indicate that the commander of the aircraft has an urgent message to transmit concerning the safety of an aircraft, ship or other vehicle, or of some person on board or in sight—

- (a) by radiotelephony—
the spoken word “PAN”;
- (b) by visual signalling—
the signal XXX in the Morse Code;
- (c) by sound signalling other than radiotelephony—
the signal XXX in the Morse Code.

57. Warning signals to aircraft in flight

By day and by night a series of projectiles discharged at intervals of ten seconds, each showing on bursting red and green lights or stars, indicates that the aircraft to which the signal is directed is in the vicinity of an area where flying is restricted or prohibited under the Air Navigation Regulations and is required to take such remedial action as may be necessary.

58. Offences and penalties

(1) Subject to subregulation (2), it shall be an offence to contravene, to permit the contravention of, or to fail to comply with any of these Regulations, and any person guilty of an offence shall be liable to a fine of K400 and to imprisonment for six months.

(2) It shall be lawful for these Regulations to be departed from to the extent necessary—

- (a) for avoiding immediate danger; or
- (b) for complying with the law of any country other than Malawi within which the aircraft then is.

(3) If any departure from these Regulations is made for the purpose of avoiding immediate danger, the commander of the aircraft shall cause written particulars of the departure, and of the circumstances giving rise to it, to be given within ten days thereafter to the competent authority of the country in whose territory the departure was made, or, if the departure was made over the high seas, to the Chief Civil Aviation Officer.

(4) Nothing in these Regulations shall exonerate any person from the consequences of any neglect in the use of lights or signals or of the neglect of any precautions required by ordinary aviation practice or by the special circumstances of the case.

SCHEDULE (reg. 55)

MEANING OF MARSHALLING SIGNALS

Description of Signal Meaning of Signal In Daylight By Night By Night (a) Right or left arm down, the other arm moved across body and extended to indicate position of the other marshaller Proceed under guidance of another marshaller (b) Arms repeatedly moved upward and backward, beckoning onward Move ahead (c) Right arm down, left arm repeatedly moved upward and backward. The speed of arm movement indicates the rate of turn Open up starboard engine or turn to port (d) Left arm down, right arm repeatedly moved upward and backward. The speed of arm movement indicates the rate of turn Open up port engine or turn to starboard (e) Arms repeatedly crossed above the head. The speed of arm movement indicates the urgency of the stop Stop (f) A circular motion of the right hand at head level, with the left hand pointing to the appropriate engine Start engines (g) Arms extended, the palms facing inward then swung from the extended position inward Insert chocks (h) Arms down, the palms facing outward, then swung outward Chocks away (i) Either arm and hand placed level with the chest, then moved laterally with the palm downward Cut engines (j) Arms placed down, with the palms towards the ground, then moved up and down several times Slow down (k) Arms placed down, with the palms towards the ground, then either the right or left arm moved up and down indicating that the motors on the left or right side, as the case may be, should be slowed down Slow down engines on indicated side (l) Arms placed above the head in a vertical position This bay (m) The right arm raised at the elbow, with the thumb erect All clear: marshalling finished

(n) Arms placed horizontally sideways Hover (o) Arms placed down and crossed in front of the body Land (p) Arms placed horizontally sideways with the palms up beckoning upward. The speed of arm movement indicates the rate of ascent Move upward (q) Arms placed horizontally sideways with the palms towards the ground beckoning downward. The speed of arm movement indicates the rate of descent Move downward (r) Either arm placed horizontally sideways, then the other arm moved in front of the body to that side, in the direction of the movement, indicating that the helicopter should move horizontally to the left or right side, as the case may be; repeated several times Move horizontally

(s) Arms placed down the palms facing forward then repeatedly swept up and down to shoulder level. Move back (t) Left arm extended horizontally forward, then right arm making a horizontal slicing movement below left arm. Release load (u) Point left arm down, move right arm down from overhead, vertical position to horizontal forward position, repeating right arm movement. Back aircraft's tail to starboard (v) Point right arm down, move left arm down from overhead, vertical position to horizontal forward position, repeating left arm movement Back aircraft's tail to port

(w) Raise arm and hand, with fingers extended, horizontally in front of body, then clench fist. Engage brakes (x) Raise arm, with fist clenched, horizontally in front of body, then extend fingers. Release brakes (y) Left hand overhead with the number of fingers extended, to indicate the number of the engines to be started, and circular motion of right hand at head level. Start engine (s)

AVIATION (SMOKE) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Restrictions on causing smoke
4. Offences and penalties
5. Exemption

G.N. 20/1971

AVIATION (SMOKE) REGULATIONS

under s. 19

1. Citation

These Regulations may be cited as the Aviation (Smoke) Regulations.

2. Interpretation

In these Regulations unless the context otherwise requires—

“aerodrome” means any aerodrome designated by the Chief Civil Aviation Officer by notice published in the Gazette to be an aerodrome to which these Regulations shall apply;

“smoke” includes soot, ash, grit, gritty particles, dust and any other substance whatsoever which obscures or is likely to obscure visibility.

3. Restrictions on causing smoke

(1) Subject to subregulation (2), no person shall operate or cause to be operated within 8 miles from the boundary of any aerodrome any machinery or plant used for industrial or trade purposes which emits or causes smoke or which may emit or may cause smoke unless the written authority of the Chief Civil Aviation Officer has been first obtained for such operation and the machinery or plant is operated in compliance with any conditions the Chief Civil Aviation Officer may impose when granting such authority.

(2) Subregulation (1) shall not apply in relation to machinery or plant used for industrial or trade purposes which is installed, or an agreement for the purchase or installation of which has been entered

into, before the date upon which the aerodrome in question is designated for the purpose of these Regulations.

(3) Any person who operates or causes to be operated any machinery or plant referred to in subregulation (2) shall use any practical means available for minimizing the smoke emitted or caused by such operation during any period when the Chief Civil Aviation Officer notifies him that the emission or causing of smoke within the area in question is likely to affect visibility at or over the aerodrome or any approach or take-off area at that aerodrome; and for the purpose of this subregulation “practicable” means reasonably practicable having regard, inter alia, to—

- (a) local conditions and circumstances;
- (b) the financial implications;
- (c) the current state of technical knowledge;
- (d) the proper use of the machinery or plant; and
- (e) the type of fuel available.

4. Offences and penalties

Any person who contravenes or fails to comply with any of the provisions of these Regulations shall be guilty of an offence and liable to a fine of K20 in the case of a first offence and to K200 in the case of a second or subsequent offence.

5. Exemptions

Any person who is engaged in construction, maintenance or repair work on an aerodrome or on any building thereon shall be exempt from the provisions of these Regulations.

AVIATION (FEES) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

- 1. Citation
- 2. Interpretation

PART II

3. Landing fees
- 3A. Fees for operation of a scheduled aerodrome beyond notified hours
4. Monthly rate
5. Annual landing permit
6. Exemption from landing fees
7. No reduction in landing fees
8. Housing fees
9. Parking fees
10. Payment of fees

PART III

11. Exemptions by the Minister

First Schedule

Second Schedule

Third Schedule

Fourth Schedule

GN. 18/1971

130/1971

205/1974

188/1975

129/1976

21/1977

153/1977

12/1978

61/1980

144/1980

104/1981

66/1982

116/1987

95/1992

98/1993

82/1996

29/2000

AVIATION (FEES) REGULATIONS

under s. 19

PART I

1. Citation

These Regulations may be cited as the Aviation (Fees) Regulations.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“the Air Navigation Regulations” means the Aviation (Air Navigation) Regulations;

“all-up weight” means the maximum total weight authorized in the certificate of airworthiness in force in respect of the aircraft, or if no such certificate is in force in the certificate of airworthiness last in force in respect of that aircraft, or in any other case the maximum total weight authorized of the prototype or modification thereof to which the aircraft in the opinion of the Chief Civil Aviation Officer conforms.

“landing” means a landing at a Government aerodrome in Malawi;

“private aircraft” means an aircraft with a certificate of airworthiness which has been issued subject to the condition that the aircraft shall be flown only for purposes other than public transport or aerial work;

“scheduled aerodrome” means an aerodrome listed in the First Schedule.

(2) Subject to subregulation (1) expressions used in these Regulations shall, unless the context otherwise requires, have the same respective meanings as in the Air Navigation Regulations.

PART II

3. Landing fees

(1) No fee shall be paid in respect of a landing at any Government aerodrome in Malawi other than a scheduled aerodrome.

(2) Subject to the provisions of these Regulations the fee payable in respect of a landing by an aircraft at a scheduled aerodrome shall be the landing fee specified in relation to that aircraft in the Second Schedule:

Provided that in respect of a landing at a scheduled aerodrome by an aircraft engaged on a scheduled journey between another aerodrome in Malawi and that aerodrome the fee payable shall be 70 per cent of the landing fee specified in relation to that aircraft in the Second Schedule.

3A. Fees for operation of a scheduled aerodrome beyond notified hours

Whenever a scheduled aerodrome has—

- (a) at the request of any aircraft owner or his agent; or
- (b) at the direction of the Chief Civil Aviation Officer or other officer authorized by him, given in the interest of safety,

116/1987 been operated beyond the notified hours of operation, such aircraft owner or his agent or the owner of any aircraft who uses the facilities of such aerodrome during the extended period shall pay a fee as specified in the Second Schedule for every hour or part thereof during which such aerodrome has been requested or directed to be kept open or has been used beyond such notified hours. G.N. 66/1982

4. Monthly rate

(1) In respect of landings at any scheduled aerodrome or aerodromes within the period of any named month an operator may apply to be charged landing fees at a monthly rate instead of at the rate prescribed in the Second Schedule.

(2) The provisions of subregulation (1) shall not apply to any aircraft the all-up weight of which exceeds 2,000 kilograms.

(3) The application referred to in subregulation (1) shall be addressed to the Chief Civil Aviation Officer and sent so as to reach him at least 21 days before the first day of the named month for which the application is made.

(4) On receipt of an application made under this regulation the Chief Civil Aviation Officer shall, if he is entirely satisfied with the application, grant the same and the monthly rate charged shall be such sum as the Chief Civil Aviation Officer in his absolute discretion deems proper in all the circumstances of the case.

5. Annual landing permit

82/1996(1) The Chief Civil Aviation Officer may, on application made by the owner of a private Malawi aircraft of an all-up weight not exceeding 2,000 kilograms, and on payment of a fee of US\$150, issue to the owner in respect of such aircraft as aforesaid an annual landing permit relating to such scheduled aerodromes as may be specified in the permit. G.N. 98/1993

(2) An annual landing permit so issued shall remain in force for a period of one year from the date of its issue.

(3) An aircraft in respect of which an annual landing permit has been so issued and is in force may land at the scheduled aerodromes specified in the permit without payment of any further landing fee if, but only if, the aircraft is being used at the time of landing for a purpose other than public transport or aerial work.

(4) Any application referred to in subregulation (1) shall be made to the Chief Civil Aviation Officer in respect of an annual period commencing on the first day of the month following the date of application and shall be sent so as to reach him at least 21 days before the date of commencement. The application shall include full details of the registration marks and type of the aircraft in respect of which the application relates.

(5) On receipt of an application made under this regulation the Chief Civil Aviation Officer shall, if he is entirely satisfied with the application, grant the same.

6. Exemption from landing fees

(1) No landing fee shall be charged or become payable in respect of any landing at a scheduled aerodrome— G.N. 21/1977

(a) by any aircraft owned by the Government which has been exempted by the Chief Civil Aviation Officer;

(b) by any aircraft owned and operated by any flying club approved for the purpose of this regulation by the Chief Civil Aviation Officer if the flight preceding the landing has not been for hire or reward or for any purpose other than club flying;

(c) by any aircraft used solely for diplomatic purposes;

(d) by any aircraft at the end of a flight in respect of which all the following conditions were satisfied—

(i) the flight began and finished at the aerodrome with no intermediate landing at any other place;

(ii) the flight was undertaken solely for the purpose of testing the aircraft or its engines, instruments, radio or other equipment; and

(iii) notice was given to the person in charge of the aerodrome before the beginning of the flight that the flight was to be a test flight for the purpose of this regulation;

(e) by an aircraft which has departed from a scheduled aerodrome and has returned to the same aerodrome because of any hazard caused by weather or any other circumstances without making any intermediate landing;

(f) by any aircraft landing at a scheduled aerodrome solely for the purposes of any customs, immigration or health clearance, provided that the aircraft has arrived from or is proceeding to an aerodrome within Malawi where such clearance facilities are not available and that no persons, mail or cargo are embarked or disembarked, and that no fuel or oil is supplied to the aircraft, and that the aircraft takes off within one hour of the completion of such clearances;

(g) by any aircraft belonging to an aircraft operator who has a place of business in Malawi or to any scheduled airline licensed to operate in or through Malawi which is being used by such operator or airline on local flights for the sole purpose of giving instructional training or practice in the flying of that type of aircraft, or in the operation of let-down facilities in Malawi, to aircrew employed by that operator or airline so long as—

(i) neither freight (except as ballast) nor any fare-paying passenger is carried;

(ii) the flight begins and ends at the aerodrome with no intermediate landing at any other place, other than an emergency landing; and

(iii) prior notice of the intended flight is given to the person in charge at the aerodrome;

(h) by any aircraft which after landing takes off again immediately without coming to rest on, or turning off from the runway on which it has landed.

(2) On the first introduction into Malawi of a type of aircraft for sales demonstration purposes by a manufacturer, operator or scheduled airline, the Chief Civil Aviation Officer may, after a landing fee has been paid in respect of a landing by that aircraft at a scheduled aerodrome, grant such exemption as the Chief Civil Aviation Officer in his absolute discretion deems fit in all the circumstances of the case in respect of the payment of further fees for landings by that aircraft at that aerodrome.

7. No reduction in landing fees

Notwithstanding anything contained in these Regulations to the contrary no reduction of landing fees shall be made by reason of the unavailability of any aerodrome, air route facility, airway facility, or other facility whatsoever.

8. Housing fees

(1) At scheduled aerodromes where housing facilities are available, fees for the housing of aircraft shall be charged and payable for the use of such facilities at the rates prescribed in the Third Schedule in accordance with the all-up weight of the aircraft and the length of the period of housing: G.N. 21/1978

Provided that the housing of each aircraft owned and operated by any flying club approved for the purpose of this regulation by the Chief Civil Aviation Officer shall be charged and paid for at the rate of K2 per month irrespective of the all-up weight of the aircraft.

(2) An application may be made to the Chief Civil Aviation Officer for the charging of housing fees at the monthly rate prescribed in the said Third Schedule. Any such application shall be addressed to the Chief Civil Aviation Officer and sent so as to reach him at least 21 days before the first day of the month upon which it is desired the period of monthly rates to commence and shall include full details of the registration marks and type of the aircraft to which the application relates and a reference to all-up weight, the scheduled aerodrome at which it is proposed to house the aircraft and the period of time during which it is proposed to house the aircraft at monthly rates.

(3) On receipt of an application under this regulation the Chief Civil Aviation Officer shall, if he is entirely satisfied with application, grant the same.

(4) No housing fees shall be charged or payable in respect of aircraft owned by the Government.

(5) The Chief Civil Aviation Officer, or any officer authorized by him for the purpose, may, for reasons of safety or any other reason, which he in his sole discretion considers good and sufficient, order an aircraft parked in the open to be removed to a suitable hangar, in which case housing fees shall be charged from the time of such order.

9. Parking fees

(1) Subject to subregulations (2) and (3) a parking fee equivalent to 30 per cent of the prescribed housing fee shall be charged and payable in respect of any aircraft which has landed at a scheduled aerodrome. G.N. 66/1982

(2) No parking fee shall be charged or payable—

(a) in respect of an aircraft which makes a single landing at an aerodrome and remains there for a continuous period of less than 6 hours;

(b) in respect of an aircraft which makes more than one landing at an aerodrome within any period of 24 hours and remains there for periods that in the aggregate amount to less than 6 hours;

(c) in respect of an aircraft mentioned in regulation 5 (3);

(d) in respect of an aircraft parked on a parking site at an aerodrome by an operator to whom such site has been leased;

(e) in respect of aircraft mentioned in paragraphs (a), (b) and (c) of regulation 6 (1).

(3) The provisions of regulation 6 (2) shall, mutatis mutandis, apply to this regulation.

10. Payment of fees

(1) Subject to the provisions of subregulations (2) and (3) all fees charged under this Part shall be paid in cash to the person in charge of the aerodrome at which the fee is charged.

(2) An application for the granting of credit facilities for the payment of fees charged may be made to the Chief Civil Aviation Officer and the granting of such facilities shall be at the Chief Civil Aviation Officer's absolute discretion and subject to such conditions that he may deem fit to impose in all the circumstances of the case.

(3) Any fee chargeable at monthly or annual rates shall be payable to the Chief Civil Aviation Officer in advance.

PART III

11. Exemptions by the Minister

(1) The Minister may in his discretion and subject to such conditions or limitations as he thinks fit exempt from payment of any or all fees payable under this Part any of the following classes of aircraft or any aircraft of any such class—

(a) aircraft owned by the Government;

(b) visiting military aircraft of any other state;

(c) aircraft belonging to or employed in the service of any other state; and

(d) aircraft belonging to or employed in the service of any person or body entitled to diplomatic privileges.

(2) The Minister may by writing under his hand delegate any of his powers and functions under this regulation (except this power of delegation) to the Chief Civil Aviation Officer so that the delegated powers and functions may be exercised by the Chief Civil Aviation Officer with respect to the matter specified in the instrument of delegation as fully and effectually as by the Minister.

12. The provisions of the Fourth Schedule shall have effect with respect to the fees to be paid in connexion with the certificates, licences, and other documents, and with examinations, tests,

inspections, investigations, permissions and approvals, required by or for the purposes of the Air Navigation Regulations. Fourth Schedule

G.N. 61/1980

104/1981

116/1987

FIRST SCHEDULE reg. 2

SCHEDULED AERODROMES

Kamuzu International (Lilongwe)

Chileka (Blantyre)

Mzuzu

Karonga

G.N. 116/1987

95/1992

98/1993

82/1996

SECOND SCHEDULE regs. 3 and 3A

PART I

LANDING FEES

(a) LILONGWE INTERNATIONAL Portion of the all-up weight of aircraft US\$ Fees per single landing (i) For the first 2,000 kg 3 00 per 1,000 kg or part thereof (ii) For the next 18,000 kg 3 50 per 1,000 kg or part thereof (iii) For the next 60,000 kg 4 00 per 1,000 kg or part thereof (iv) For the next 80,000 kg 4 50 per 1,000 kg or part thereof (v) For the remainder 5 00 per 1,000 kg or part thereof (b) CHILEKA Portion of the all-up weight of aircraft US\$ Fees per single landing (i) For the first 2,000 kg 3 00 per 1,000 kg or part thereof (ii) For the next 18,000 kg 3 50 per 1,000 kg or part thereof (iii) For the next 60,000 kg 4 00 per 1,000 kg or part thereof (iv) For the next 80,000 kg 4 50 per 1,000 kg or part thereof (v) For the remainder 5 00 per 1,000 kg or part thereof (c) MZUZU AND KARONGA Portion of the all-up weight of aircraft US\$ Fees per single landing (i) For the first 2,000 kg 2 00 per 1,000 kg or part thereof (ii) For the next 18,000 kg 2 50 per 1,000 kg or part thereof (iii) For the next 60,000 kg 2 80 per 1,000 kg or part thereof (iv) For the next 80,000 kg 3 00 per 1,000 kg or part thereof (v) For the remainder 4 50 per 1,000 kg or part thereof

PART II

EXTENDED HOUR CHARGES

Airport Charge per hour or part thereof US\$ Lilongwe International 50 00 Chileka 150 00 Mzuzu 55 00 Karonga 55 00

G.N. 66/1982

98/1993

82/1996

THIRD SCHEDULE reg. 8

HOUSING FEES

Aircraft all-up weight	Daily rate	Weekly rate	Monthly rate	US\$	US\$	US\$	Up to and including
7351	155,001–20,000 kg	125519520,001–150,000 kg	1770220150,001–400,000 kg	2575230	Over 400,000 kg	3078235	

For the purpose of this Schedule—

“daily rate” means the housing fee chargeable for a period of 24 consecutive hours or part thereof;

“weekly rate” means the housing fee chargeable for a period of 7 consecutive days; and

“monthly rate” means the housing fee chargeable for any calendar month or part thereof.

GN. 66/1982

116/1987

95/1992

82/1996

29/2000

FOURTH SCHEDULE reg. 13

CERTIFICATE OF REGISTRATION

1. The fee to be paid for issue of a certificate of registration in respect of an aircraft pursuant to regulation 4 of the Air Navigation Regulations, shall be in accordance with the following scale—

Where the maximum total weight—

Kt(a)does not exceed 2,730 kg1,00000(b)exceeds 2,730 kg but does not exceed 5,700 kg1,50000(c)exceeds 5,700 kg but does not exceed 13,500 kg3,00000(d)exceeds 13,500 kg but does not exceed 14,000 kg5,00000(e)exceeds 45,000 kg6,00000(f)issue of duplicate50000

For the purpose of this paragraph “maximum total weight” means the maximum total weight authorized in the certificate of airworthiness in force in respect of the aircraft or if no such certificate is in force, in the certificate of airworthiness last in force in respect of that aircraft. In any other case “maximum total weight” means maximum total weight authorized of the prototype or modification thereof to which the aircraft in the opinion of the Chief Civil Aviation Officer conforms.

PERMIT FOR AIRCRAFT TO FLY WITHOUT A CERTIFICATE OF AIRWORTHINESS

2. The fees to be paid in respect of an application for a permit to fly in pursuance of proviso (v) to regulation 6

(1) of the Air Navigation Regulations shall be as follows—

(a)for any investigation required by the Chief Civil Aviation Officer in connexion with an application, a fee of an amount equivalent to the cost of making the investigations but not exceeding K100 per kilogram of the maximum total weight of the aircraft for any year, or part of a year, of the period required for carrying out the investigation; Kt(b)for any aircraft:(i)not exceeding 2,730 kg maximum total weight2,00000(ii)exceeding 2,730 kg but not exceeding 5,700 kg maximum total weight2,50000(iii)exceeding 5,700 kg maximum total weight3,00000

For the purpose of this paragraph “maximum total weight” means the maximum total weight specified in the application for the permit.

FIRST ISSUE OF CERTIFICATE OF AIRWORTHINESS

3. Where an application is made for the first issue of a certificate of airworthiness in respect of an aircraft there shall be paid for the investigations required by the Director of Civil Aviation in pursuance of regulation 7 (1) of the Air Navigation Regulations (not including the investigation of any aircraft engine) a fee of an amount equal to the cost of making the investigations but not exceeding K100 per kilogram of the maximum total weight of the aircraft for any year, or part of a year of the period required for carrying out the investigations:

Provided that—

(a)in the case of aircraft which in the opinion of the Director of Civil Aviation conforms to a prototype aircraft or to a modification of prototype aircraft, the fee shall be— Kt (i)in the case of a glider or balloon1,00000(ii)in the case of any other aircraft: (A) when the maximum total weight does not exceed 2,730 kg in respect of each 500 kg or part thereof1,00000(B)when the maximum total weight exceeds 2,730 kg in respect of 500 kg or part thereof1,00000(b)where investigations are required for the purpose of paragraph (a) of this proviso there shall be paid for such investigations, in addition to the relevant fee specified under that paragraph— (i)if the investigations are requested by the aircraft

owner, a fee of an amount equal to 50 per cent of such fee, whichever is the greater;(ii)in any other case, a fee of an amount equal to 50 per cent of such fee.

For the purpose of this paragraph “maximum total weight” means the maximum total weight specified in the application for the certificate.

APPROVAL OF ENGINE

4. The fees to be paid in respect of an application for the approval of an engine whether in connexion with an application for the issue or renewal of a certificate of airworthiness or for any other of the purposes of the Air Navigation Regulations (including any investigations required for the purpose) shall be in accordance with the following scale—

(a) when the power output of the engine as determined by the Director of Civil Aviation. Kt (i)does not exceed 200 B.H.P. or 500 lb thrust2,00000(ii)exceeds 200 B.H.P. or 500 lb thrust but does not exceed 500 B.H.P. or 1,250 lb thrust3,00000(iii)exceeds 500 B.H.P. or 1,250 lb thrust but does not exceed 1,000 B.H.P. or 2,500 lb thrust5,00000(iv)exceeds 1,000 B.H.P. or 2,500 lb thrust but does not exceed 2,000 B.H.P. or 5,000 lb thrust8,00000(b)when the power output as so determined exceeds 2,000 B.H.P. or 5,000 lb thrust: (i)in respect of the first 2,000 B.H.P. or 5,000 lb thrust8,00000(ii)in respect of each additional 100 B.H.P. or 250 lb thrust1,00000

SECOND OR SUBSEQUENT ISSUE OR RENEWAL OF CERTIFICATE OF AIRWORTHINESS

5. When an application is made for the second or subsequent issue or the renewal of a certificate of airworthiness in pursuance of regulation 7 (6) of the Air Navigation Regulations the fee to be paid in respect thereof shall be K 1,000 in the case of a glider or balloon where the maximum total weight authorized for the glider or the balloon does not exceed 1,000 kilograms and in any other case shall be in accordance with the following subparagraphs—

Kt(a)when the maximum total weight authorized for the aircraft does not exceed 2,730 kg, in respect of each 500 kg or part thereof2,00000(b)when the maximum total weight authorized exceeds 2,730 kg but does not exceed 5,700 kg, in respect of each 500 kg or part thereof1,80000(c)when the maximum total weight authorized exceeds 5,700 kg, in respect of each 500 kg or part thereof1,50000

VALIDATION OF CERTIFICATE OF AIRWORTHINESS

6. The fee to be paid in respect of an application for—

(a) the first issue of a certificate of validation of a certificate of airworthiness in respect of any aircraft in pursuance of regulation 7 (5) of the Air Navigation Regulations shall be the same as the fee which would be paid under paragraph 3 in respect of an application for the first issue of a certificate of airworthiness in respect of that aircraft, assuming it to be an aircraft which, in the opinion of the Director of Civil Aviation was a modification of a prototype aircraft;

(b) the second or subsequent issue or renewal of such certificate of validation in pursuance of regulation 7 (6) of the Air Navigation Regulations shall be the same as the fee which would be paid under paragraph 5 in respect of the second or subsequent issue or renewal of a certificate of airworthiness in respect of that aircraft.

APPROVAL OF PERSONS OR ORGANIZATIONS

7. The fee to be paid by a person for the making of inspections of his organization for the purpose of regulations 7 (8) and 9 (4) (c) of the Air Navigation Regulations shall be—

(a) for the grant or renewal of an approval, a fee of US\$ 500 per annum for each branch of the organization which is inspected separately as deemed necessary by the Director of Civil Aviation;

(b) for the extension of an existing approval when an organization requires to be inspected as deemed necessary by the Director of Civil Aviation, on a separate occasion to those inspections defined in subparagraph (a), the cost of making the inspection together with a fee of US\$ 200 per day or part thereof for the duration of the inspections; and

(c) for the extension of an existing approval when an inspection is not deemed necessary by the Director of Civil Aviation, a fee of US\$ 500.

APPROVAL IN RESPECT OF AIRCRAFT AND EQUIPMENT INCLUDING MODIFICATION, REPAIR, ETC., (EXCLUDING ENGINES AND RADIO APPARATUS)

8. The fee to be paid in respect of an application for approval pursuant to any requirement of regulations 7 (7), 9 (3) or 11 (2) of the Air Navigation Regulations (other than for approval of an engine) shall be an amount equivalent to the cost of making the investigations which the Director of Civil Aviation deems necessary for the purpose.

APPROVAL OF TYPE, ETC., OF RADIO APPARATUS

9. The fee to be paid in respect of an application for the approval by the Director of Civil Aviation of radio apparatus or the manner of its installation or of any modification of the apparatus or the manner of its installation for the purpose of regulation 12 (5) of the Air Navigation Regulations shall be an amount equivalent to the cost of making the investigation which the Director of Civil Aviation deems necessary for the purpose.

LICENCES FOR AIRCRAFT MAINTENANCE ENGINEERS AND AIRCRAFT RADIO MAINTENANCE ENGINEERS AND CERTIFICATES OF COMPETENCE

10.—(1) The fees to be paid in respect of a licence as an aircraft maintenance engineer or aircraft radio maintenance engineer or in respect of a certificate of competence in pursuance of regulation 10 of the Aviation (Air Navigation) Regulations shall be as follows—

(a) in respect of an application for the issue of a licence

1,00000	(b) for each without type rating category:	(i) without examination	1,00000
(ii) with examination	1,50000	(iii) for each additional partial written or oral examination	75000

(c) for

each type rated category or group rating: (i)without examination 1,00000 (ii)with examination 1,50000 (iii)for each additional partial oral examination 75000(2)In respect of an application for the extension of a licence, for each with type rating or without type rating category: (a)without examination1,00000 (b) with examination1,50000 (c)for each additional partial written or oral examination75000(3)In respect of an application for the renewal of a licence 1,00000(4)In respect of an application for a certificate of validation of a licence, per annum 1,00000(5)In respect of an application for the issue of a certificate of dispensation, for each type rated category 1,00000

LICENCES FOR FLIGHT CREW AND RATINGS THEREIN

11.—(1) The following fees shall be paid for the grant of a licence to act as—

Kt(a)a professional pilot1,00000(b)a flight navigator, or flight radiotelegraphy operator1,00000(c)a flight radiotelephony operator, whether the licence is general or restricted (except where the applicant is the holder of a licence to act as a pilot, flight navigator, flight engineer or flight radiotelegraphy operator)1,00000(d)a private pilot or student pilot50000(e)a flight radiotelegraphy operator's temporary licence50000

(2) The fee payable in respect of the renewal of a licence detailed in subparagraph (1) shall be one half of that prescribed for the issue thereof.

(3) The following fees shall be paid on application for the inclusion of a rating in a professional pilot's licence or in a flight engineer's licence—

Kt(a)for the inclusion of a second or subsequent class or type of aircraft in the aircraft rating after passing the appropriate examinations and test50000(b)for the inclusion of a second or subsequent class or type of aircraft rating after successfully undertaking an approved type conversion course, where the maximum total weight authorized of the aircraft: (i) does not exceed 5,700 kg1,00000 (ii) exceeds 5,700 kg but does not exceed 34,000kg1,50000 (iii) exceeds 34,000 kg but does not exceed 91,000 kg2,00000 (iv) exceeds 91,000 kg2,50000(c)for the inclusion of a flying instructor's rating or an assistant flying instructor's rating1,00000(d)for the inclusion of an instrument rating1,50000

(4) The fee payable in respect of a renewal of the ratings detailed in subparagraphs (3) (c) and (d) shall be one half of that prescribed for the inclusion of the rating thereof.

(5) The following fees shall be paid on application for the inclusion of a rating in a private pilot's licence—

Kt(a)for the inclusion of a second or subsequent class or type of aircraft or group50000(b)for the inclusion of a flying instructor's rating or an instrument rating50000

(6) The fee payable in respect of the renewal of the ratings detailed in subparagraph (5) (b) shall be one half of that prescribed for the inclusion of the rating thereof.

(7) The following fees shall be paid on application for the grant or renewal of a licence to act as a flight crew member or for the inclusion, extension or renewal of a rating therein, in respect of the following examinations as may be required—

Kt(a)for an examination on the performance of aircraft2,00000(b)for the aircraft (General) and aircraft type examination for the inclusion of an aircraft where the maximum total weight authorized: (i) does not exceed 5,700 kg1,50000 (ii) exceeds 5,700 kg but does not exceed 34,000 kg2,00000 (iii) exceeds 34,000 kg but does not exceed 91,000kg2,50000 (iv) exceeds 91,000 kg3,50000(c)for the re-sitting of Aircraft General of the examinations specified in subparagraph (7) (b)1,50000(d)for the Aircraft General examination and Aircraft Type examination for the extension of an aircraft rating in a licence to include any additional type of aircraft in a licence, or for the re-sitting of Aircraft Type, where the maximum total weight authorized of aircraft: (i) does not exceed 5,700 kg1,00000 (ii) exceeds 5,700 kg but does not exceed 34,000kg1,80000 (iii) exceeds 34,000 kg but does not exceed 91,000kg2,00000 (iv) exceeds 91,000 kg3,00000(e)for the re-sitting of Part I (General) of the examinations specified in paragraph (7) (d)1,00000(f)for a written examination in radiotelephony1,00000(g)for a practical examination in radiotelephony1,50000(h)for an examination on signals1,50000(i)for an examination for a Commercial Pilot Licence (Helicopters and Gyroplanes) or an Airline Transport Pilot Licence (Helicopters and Gyroplanes) on flight planning and monitoring; navigation; instruments; radio aids; meteorology (theory); meteorology (practical); human performance and limitations— for each subject on each occasion when that subject is taken2,00000(j)for a Flight Navigator’s Licence, or an Airline Transport Pilot Licence (Aeroplanes) on Navigation; flight planning and monitoring; radio aids; instruments; meteorology (practical); meteorology (theory); human performance and limitations for each subject on each occasion when that subject is taken2,50000(k)for an examination for a Commercial Pilot Licence, and Airline Transport Pilot Licence or a Flight Navigator’s Licence on aviation law, flight rules and procedures (Paper 1) and (Paper 2) when taken together; aviation law, flight rules and procedures (Paper 1) when taken separately; aviation law, flight rules and procedures (Paper 2) when taken separately; Seamanship— for each subject on each occasion when that subject is taken75000(l)for the private pilot technical examination, for each subject on each occasion when that subject is taken50000(m)for the student pilot technical examination on each occasion when the examination is taken50000(n)for an examination for the inclusion of an instrument rating in a Private Pilot Licence on flight rules and procedures; flight instrument and radio aids; meteorology— for each subject on each occasion when that subject is taken75000(o)for any flying test conducted by an official Department of Civil Aviation examiner in respect of— (i) Private Pilot Licence2,00000 (ii) any other licence2,50000

(8) For the purpose of this paragraph—

“a licence to act as a professional pilot” means a licence of one of the following categories: Commercial Pilot Licence (Aeroplanes) Airline Transport Pilot Licence (Aeroplanes) Commercial Pilot Licence (Helicopters and Gyroplanes) Airline Transport Pilot Licence (Helicopters and Gyroplanes) Commercial Pilot Licence (Balloons) Commercial Pilot Licence (Airships) Commercial Pilot Licence (Gliders)“a licence to act as a private pilot” means a licence of one of the following categories— Private Pilot Licence

(Aeroplanes) Private Pilot Licence (Helicopters and Gyroplanes) Private Pilot Licence (Balloons and Airships)

VALIDATION OF A LICENCE

12. Where an application is made for the issue of a certificate of validation of a licence under the Aviation (Air Navigation) Regulations the following fees will be paid—

(a) for a technical examination

(if required) in each case the fee appropriate to the issue of a licence equivalent (b) for an official flying (if required) to that for which validation test is sought (c) for a certificate for: Kt (i) Private Pilot Licence 1,00000 (ii) for any other certificate 2,00000

TYPE RATING OF NEW AIRCRAFT

13. The fee to be paid by a person upon making an application for the inclusion in a Pilot's Licence of an aircraft rating in respect of an aircraft type where no application for an aircraft rating in respect of that type has previously been granted by the Director of Civil Aviation, shall be, in addition to any other fee payable by virtue of any other regulation to the application, a charge of an amount decided by the Director of Civil Aviation having regard to the cost of—

(a) training a person appointed by the Director of Civil Aviation to act as a Pilot in command of that type of aircraft; and

(b) training a person appointed by the Director of Civil Aviation to a standard of technical knowledge of that type of aircraft which in the opinion of the Director of Civil Aviation will enable that person to examine the applicant for the purposes of his application, but not exceeding US\$25,000.

APPROVALS OF FLIGHT SIMULATORS

14. The fees to be paid by a person for the approval or renewal of approval of a flight simulator for the purposes of regulation 18 and Part B of the Eleventh Schedule of the Air Navigation Regulations shall be an amount equivalent to the cost of making inspections deemed necessary for the purpose by the Director of Civil Aviation but not exceeding US\$50,000 for any year or part of the year, of the period required for carrying out the inspections.

APPROVAL OF FLYING TRAINING COURSES

15. The fee to be paid by a person for the approval of a flying training school shall be an amount equivalent to the cost of making inspections deemed necessary for the purpose by the Director of Civil Aviation but not exceeding US\$50,000 for any year, or part of year, of the period required for carrying out the inspection.

ADDITIONAL CHARGE WHERE FUNCTIONS ARE PERFORMED ABROAD

16. The charge payable when an application is made for the Director of Civil Aviation to perform a function in respect of which a fee is specified under these regulations as a result of which the Director of Civil Aviation deems necessary for his representative to travel outside Malawi shall be, in addition to the appropriate fee specified in these Regulations a charge equivalent to the additional costs thereby incurred but not exceeding US\$5,000 per week, or part thereof, during which such representative is necessarily absent from Malawi.

OFFICIAL MEDICAL EXAMINATION

17. The fees to be paid for an official medical examination, when required, shall be as follows—

(a) for the grant of a licence 50000 (b) for the renewal of a licence 50000 (c) for any other purpose of the Regulations 50000

AERODROMES LICENCES

18. The fees to be paid in respect of the inspection of aerodromes, registration certificates and licences of aerodromes shall be as follows—

(a) for the initial official inspection of an aerodrome as defined in the Act 5,00000 In addition, the licensee shall pay the cost of transportation and other incidental costs associated with the inspection. (b) for the issue of Aerodrome Registration Certificate 1,00000 (c) for the issue of a licence of an aerodrome in the private category 1,50000 (d) for the issue of a licence of an aerodrome in the public category 2,00000 (e) for a renewal of a licence in the private category 1,00000 (f) for a renewal of a licence in the public category 1,00000 (g) for each annual official inspection of an aerodrome 5,00000

COPIES OF DOCUMENTS

19. The fee to be paid for issue of a copy or replacement of a document issued under the Aviation (Air Navigation) Regulations shall be K500: Provided that for a copy or replacement of a flight manual or performance schedule relating to a certificate of airworthiness, the fee shall be an amount equal to the cost of preparing the copy or replacement as the case may be.

FEES

20. The fee to be paid for any document or report, not being a document referred to in paragraph 19 above, issued on the authority of the Director of Civil Aviation, shall be an amount equal to the cost of preparing the copy.

AVIATION (AIRCRAFT PERFORMANCE) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

PRELIMINARY

1. Citation and application
2. Interpretation
3. Classification of public transport aeroplanes

PART II

Weight and Performance of Public Transport Aeroplanes

4. Aeroplanes having no performance group classification
5. Aeroplane of performance group A
6. Aeroplanes of performance group C or performance group D
7. Aeroplanes of performance group X

G.N. 21/1971

AVIATION (AIRCRAFT PERFORMANCE) REGULATIONS

under s. 19

PART I

1. Citation and application

These Regulations may be cited as the Aviation (Aircraft Performance) Regulations, and shall apply to public transport aeroplanes for the purposes of regulation 26 of the Air Navigation Regulations.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“Air Navigation Regulations” means the Aviation (Air Navigation) Regulations; G.N. 16/1971

“contracting state” means a state which is a party to the Convention on International Civil Aviation concluded at Chicago on the 7th December, 1944;

“emergency distance available” means the distance from the point on the surface of the aerodrome at which the aeroplane can commence its take-off run to the nearest point in the direction of take-off at which the aeroplane cannot roll over the surface of the aerodrome and be brought to rest in an emergency without risk of accident;

“instrument meteorological conditions” means weather precluding flight in accordance with the visual flight rules;

“landing distance available” means the distance from the point on the surface of the aerodrome above which the aeroplane can commence its landing, having regard to the obstruction in its approach path, to the nearest point in the direction of landing at which the surface of the aerodrome is incapable of bearing the weight of the aeroplane under normal operating conditions or at which there is an obstacle capable of affecting the safety of the aeroplane;

“specified” in relation to an aircraft means specified in, or ascertainable by reference to—

(a) the certificate of airworthiness in force under the Air Navigation Regulations in respect of the aircraft; or

(b) the flight manual or performance schedule included in that certificate;

“take-off distance available” means either the distance from the point on the surface of the aerodrome at which the aeroplane can commence its take-off run to the nearest obstacle in the direction of take-off projecting above the surface of the aerodrome and capable of affecting the safety of the aeroplane or one and one-half times the take-off run available, whichever is the less;

“take-off run available” means the distance from the point on the surface of the aerodrome at which the aeroplane can commence its take-off run to the nearest point in the direction of take-off at which the surface of the aerodrome is incapable of bearing the weight of the aeroplane under normal operating conditions;

“VSO” denotes the stalling speed or minimum steady flight speed with the wing flaps in the landing position.

(2) Expressions used in these Regulations shall, unless the context otherwise requires, and subject to subregulation (1), have the same respective meanings as in the Air Navigation Regulations.

(3) The assessment of the ability of an aeroplane to comply with the requirements of these Regulations (relating to weight and performance) shall be based on the specified information relating to its performance:

Provided that, if in the case of an aeroplane in respect of which there is in force under the Air Navigation Regulations a certificate of airworthiness which does not include a performance group

classification, the assessment may be based on the best information available to the commander of the aircraft, in so far as the relevant information is not specified.

(4) In assessing the ability of an aeroplane to comply with regulation 4 (8), regulation 5 (5) and (6), and regulation 7 (3) (a) (ii) and (3) (b), account may be taken of any reduction of weight of the aeroplane which may be achieved after the failure of a power unit by such jettisoning of fuel as is feasible and prudent in the circumstances of the flight and in accordance with the flight manual included in the certificate of airworthiness relating to the aircraft.

(5) For the purposes of these Regulations—

(a) the weight of an aeroplane at the commencement of the take-off run shall be taken to be its gross weight including everything and everyone carried in or on it at the commencement of the take-off run;

(b) the landing weight of the aeroplane shall be taken to be the weight of the aeroplane at the estimated time of landing allowing for the weight of fuel and oil expected to be used on the flight to the aerodrome at which it is intended to land or alternate aerodrome, as the case may be;

(c) where any distance referred to in subregulation (1) has been declared in respect of any aerodrome by the authority responsible for regulating air navigation over the territory of the contracting state in which the aerodrome is situated and in the case of an aerodrome in Malawi notified, that distance shall be deemed to be the relevant distance.

(6) Nothing in these Regulations shall apply to any aircraft flying solely for the purpose of training persons to perform duties in aircraft.

3. Classification of public transport aeroplanes

A certificate of airworthiness for a public transport aeroplane shall classify the aeroplane as of performance group A, performance group C, performance group D or performance group X, or shall not include a performance group classification; and the following regulations shall apply to public transport aeroplanes according to their performance group classification, or the absence of a performance group classification, as the case may be.

PART II

WEIGHT AND PERFORMANCE OF PUBLIC TRANSPORT AEROPLANES

4. Aeroplanes having no performance group classification

(1) An aeroplane registered in Malawi in respect of which there is in force a certificate of airworthiness which does not include a performance group classification shall not fly for the purpose of public transport unless the weight of the aeroplane at the commencement of the take-off run is such that such of the following requirements as apply to that aircraft are satisfied—

- (a) subregulations (2) and (3) shall apply to all aeroplanes;
- (b) subregulations (4) to (11) shall apply to all aeroplanes—
 - (i) of which the specified maximum total weight authorized exceeds 5,700 kgs.; or
 - (ii) of which the specified maximum total weight authorized does not exceed 5,700 kgs., and which comply with neither subregulation (2) (a) nor subregulation (2) (b);

(c) subregulations (12) to (19) shall apply to all aeroplanes of which the specified maximum total weight authorized does not exceed 5,700 kg., and which comply with subregulation (2) (a) or subregulation (2) (b) or with both.

(2) Either—

- (a) the wing loading of the aeroplane shall not exceed 20 lb. per square foot; or
- (b) the stalling speed of the aeroplane in the landing configuration shall not exceed 60 knots; or

(c) the aeroplane, with any one of its power units inoperative and the remaining power unit or units operating within the maximum continuous power conditions specified, is capable of a gradient of climb of at least 1 in 200 at an altitude of 5,000 feet in the specified international standard atmosphere.

(3) The weight of the aeroplane at the commencement of the take-off run shall not exceed whichever is the higher of the following weights, namely—

(i) the maximum take-off weight, if any, specified for the altitude and the air temperature at the aerodrome at which the take-off is to be made;

(ii) the maximum take-off weight, if any, approved in writing by the Chief Civil Aviation Officer (after the carrying out of flight tests undertaken on the authority of the Chief Civil Aviation Officer) for the take-off of the aeroplane from that aerodrome in the air temperature at the aerodrome.

(4)(a) The distance required by the aeroplane to attain a height of 50 feet, with all power units operating within the maximum take-off power conditions specified, shall not exceed the take-off run available at the aerodrome at which the take-off run is to be made.

(b) The distance required by the aeroplane to attain a height of 50 feet, with all power units operating within the maximum take-off power conditions specified, when multiplied by a factor of either 1.33 for an aeroplane having two power units or by a factor of 1.18 for an aeroplane having four power units, shall not exceed the emergency distance available at the aerodrome at which the take-off is made.

(c) For the purposes of paragraphs (a) and (b) the distance required by the aeroplane to attain a height of 50 feet shall be that appropriate to—

- (i) the weight of the aeroplane at the commencement of the take-off run;
- (ii) the altitude at the aerodrome;
- (iii) the air temperature at the aerodrome;
- (iv) the slope of the surface of the aerodrome in the direction of take-off over the take-off run available and the emergency distance available, respectively;
- (v) the condition of the surface of the runway from which the take-off will be made; and
- (vi) not more than 50 per cent of the reported wind component opposite to the direction of take-off or not less than 150 per cent of the reported wind component in the direction of take-off.

(5)(a) The take-off flight path, with one power unit inoperative and the remaining power unit or units operating within the maximum take-off power conditions specified, appropriate to—

- (i) the weight of the aeroplane at the commencement of the take-off run;
- (ii) the altitude at the aerodrome;
- (iii) the air temperature at the aerodrome;
- (iv) not more than 50 per cent of the reported wind component opposite to the direction of take-off or not less than 150 per cent of the reported wind component in the direction of take-off,

and plotted from a point 50 feet above the end of the appropriate factored distance required for take-off under subregulation (4) (b) at the aerodrome at which the take-off is to be made, shall be such that the aeroplane either will be able to comply with such requirements in respect of the take-off flight path to be followed as the Chief Civil Aviation Officer may have approved in relation to that aerodrome as being requirements which flight tests undertaken on the authority of the Chief Civil Aviation Officer have shown will result in safe operation, or, in any case where the Chief Civil Aviation Officer has not approved any such requirement in relation to that aerodrome, will clear any obstacle in its path by a vertical interval of at least 35 feet except that if it is intended that an aeroplane shall change its direction by more than 15° the vertical interval shall not be less than 50 feet during the change of direction.

(b) For the purpose of subregulation (5) (a) an obstacle shall be deemed to be in the path of the aeroplane if the distance from the obstacle to the nearest point on the ground below the intended line of flight does not exceed—

- (i) when the take-off flight path is to be conducted in instrument meteorological conditions—

(A) a distance of 200 feet plus half the wing span of the aeroplane plus one-eighth of the distance from such point to the end of the take-off distance available measured along the intended line of flight; or

(B) 5,000 feet, whichever is the less; or

(ii) when the take-off flight path is to be conducted in visual meteorological conditions, 200 feet plus half the wing span of the aeroplane:

Provided that in assessing the ability of the aeroplane to satisfy these requirements, it shall not be assumed to make a change of direction of radius less than a radius of steady turn corresponding to an angle of bank of 15°.

(6) The aeroplane shall, in the meteorological conditions expected for the flight, in the event of any one power unit becoming inoperative at any point on its route or on any planned diversion therefrom and with the other power unit or units operating within the maximum continuous power conditions specified, be capable of—

(a) continuing the flight so as to reach, at a suitable height for landing, an aerodrome at which it can comply with subregulation (10) and on arrival over such aerodrome the flight path shall have a gradient of not less than zero at 1,500 feet above the aerodrome;

(b) maintaining, on each part of its route to such aerodrome, either—

(i) such height as has been notified as the minimum flight level for that part of the route; or

(ii) if no minimum flight level has been notified for any part of the route, such height as will enable it to clear all obstacles within 10 miles either side of the intended track by a vertical interval of at least—

(A) 1,000 feet when the gradient of the flight path is not less than zero; or

(B) 2,000 feet when the gradient of the flight path is less than zero.

For the purpose of this subregulation the gradient of climb of the aeroplane shall be taken to be one per cent. less than that specified.

(7) The aeroplane shall, in the meteorological conditions expected for the flight, at any point on its route or on any planned diversion therefrom, be capable of climbing at a gradient of at least 1 in 50 with all power units operating within the maximum continuous power conditions specified at the following altitudes—

(a) the minimum altitudes for safe flight on each stage of the route to be flown or any planned diversion therefrom specified in, or calculated from the information contained in, the operations manual relating to the aeroplane; and

(b) the minimum altitudes necessary for compliance with subregulations (6) and (8) as appropriate.

(8) If on the route to be flown or any planned diversion therefrom the aeroplane will be engaged in a flight over water during which at any point it may be more than 90 minutes flying time in still air from the nearest shore, it shall, in the event of two power units becoming inoperative during such time and with the other power unit or units operating within the maximum continuous power conditions specified, be capable of continuing the flight having regard to the meteorological conditions expected for the flight, clearing all obstacles within 10 miles either side of the intended track by a vertical interval of at least 1,000 feet to an aerodrome at which a safe landing can be made.

(9) The landing weight of the aeroplane shall not exceed the maximum landing weight, if any, specified for the altitude and the expected air temperature for the estimated time of landing at the aerodrome at which it is intended to land and at any alternate aerodrome.

(10) The distance required by the aeroplane to land from a height of 50 feet shall not, at the aerodrome at which it is intended to land and at any alternate aerodrome, exceed 60 per cent. of the landing distance available on—

(a) the most suitable runway for a landing in still air conditions; and

(b) the runway that may be required for landing because of the forecast wind conditions:

Provided that if an alternate aerodrome is designated in the flight plan the landing distance required at the aerodrome at which it is intended to land shall not exceed 70 per cent. of that available on the runway that may be required for landing because of the forecast wind conditions.

The distance required to land from a height of 50 feet shall be taken to be that appropriate to—

(i) the landing weight;

(ii) the altitude at the aerodrome;

(iii) the temperature in the specified international standard atmosphere appropriate to the altitude at the aerodrome;

(iv) (A) a level surface in the case of runways usable in both directions; or

(B) the average slope of the runway in the case of runways usable in only one direction; and

(v) (A) still air conditions in the case of the most suitable runway for a landing in still air conditions; or

(B) not more than 50 per cent. of the forecast wind component opposite to the direction of landing or not less than 150 per cent of the forecast wind component in the direction of

landing in the case of a runway that may be required for landing because of the forecast wind conditions.

(11) The distance required by the aeroplane to land from a height of 50 feet shall not, at any alternate aerodrome, exceed 70 per cent of the landing distance available on—

- (a) the most suitable runway for a landing in still air conditions; and
- (b) the runway that may be required for landing because of forecast wind conditions.

For the purpose of this requirement the distance required to land from a height of 50 feet shall be determined in the manner provided in subregulation (10).

(12) If the aeroplane is engaged in a flight at night or when the cloud ceiling or visibility prevailing at the aerodrome of departure and forecast for the estimated time of landing at the aerodrome of destination or at any alternate aerodrome, are less than 1,000 feet and 1 mile respectively, it shall, with any one of its power units inoperative and the remaining power unit or units operating within the maximum continuous power conditions specified, be capable of achieving and maintaining an altitude of 1,000 feet above all obstacles within 10 miles of the relevant aerodrome.

(13)(a) The distance required by the aeroplane to attain a height of 50 feet, with all power units operating within the maximum take-off power conditions specified, shall not exceed the take-off run available at the aerodrome at which the take-off is to be made.

(b) The distance required by the aeroplane to attain a height of 50 feet, with all power units operating within the maximum take-off power conditions specified, when multiplied by a factor of 1.33 shall not exceed the emergency distance available at the aerodrome at which the take-off is to be made.

(c) For the purpose of paragraphs (a) and (b) the distance required by the aeroplane to attain a height of 50 feet shall be that appropriate to—

- (i) the weight of the aeroplane at the commencement of the take-off run;
- (ii) the altitude at the aerodrome;
- (iii) the temperature in the specified international standard atmosphere appropriate to the altitude at the aerodrome, or, if greater, the air temperature at the aerodrome, less 15° centigrade;
- (iv) the slope of the surface of the aerodrome in the direction of take-off over the take-off run available and the emergency distance available, respectively; and
- (v) not more than 50 per cent of the reported wind component opposite to the direction of take-off nor less than 150 per cent of the reported wind component in the direction of take-off.

(14) The take-off flight path, with all power units operating within the maximum take-off power conditions specified, appropriate to—

- (i) the weight of the aeroplane at the commencement of the take-off run;
- (ii) the altitude at the aerodrome;
- (iii) the temperature in the specified international standard atmosphere appropriate to the altitude at the aerodrome, or, if greater, the air temperature at the aerodrome less 15° centigrade; and
- (iv) not more than 50 per cent of the reported wind component opposite to the direction of take-off or not less than 150 per cent of the reported wind component in the direction of take-off,

and plotted from a point 50 feet above the end of the factored distance required for take-off under subregulation (13) (b), at the aerodrome at which the take-off is to be made, shall be such that the aeroplane either will be able to comply with such requirements in respect of the take-off flight path to be followed as the Chief Civil Aviation Officer may have approved in relation to that aerodrome as being requirements which flight tests undertaken on the authority of the Chief Civil Aviation Officer have shown will result in safe operation, or, in any case where the Chief Civil Aviation Officer has not approved any such requirements in relation to that aerodrome, will clear any obstacle lying within 200 feet plus half the wing span of the aeroplane on either side of its path by a vertical interval of at least 35 feet. In assessing the ability of the aeroplane to satisfy this condition it shall not be assumed to make a change of direction of a radius less than a radius of steady turn corresponding to an angle of bank of 15°.

(15) The aeroplane shall, in the meteorological conditions expected for the flight, in the event of any one power unit becoming inoperative at any point on its route or on any planned diversion therefrom and with the other power unit or units, if any, operating within the maximum continuous power conditions specified, be capable of continuing the flight so as to reach a point above a place at which a safe landing can be made at a suitable height for such landing.

(16) The aeroplane shall, in the meteorological conditions expected for the flight, at any point on its route or any planned diversion therefrom, be capable of climbing at a gradient of at least 1 in 50, with all power units operating within the maximum continuous power conditions specified at the following altitudes—

(a) the minimum altitude for safe flight on each stage of the route to be flown or on any planned diversion therefrom specified in, or calculated from, the information contained in the operations manual relating to the aeroplane; and

(b) the minimum altitudes necessary for compliance with subregulation (15).

(17) If on the route to be flown or any planned diversion therefrom the aeroplane will be engaged in a flight over water during which at any point it may be more than 30 minutes flying time in still air from the nearest shore, it shall, in the event of one power unit becoming inoperative during such time and with the other power unit or units operating within the maximum continuous power

conditions specified, be capable of climbing at a gradient of at least 1 in 200 at an altitude of 5,000 feet in the specified international standard atmosphere.

(18) The landing weight of the aeroplane shall not exceed the maximum landing weight, if any, specified for the altitude and the expected air temperature for the estimated time of landing at the aerodrome at which it is intended to land and at any alternate aerodrome.

(19) The distance required by the aeroplane to land from a height of 50 feet shall not, at the aerodrome at which it is intended to land and at any alternate aerodrome, exceed 70 per cent., or, if a visual approach and landing will be possible in the meteorological conditions forecast for the estimated time of landing, 80 per cent. of the landing distance available on—

- (a) the most suitable runway for a landing in still air conditions; and
- (b) the runway that may be required for landing because of the forecast wind conditions,

the distance required to land from a height of 50 feet being taken to be that appropriate to—

- (i) the landing weight;
- (ii) the altitude at the aerodrome;
- (iii) the temperature in the specified international standard atmosphere appropriate to the altitude at the aerodrome;
- (iv) (A) a level surface in the case of a runway usable in both directions; or
(B) the average slope of the runway in the case of runways usable in only one direction; and
- (v) (A) still air conditions in the case of the most suitable runway for a landing in still air conditions; or
(B) not more than 50 per cent. of the forecast wind component opposite to the direction of landing or not less than 150 per cent. of the forecast wind component in the direction of landing in the case of the runway that may be required for landing because of the forecast wind conditions.

5. Aeroplanes of performance group A

(1) An aeroplane registered in Malawi in respect of which there is in force a certificate of airworthiness in which the aeroplane is classified as being of performance group A shall not fly for the purpose of public transport unless the weight of the aeroplane at the commencement of the take-off run is such that the following subregulations are complied with.

(2) That weight shall not exceed the maximum take-off weight for altitude and temperature specified for the altitude and the air temperature at the aerodrome at which the take-off is to be made.

(3) The take-off run, take-off distance and the emergency distance respectively required for take-off, specified as being appropriate to—

- (a) the weight of the aeroplane at the commencement of the take-off run;
- (b) the altitude at the aerodrome;
- (c) the air temperature at the aerodrome;
- (d) the slope of the surface of the aerodrome in the direction of take-off over the take-off run available, the take-off distance available and the emergency distance available respectively;
- (e) the condition of the surface of the runway from which the take-off will be made; and
- (f) not more than 50 per cent. of the reported wind component opposite to the direction of take-off or not less than 150 per cent. of the reported wind component in the direction of take-off,

shall not exceed the take-off run, the take-off distance and the emergency distance available respectively, at the aerodrome at which the take-off is to be made. In ascertaining the emergency distance required, the point at which the pilot is assumed to decide to discontinue the take-off shall not be nearer to the start of the take-off run than the point at which, in ascertaining the take-off run required and the take-off distance required, he is assumed to decide to continue the take-off in the event of power unit failure.

(4)(a) The net take-off flight path, with one power unit inoperative, specified as being appropriate to—

- (i) the weight of the aeroplane at the commencement of the take-off run;
- (ii) the altitude at the aerodrome;
- (iii) the air temperature at the aerodrome; and
- (iv) not more than 50 per cent. of the reported wind component opposite to the direction of take-off or not less than 150 per cent. of the reported wind component in the direction of take-off,

and plotted from a point 35 feet or 50 feet, as appropriate, above the end of the take-off distance required at the aerodrome at which the take-off is to be made to a height of 1,500 feet above the aerodrome, shall be such that the aeroplane will clear any obstacle in its path by a vertical interval of at least 35 feet, except that if it is intended that the aeroplane shall change its direction of flight by more than 15° the vertical interval shall not be less than 50 feet during the change of direction.

(b) For the purpose of paragraph (a) an obstacle shall be deemed to be in the path of the aeroplane if the distance from the obstacle to the nearest point on the ground below the intended line of flight of the aeroplane does not exceed—

(i) a distance of 200 feet plus half the wing span of the aeroplane plus one-eighth of the distance from such point to the end of the take-off distance available measured along the intended line of flight of the aeroplane; or

(ii) a distance of 5,000 feet, whichever is the less.

(c) In assessing the ability of the aeroplane to satisfy this condition it shall not be assumed to make a change of direction of a radius less than the radius of steady turn specified.

(5) The aeroplane shall, in the meteorological conditions expected for the flight, in the event of any one power unit becoming inoperative at any point on its route or on any planned diversion therefrom and with the other power unit or units operating within the maximum continuous power conditions specified, be capable of continuing the flight, clearing by a vertical interval of at least 2,000 feet obstacles within 10 miles either side of the intended track, to an aerodrome at which it can comply with subregulation (8) relating to an alternate aerodrome, and on arrival over such aerodrome the gradient of the specified net flight path, with one power unit inoperative, shall not be less than zero at 1,500 feet above the aerodrome, and in assessing the ability of the aeroplane to satisfy this requirement it shall not be assumed to be capable of flying at an altitude exceeding the specified maximum permissible altitude for power unit restarting:

Provided that where the operator of the aeroplane is satisfied, taking into account the navigation aids which can be made use of by the aeroplane on the route, that the commander of the aeroplane will be able to maintain his intended track on that route within a margin of 5 miles, the foregoing provisions shall have effect as if 5 miles were substituted therein for 10 miles.

(6) The aeroplane shall, in the meteorological conditions expected for the flight in the event of any two power units becoming inoperative at any point along the route or on any planned diversion there from more than 90 minutes flying time in still air with all power units operating at economical cruising speed from the nearest aerodrome at which it can comply with subregulation (8), relating to an alternate aerodrome, be capable of continuing the flight with all other power units operating within the specified maximum continuous power conditions, clearing by a vertical interval of at least 2,000 feet obstacles within 10 miles either side of the intended track to such aerodrome. The gradient of the specified net flight path with two power units inoperative shall not be less than zero at 1,500 feet above the aerodrome, and in assessing the ability of the aeroplane to satisfy this requirement it shall not be assumed to be capable of flying at an altitude exceeding the specified maximum permissible altitude for power unit restarting:

Provided that where the operator of the aeroplane is satisfied, taking into account the navigation aids which can be made use of by the aeroplane on the route, that the commander of the aeroplane will be able to maintain his intended track on that route within a margin of 5 miles, the foregoing provisions shall have effect as if 5 miles were substituted therein for 10 miles.

(7) The landing weight of the aeroplane shall not exceed the maximum landing weight specified for the altitude and the expected air temperature for the estimated time of landing at the aerodrome at which it is intended to land and at any alternate aerodrome.

(8)(a) The landing distances required, respectively specified as being appropriate to aerodromes of destination and alternate aerodromes, shall not exceed at the aerodrome at which it is intended to land or at any alternate aerodrome, as the case may be, the landing distance available on—

- (i) the most suitable runway for a landing in still air conditions; and
- (ii) the runway that may be required for landing because of the forecast wind conditions:

Provided that if an alternate aerodrome is designated in the flight plan, the specified landing distance required may be that appropriate to the alternate aerodrome when assessing the ability of the aeroplane to satisfy this requirement at the aerodrome of destination in respect of the runway that may be required for landing because of the forecast wind conditions.

(b) For the purpose of paragraph (a) the landing distance required shall be that specified as being appropriate to—

- (i) the landing weight;
- (ii) the altitude at the aerodrome;
- (iii) the temperature in the specified international standard atmosphere appropriate to the altitude at the aerodrome;
- (iv) (A) a level surface in the case of runways usable in both directions; or
(B) the average slope of the runway in the case of a runway usable in only one direction; and
- (v) (A) still air conditions in the case of the most suitable runway for a landing in still air conditions; or
(B) not more than 50 per cent. of the forecast wind component opposite to the direction of landing or not less than 150 per cent. of the forecast wind component in the direction of landing in the case of the runway that may be required for landing because of the forecast wind conditions.

6. Aeroplanes of performance group C or performance group D

(1) An aeroplane registered in Malawi in respect of which there is in force a certificate of airworthiness in which the aeroplane is classified as being of performance group C or performance group D shall not fly for the purpose of public transport unless the weight of the aeroplane at the commencement of the take-off run is such that the following subregulations are complied with.

(2)(a) That weight shall not exceed the maximum take-off weight specified for the altitude and the air temperature at the aerodrome at which the take-off is to be made.

(b) The take-off run required and the take-off distance required, specified as being appropriate to—

(i) the weight of the aeroplane at the commencement of the take-off run;

(ii) the altitude at the aerodrome;

(iii) the air temperature at the aerodrome;

(iv) the average slope of the surface of the aerodrome in the direction of take-off over the emergency distance available;

(v) not more than 50 per cent. of the reported wind component opposite to the direction of take-off or not less than 150 per cent. of the reported wind component in the direction of take-off,

shall not exceed the take-off run available and the emergency distance available respectively at the aerodrome at which the take-off is to be made.

(c) The net take-off flight path, with all power units operating, specified as being appropriate to—

(i) the weight of the aeroplane at the commencement of the take-off run;

(ii) the altitude at the aerodrome;

(iii) the air temperature at the aerodrome;

(iv) not more than 50 per cent. of the reported wind component opposite to the direction of take-off or not less than 150 per cent. of the reported wind component in the direction of take-off,

and plotted from a point 50 feet above the end of the take-off distance required at the aerodrome at which the take-off is to be made to the point at which the aeroplane reaches the minimum altitude for safe flight on the first stage of the route to be flown stated in or calculated from the information contained in the operations manual relating to the aircraft, shall be such that the aeroplane will clear by a safe margin any obstacle the distance from which to the nearest point on the ground below the intended line of flight of the aeroplane does not exceed 200 feet plus half the wing span of the aeroplane. In assessing the ability of the aeroplane to satisfy this requirement it shall not be assumed to make a change of direction of a radius less than the specified radius of steady turn.

(d) The aeroplane shall, if it is classified in its certificate of airworthiness as an aeroplane of performance group C and if it is necessary for it to be flown solely by reference to instruments for any period before reaching the minimum altitude for safe flight on the first stage of the route to be flown,

stated in, or calculated from the information contained in the operations manual, during such period also satisfy the requirements of regulation 5 (4).

(e) The aeroplane shall, in the meteorological conditions expected for the flight, in the event of any one power unit becoming inoperative at any point on its route or on any planned diversion therefrom, and with the other power unit or units, if any, operating within the specified maximum continuous power conditions—

(i) in the case of an aeroplane classified as an aeroplane of performance group C, be capable of continuing the flight at altitudes not less than the relevant minimum altitude for safe flight stated in, or calculated from the information contained in, the operations manual to a point 1,500 feet above an aerodrome at which a safe landing can be made and after arrival at that point be capable of maintaining that height;

(ii) in the case of an aeroplane classified as an aeroplane of performance group D, be capable of continuing the flight to a point 1,000 feet above a place at which a safe landing can be made:

Provided that in assessing the ability of the aeroplane to satisfy this requirement it shall not be assumed to be capable of flying at any point on its route at an altitude exceeding the performance ceiling, with all power units operating, specified as being appropriate to its estimated weight at that point.

(f) The landing weight of the aeroplane shall not exceed the maximum landing weight specified for the altitude and the expected air temperature for the estimated time of landing at the aerodrome at which it is intended to land and at any alternate aerodrome.

(g) The distance required by the aeroplane to land from a height of 50 feet shall not, at the aerodrome at which it is intended to land and at any alternate aerodrome, exceed 70 per cent. of the landing distance available on the most suitable runway for a landing in still air conditions, or on the runway that may be required for landing because of the forecast wind conditions, and for the purpose of this paragraph the distance required to land from a height of 50 feet shall be taken to be that specified as being appropriate to—

- (i) the landing weight;
- (ii) the altitude at the aerodrome;
- (iii) the expected air temperature for the estimated time of landing at the aerodrome;
- (iv) (A) a level surface in the case of runways usable in both directions; or
(B) the average slope of the runway in the case of runways usable in only one direction; and

(v) (A) still air conditions in the case of the most suitable runway for a landing in still air conditions; or

(B) not more than 50 per cent. of the forecast wind component opposite to the direction of landing or not less than 150 per cent. of the forecast wind component in the direction of landing in the case of the runway that may be required for a landing because of the forecast wind conditions.

(3) An aeroplane classified as an aeroplane of performance group D shall not fly for the purpose of public transport (except for the sole purpose of training persons to perform duties in aircraft) at night or when the cloud ceiling or visibility prevailing at the aerodrome of departure and forecast for the estimated time of landing at the aerodrome at which it is intended to land and at any alternate aerodrome are less than 1,000 feet and one mile respectively.

7. Aeroplanes of performance group X

(1) An aeroplane in respect of which there is in force a certificate of airworthiness in which the aeroplane is classified as being of performance group X shall not fly for the purpose of public transport unless the weight of the aeroplane at the commencement of take-off is such that the following subregulations are complied with.

(2)(a) That weight shall not exceed the maximum take-off weight specified for the altitude at the aerodrome at which the take-off is to be made, or for the altitude and the air temperature at such aerodrome, as the case may be.

(b) The minimum effective take-off runway length required, specified as being appropriate to—

(i) the weight of the aeroplane at the commencement of the take-off run;

(ii) the altitude at the aerodrome;

(iii) the air temperature at the time of take-off;

(iv) the overall slope of the take-off run available;

(v) the condition of the surface of the runway from which the take-off will be made; and

(vi) not more than 50 per cent. of the reported wind component opposite to the direction of take-off or not less than 150 per cent. of the reported wind component in the direction of take-off,

shall not exceed the take-off run available at the aerodrome at which the take-off is to be made.

(c) (i) The take-off flight path, with one power unit inoperative, specified as being appropriate to—

- (A) the weight of the aeroplane at the commencement of the take-off run;
- (B) the altitude at the aerodrome; and
- (C) not more than 50 per cent. of the reported wind component opposite to the direction of take-off or not less than 150 per cent. of the reported wind component in the direction of take-off,

and plotted from a point 50 feet above the end of the minimum effective take-off runway length required at the aerodrome at which the take-off is to be made, shall be such that the aeroplane will thereafter clear any obstacle in its path by a vertical interval of not less than the greater of 50 feet or 35 feet plus one-hundredth of the distance from the point on the ground below the intended line of flight of the aeroplane nearest to the obstacle to the end of the take-off distance available, measured along the intended line of flight of the aeroplane.

(ii) For the purpose of subparagraph (i) an obstacle shall be deemed to be in the path of the aeroplane if the distance from the obstacle to the nearest point on the ground below the intended line of flight does not exceed—

(A) a distance of 200 feet plus half the wing span of the aeroplane plus one-eighth of the distance from such point to the end of the take-off distance available measured along the intended line of flight; or

(B) 5,000 feet,

whichever is the less.

(iii) In assessing the ability of the aeroplane to satisfy this requirement, in so far as it relates to flight path, it shall not be assumed to make a change of direction of a radius less than the radius of steady turn corresponding to an angle of bank of 15°.

(3) (a) (i) Subject to subparagraph (ii), the weight of the aeroplane at any point on the route or any planned diversion therefrom, having regard to the fuel and oil expected to be consumed up to that point, shall be such that the aeroplane, with one power unit inoperative and the other power unit or units operating within the maximum continuous power conditions specified, will be capable of a rate of climb of at least $K(VSO/100)^2$ feet per minute at an altitude not less than the minimum altitude for safe flight stated in or calculated from the information contained in the operations manual, where VSO is in knots and K has the value of 797-1060/N, N being the number of power units installed.

(ii) As an alternative to (i), the aeroplane may be flown to an altitude from which, in the event of failure of one power unit, it is capable of reaching an aerodrome where a landing can be made in accordance with subregulation (4) (b) relating to an alternate aerodrome. In that case the weight of the aeroplane shall be such that, with the remaining power unit or units operating within the maximum continuous power conditions specified, it is capable of maintaining a minimum altitude on

the route to such aerodrome of 2,000 feet above all obstacles within 10 miles on either side of the intended track, and—

(A) the rate of climb specified for the appropriate weight and altitude used in calculating the flight path shall be reduced by an amount equal to $K(VSO/100)^2$ feet per minute;

(B) the aeroplane shall comply with the climb requirements of subparagraph (i) at 1,000 feet above the chosen aerodrome;

(C) account shall be taken of the effect of wind and temperature on the flight path; and

(D) the weight of the aeroplane may be assumed to be progressively reduced by normal consumption of fuel and oil:

Provided that where the operator of the aeroplane is satisfied, taking into account the navigation aids which can be made use of by the aeroplane on the route, that the commander of the aeroplane will be able to maintain his intended track on that route within a margin of 5 miles, the foregoing provisions shall have effect as if 5 miles were substituted therein for 10 miles.

(b) An aeroplane having four power units shall, if any two power units become inoperative at any point along the route or any planned diversion therefrom, being a point more than 90 minutes flying time (assuming all power units to be operating) from the nearest aerodrome at which a landing can be made in compliance with subregulation (4) (b) relating to an alternate aerodrome, be capable of continuing the flight at an altitude of not less than 1,000 feet above ground level to a point above that aerodrome. In assessing the ability of the aeroplane to satisfy this requirement, it shall be assumed that the remaining power units will operate within the specified maximum continuous power conditions, and account shall be taken of the temperature and wind conditions expected for the flight.

(4)(a) The landing weight of the aeroplane shall not exceed the maximum landing weight specified for the altitude at the aerodrome at which it is intended to land and at any alternate aerodrome.

(b) The required landing runway lengths respectively specified as being appropriate to the aerodromes of intended destination and the alternate aerodromes shall not exceed at the aerodrome at which it is intended to land or at any alternate aerodrome, as the case may be, the landing distance available on—

(i) the most suitable runway for a landing in still air conditions; and

(ii) the runway that may be required for landing because of the forecast wind conditions,

the required landing runway lengths being taken to be those specified as being appropriate to—

(A) the landing weight;

(B) the altitude at the aerodrome;

(C) still air conditions in the case of the most suitable runway for a landing in still air conditions; and

(D) not more than 50 per cent of the forecast wind component opposite to the direction of landing or not less than 150 per cent of the forecast wind component in the direction of landing in the case of the runway that may be required for landing because of the forecast wind conditions.

AVIATION (INVESTIGATION OF ACCIDENTS) REGULATIONS

under s. 19

G.N. 22/1971

5/2004

PART I

PRELIMINARY

1. Citation

These Regulations may be cited as the Aviation (Investigation of Accidents) Regulations.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“accident” includes an incident and reportable accident;

“aerodrome authority” means, in relation to any aerodrome, the person by whom the aerodrome is managed;

“Board” means the Air Accidents Investigation Board;

“Chairman” means a member of the Board appointed under regulation 8 (1) to be the Chairman of the Board and includes any Deputy Chairman;

“commander” in relation to an aircraft means a member of the crew designated as commander of that aircraft by the operator thereof, or failing such a person, the person who is for the time being the pilot in command of the aircraft;

“crew” includes every person employed or engaged in an aircraft in flight on the business of the aircraft;

“field investigation” means an investigation which is not intended to be the subject of a report by the Board to the Minister;

“formal investigation” means an investigation which is intended to be the subject of a report by the Board to the Minister;

“incident” means any fortuitous or unexpected event, not being a reportable accident, by which the safety of an aircraft or any person is or could be threatened;

“investigation” means any investigation carried out by the Board into an accident;

“Member” means a person appointed as a Member of the Air Accidents Investigation Board under regulation 8 (1) b;

“operator” in relation to an aircraft means the person for the time being having the management of the aircraft;

“owner” means, where an aircraft is registered, the registered owner;

“pilot in command” in relation to an aircraft means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft.

“reportable accident” means an occurrence associated with the operation of an aircraft which takes place between the time when any person boards the aircraft with the intention of flight and such time as all persons have disembarked therefrom, in which—

(a) any person suffers death or serious injury while in or upon the aircraft or by direct contact with any part of the aircraft (including any part which has become detached from the aircraft) or by direct exposure to jet blast, except when the death or serious injury is from natural causes, is self-inflicted or is inflicted by other persons or when the death or serious injury is suffered by a stowaway hiding outside the areas normally available in flight to the passengers and members of the crew of the aircraft; or

(b) the aircraft incurs damage or structural failure, other than—

(i) engine failure or damage, when the damage is limited to the engine, its cowling or to accessories;

(ii) damage limited to propellers, wings, tips antenna, tyres, brakes, fairings, small dents or punctured holes in the aircraft skin,

which adversely affects its structural strength, performance or flight characteristics and which would normally require major repair or replacement of the affected component; or

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

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

- (a) requires his stay in hospital for more than 48 hours commencing within seven days from the date on which the injury was received;
- (b) results in a fracture of any bone (except simple fractures of fingers, toes or nose);
- (c) involves lacerations which cause nerve, muscle or tendon damage or severe haemorrhage;
- (d) involves injury to any internal organ;
- (e) involves second or third degree burns or any burns affecting more than five per cent of the body surface; or
- (f) involves verified exposure to infectious substances or injurious radiation.

(2) For the purposes of section 19 of the Act, the definition of “accident” shall be the same as in these Regulations.

(3) Any notice or other document required or authorized by any provision of these Regulations to be served on or given to any person may be served or given—

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known residence or place of business, whether in Malawi or elsewhere;
- (c) by sending it to him by post at that address; or
- (d) by sending it to him at that address by e-mail, facsimile, telex or other means which produce a document containing a text of the communication, in which event the document shall be regarded as served when it is received.

3. Application

These Regulations relate only to civil aviation and shall apply—

- (a) to accidents arising out of or in the course of air navigation which occur to civil aircraft in or over Malawi;
- (b) to such accidents which occur elsewhere to civil aircraft registered in Malawi; or
- (c) for the purposes of regulation 21 (3) only, to such accidents which occur elsewhere to civil aircraft registered in a country or territory other than Malawi.

4. Purpose of investigating accident

The fundamental purpose of investigating accidents under these Regulations shall be to determine the circumstances and causes of the accident with a view to the preservation of life and the avoidance of accidents in the future; it is not the purpose to apportion blame or liability.

PART II

ACCIDENT INVESTIGATION

5. Duty to furnish information relating to accidents

(1) Where a reportable accident occurs the commander of the aircraft involved at the time of the accident, or if he is killed or incapacitated then the operator of the aircraft, and, in the case of an accident occurring on or adjacent to an aerodrome, the aerodrome authority shall forthwith give notice thereof to the Board by the quickest means of communication available and in the case of a reportable accident occurring in or over Malawi shall also notify forthwith the local police authorities of the accident and of the place where it occurred.

(2) The notice to the Board referred to in subregulation (1) shall be given the identifying abbreviation "ACCID" and shall state as far as possible—

- (a) the type, model, nationality and registration marks of the aircraft;
- (b) the name of the owner, operator, and hirer (if any) of the aircraft;
- (c) the name of the commander of the aircraft;
- (d) the date and Coordinated Universal Time of the accident;
- (e) the last point of departure and the next point of intended landing of the aircraft;
- (f) the position of the aircraft by reference to some easily defined geographical point and latitude and longitude;
- (g) the number of crew on board the aircraft at the time of the accident and the number of them killed or seriously injured as a result of the accident;
- (h) the number of passengers on board the aircraft at the time of the accident and the number of them killed or seriously injured as a result of the accident;
- (i) the number of other persons killed or seriously injured as a result of the accident; and
- (j) the nature of the accident and the extent of the damage to the aircraft as far as is known.

(3) Where an accident to which these Regulations apply occurs, whether in or over Malawi or elsewhere, the owner, operator, commander or hirer of the aircraft shall, if so required by notice in writing given to him by the Board, send to the Board, within such time as may be specified in the notice,

such information as is in his possession or control with respect to the accident in such form as the Board may require.

6. Publication of information

The Board may at any time publish, or cause to be published, information relating to an accident whether or not such an accident is the subject of an investigation by the Board, a Review Board or a Public Inquiry.

7. Removal of damaged aircraft

(1) Subject to regulation 9, where a reportable accident occurs in or over Malawi, no person other than an authorized person shall have access to the aircraft involved in the accident and neither the aircraft nor its contents shall, except under the authority of the Minister, be removed or otherwise interfered with:

Provided that, subject to the provisions of the Customs and Excise Act— Cap. 42:01

(a) the aircraft may be removed or interfered with so far as may be necessary for the purpose of extricating persons or animals, removing any mails, valuables and dangerous goods carried by the aircraft, preventing destruction by fire or other cause, or preventing any danger of obstruction to the public or to air navigation or to other transport, or under the supervision of a Member or, with the agreement of a Member or of a police officer, for the purpose of removing any other property from the aircraft; and

(b) if an aircraft is wrecked on the water, the aircraft or any of its contents may be removed to such extent as may be necessary for bringing it or them to a place of safety.

(2) In this regulation, the expression “authorized person” means any person authorized by the Minister either generally or specially to have access to any aircraft involved in an accident and includes any police officer or any Customs Officer.

8. Air Accidents Investigation Board

(1) For the purpose of carrying out investigation into circumstances and causes of accidents to which these Regulations apply, the Minister shall appoint persons as Members of an Air Accidents Investigation Board, one of whom shall be appointed by the Minister as Chairman of the Board.

(2) The Chairman shall determine whether or not an investigation shall be carried out into any accident to which these Regulations apply and the form of the investigation. He may himself carry out, or may cause a Member to carry out, an investigation of any such accident.

(3) Without prejudice to the power of a Member to seek such advice or assistance as he may deem necessary in making an investigation, the Minister may at the request of the Board appoint persons to assist any Member in a particular investigation and such persons shall for the purpose of so

doing have such of the powers of a Member under these Regulations as may be specified in their appointment.

9. Powers of Members

For the purpose of the investigation of any accident to which these Regulations apply, or any inquiries undertaken with a view to determining whether any such investigation should be held, a Member shall have power—

(a) by summons under his hand, to call before him and examine all such persons as he thinks fit, to require such persons to answer any question or furnish any information or produce any books, papers, documents and articles until the completion of the investigation or any inquiry held pursuant to regulation 18, or as the case may be, it is determined that an investigation shall not be carried out;

(b) to take statements from all such persons as he thinks fit and to require any such person to make and sign a declaration of the truth of the statement made by him;

(c) to have access to and examine any aircraft involved in any such accident and the place where the accident occurred and to require any such aircraft or any part of equipment thereof to be preserved unaltered pending investigation;

(d) to examine, remove, test and take measures for the preservation of, or otherwise deal with—

(i) the aircraft involved in the accident; or

(ii) where it appears to the Member requisite for the purposes of such investigation or inquiries, any other aircraft, or any part of such aircraft or anything contained therein;

(e) on production, if required of his credentials, to enter and inspect any place, building or aircraft the entry or inspection whereof appears to the Member to be requisite for the purposes of any such investigation or inquiries or any inquiry held pursuant to regulation 18 below, except that a Member shall not have power to enter any premises under this subparagraph for the purpose of inquiries with a view to determining whether an investigation should be held if at the time of the proposed entry the premises are being used as a dwelling; and

(f) to take such measures for the preservation of evidence as he considers appropriate.

10. Form and conduct of investigations

(1) An investigation into any accident to which these Regulations apply may be a formal investigation or a field investigation.

(2) Public notice that a formal investigation is taking place shall be given in such manner as the Board may think fit and shall invite any person who desires to make representations concerning the circumstances or causes of the accident to do so in writing within the time to be specified in the notice.

(3) All investigations shall be held in private.

(4) Where it appears to the Member in the course of any investigation that in order to resolve any conflict of evidence or that for any other reason it is expedient so to do, he may permit any person to appear before him, call evidence and examine witnesses.

(5) Every person summoned by the Member as a witness in accordance with these Regulations shall be paid such expenses as the Minister, with the approval of the Ministry of Finance, may determine.

(6) Every witness shall, in respect of any evidence written by him to or given by him before a Member, be entitled to the same privileges to which he would have been entitled if giving evidence before a court.

(7) The Board may determine that any investigation being carried out into an accident shall be discontinued and, in the event of a formal investigation being discontinued, no report shall be made thereon to the Minister under regulation 11 (1), but public notice shall be given, in such manner as the Board may think fit, that the investigation has been discontinued.

(8) Following the discontinuance of any investigation, the Board shall submit to the Civil Aviation Authority such information as he considers desirable in the interest of the avoidance of accidents in the future.

11. Board's report and submission of information to the Civil Aviation Authority

(1) Subject to the provisions of regulation 12 the Board shall, upon completion of a formal investigation, submit to the Minister the report of the Member who carried out the investigation.

(2) Upon completion of a field investigation, the Board shall submit to the Civil Aviation Authority such information as he considers desirable in the interest of the avoidance of accidents in the future.

(3) The report to the Minister shall state the facts relating to the accident followed by an analysis of the facts and conclusions as to the causes of the accident, together with any recommendation which the Member thinks fit to make with a view to the preservation of life and the avoidance of accidents in the future.

12. Notice of Board's report and representations

(1) No report shall be submitted to the Minister under representations in regulation 11 (1) in respect of an accident until the Board has—

(a) where it appears to the Board to be practicable so to do, served a notice under this regulation upon the operator and commander of the aircraft involved in the accident and on any person whose reputation is, in the opinion of the Board, likely to be adversely affected by the report or, if any of the foregoing be a deceased individual, upon such person or persons as appears to the Board, at the time, to serve notice pursuant to this paragraph, to represent best the interest of the deceased in the matter; and

(b) considered any representation which may be made to the Board in accordance with paragraph (3) by or on behalf of the persons served with such notice.

(2) The notice referred to in paragraph (1) shall include particulars of any proposed analysis of facts and conclusions as to the cause or causes of the accident which may affect the person on whom or in respect of whom the notice is served.

(3) Any representation made pursuant to subregulation (1) shall be in writing and shall be served on the Board within 28 days of service of the notice referred to in subregulation (1) or within such further period as may be allowed under regulation 22.

(4) A copy of the report submitted to the Minister under regulation 11 (1) shall be served by the Board on any person who has been served with a notice pursuant to paragraph (1).

(5) No person shall disclose or permit to be disclosed any information contained in a notice or report served on him pursuant to subregulation (2) or (4) to any other person without the prior consent, in writing, of the Board.

PART III

REVIEW BOARD

13. Notice of review

(1) Any person who has been served without notice under regulation 12(1) may, at any time before the expiration of the period of 21 days from the date on which he has been served with a copy of the report under regulation 12 (4), or within such further period as may be allowed under regulation 22, serve on the Minister written notice (hereinafter called the 'notice of review') that he wishes those findings and conclusions in the report from which it appears that his reputation or, as the case may be, the reputation of the person on whose behalf representations have been made under regulation 12 (3) is likely to be adversely affected, to be reviewed by a Review Board.

(2) The notice of review shall specify the findings and conclusions that should be considered for review by the Review Board, shall state concisely the grounds on which the findings and conclusions in the report are challenged and the reasons why the reputation of the person requesting the review is likely to be adversely affected by such findings and conclusions and there shall be appended to the notice a copy of any representations made under regulation 12 (3).

(3) A copy of the notice of review, together with a copy of any representation made under regulation 12 (3), shall, at the same time as the notice of review is served on the Minister, be served on the Attorney General, and the person requesting the review shall then or as soon as possible thereafter inform the Attorney General whether or not he proposes to be represented at the hearing of the review and of the name and address of the solicitor, if any, acting for him or of any other person who will be representing him at the review.

(4) A copy of the notice of review, together with a copy of an, representations made under regulation 12 (3), shall also be served by the person request the review on all other persons on whom the Board has served a notice under regulation 12 (1) and for this purpose the person requesting the review may require the Board to furnish him with the names and addresses of those persons.

14. Appointment of Review Board and preliminary meeting

(1) Where a notice of review in accordance with regulation 13 has been served, the review shall be entrusted to a Review Board consisting of a chairman to be appointed for the purpose by the Chief Justice and such technical assessors as may be so appointed.

(2) Before the hearing of the review, the Review Board shall hold a preliminary meeting at which any direction may be given or any preliminary interlocutory order as to the procedure may be made and not less than 21 days' notice of the date, time and place of the preliminary meeting shall be given by the Attorney General to the person requesting the review and all persons on whom a copy of the notice of review has been served and any person intending to make any application to the Review Board at the meeting shall give notice thereof to the Attorney General.

(3) The preliminary meeting shall be in public unless the Review Board determines that it is to be held in private in the interests of justice or in the public interest.

(4) Where at any time during the preliminary meeting the Review Board is satisfied that any of the findings and conclusions in the report of the Board do not adversely affect the reputation of the person requesting the review, the Review Board may decide not to proceed with the review in respect of those findings and conclusions.

(5) The Review Board shall not reach a decision under regulation (4) unless it has given the person requesting the review and all persons on whom a copy of the notice of review has been served an opportunity to make representations as to whether the review should be proceeded with.

(6) The Attorney General shall serve on the person requesting the review and all other persons on whom the Board has served a notice under regulation 12 (1), not less than 21 days' notice of the date, time and place of the hearing of the review.

(7) The hearing shall be in public unless the Review Board determines, in relation to the whole or part of the review, that it is to be held in private in the interests of justice or in the public interest:

Provided that a decision by the Review Board that the hearing, or part of it, be held in private shall not preclude the Member who made the report.

(8) The Review Board shall be assisted by the Attorney General, or by Counsel instructed by him, who shall present any evidence required by the Review Board and may examine any witnesses giving evidence at the review.

15. Proceedings of Review Board

(1) The person requesting the review shall be heard by the Review Board and shall have the right to give evidence, produce witnesses and examine any other witness giving evidence at the review.

(2) The Member who made the report shall be entitled to be heard by the Review Board.

(3) Any person who in the opinion of the Review Board may be directly affected by the review may be granted leave to appear and to give evidence, produce witnesses and examine any other witnesses giving evidence at the review. Any application for such leave may be made to the Review Board at the preliminary meeting.

(4) In any proceedings of the Review Board, the person requesting the review and any other person appearing pursuant to leave granted under subregulation (3) may appear in person or be represented by any other person whom he may have authorized to represent him.

(5) The proceedings of the Review Board shall commence with the giving of evidence by the person requesting the review and the production and examination of witnesses on his behalf and when the examination of witnesses on behalf of such person has been concluded the Review Board shall proceed to hear the other persons appearing before it.

(6) The Review Board shall have all the powers of the Board under these Regulations and, in addition, may administer an oath to or require a solemn affirmation from any witness.

(7)(a) Where new and important evidence is given at the review, which was not given at the investigation by the Member, the Review Board may, on an application by the Board discontinue the review, and the Board shall thereupon cause the investigation to be re-opened;

(b) where at any time during the review, the Review Board is satisfied that any of the findings and conclusions in the report of the Member do not adversely affect the reputation of the person in respect of whom the notice of review was served, the Review Board may discontinue the review in respect of those findings and conclusions;

(c) where a review is totally discontinued under paragraph (a) or (b), no report shall be made to the Minister under sub-regulation (10).

(8) Every person summoned by the Review Board as a witness shall be allowed such expenses as the Minister, with the approval of the Ministry of Finance, may determine.

(9)(a) The Review Board may, if it thinks fit, order any person who appears or is represented as mentioned in subregulation (4) to pay in respect of the costs of the Review Board or of any other person who appears or is represented as mentioned in subregulation (4) such sum as may be specified in the order, or the taxed amount of those costs or such part thereof as may be so specified upon such basis as may be so specified;

(b) without prejudice to the generality of the foregoing, the Review Board shall, in determining whether to make an order as to costs against any person, have regard to whether or not that person took advantage of such opportunities as were open to him to make representations under regulation 12 or, where that person gave new and important evidence at the review and the review was discontinued, whether or not that person could reasonably have given that evidence at the investigation by the Board.

(10) Any costs required by an order under subregulation (9) to be taxed shall be taxed by the High Court on the basis specified in the order.

(11) Any sum payable by virtue of an order under subregulation (9) shall, if the local court so orders, be recoverable by execution issued from the local court or otherwise as if payable under an order of the court.

(12) Upon completion of the review, the Review Board shall make a report to the Minister containing a summary of the proceedings at the hearing and either confirming or rejecting in whole or in part those findings and conclusions of the Board which were the subject of the review, together with its reasons therefor, and the Minister shall serve a copy of the report on all persons who appeared or were represented before the Review Board.

16. Publication of Reports

The Minister shall, unless in his opinion there are good reasons to the contrary, cause the report of the Board and, where a Review Board has been held, the report of the Review Board to be made public wholly or in part in such manner as he thinks fit:

Provided that—

(a) in any case where notice has been served under regulation 12 (1), the report of the Board shall not be published before the expiry of the time for service of a notice of review under regulation 13 (1); and

(b) save where a review is totally discontinued under regulation 15 (7), in any case where a Review Board is held, the report of the Board shall not be published until the Review Board has made a report to the Minister under regulation 15 (12).

17. Re-opening of investigation or review

(1) In the case of any formal investigation which has not been the subject of a review, the Board may cause the investigation to be reopened, and in the case of a review, including a review which has been discontinued under regulation 15 (7), the Minister may direct the review to be reheard or, if a decision has been reached under regulation 14 (4) not to proceed with the review, he may direct the review to be proceeded with, in each case either generally or as to any part thereof, and the Board or the Minister, as the case may be, shall do so—

(a) if, after the completion of the investigation or the completion or curtailment of the review, evidence has been disclosed which is in his opinion new and important; or

(b) if, for any other reason, there is in his opinion ground for suspecting that a miscarriage of justice has occurred.

(2) If the Minister directs any review to be reheard or proceeded with, the Chief Justice may direct that the review shall be heard or proceeded with either by the Review Board by whom it was heard or which it had been entrusted to in the first instance or by some other Review Board appointed by him to hold the rehearing.

(3) Any investigation reopened or review reheard or proceeded with shall be subject to, and conducted in accordance with, the provisions of the Regulations relating to a formal investigation or review thereof, as the case may be.

PART IV

PUBLIC INQUIRIES

18. Holding of public inquiries

(1) Where it appears to the Minister that it is expedient in the public interest to hold a public inquiry into the circumstances and causes of an accident to which these Regulations apply or into any particular matter relating to the avoidance of such accidents in the future, he may direct that a Public Inquiry be held by a Commissioner appointed by the Chief Justice and in any such case any investigation relating to the accident or to the particular matter, as the case may be, shall be discontinued except for the purpose of rendering assistance as required by subregulation (3).

(2) The Commissioner shall be a judge of not less than five years standing and shall be assisted by not fewer than two assessors possessing aeronautical, engineering or other special skills or knowledge who shall be appointed by the Chief Justice in consultation with the Minister.

(3) Where the Minister has directed a public inquiry to be held, he shall remit the case to the Attorney General, and thereafter the preparation and presentation of the case shall be conducted by the Attorney General or an officer in his Department authorized by him in that behalf and the Board shall render such assistance to the Commissioner and to the Attorney General as is in its power.

(4) When the Minister has directed a public inquiry to be held, the Attorney General shall cause a notice of the date, time and place and the nature of the public inquiry to be served upon the owner, operator, hirer and commander of any aircraft involved in the accident and on any other person who in his opinion ought to be served with such notice.

(5) The owner, the operator, the hirer, the commander of any aircraft and any other person upon whom a notice of inquiry has been served under subregulation (4) shall be deemed to be parties to the proceedings.

(6) Any other person may by leave of the Commissioner appear, and any person who obtains leave to appear shall thereupon become a party to the proceedings and any application for such leave may be made to the Commissioner at a preliminary meeting.

(7) At any time before the date appointed for holding the inquiry, the Commissioner may hold a preliminary meeting at which any directions may be given or any preliminary or interlocutory order as to the procedure may be made. Notice of the date, time and place of the preliminary meeting shall be given by the Attorney General to the parties to the proceedings and to any other person who has notified the Attorney General that he intends to apply to the Commissioner for leave to appear. Any person intending to make an application to the Commissioner at the meeting shall give notice thereof to the Attorney General.

(8) The Commissioner shall have, for the purposes of the inquiry, all the powers of a Magistrate's Court, and without prejudice to those powers, the Commissioner may—

(a) enter and inspect, or authorize any person to enter and inspect, any place, building or aircraft, the entry or inspection whereof appears to the Commissioner to be requisite for the purposes of the inquiry;

(b) by summons require the attendance as witnesses of all such persons as the Commissioner thinks fit to call and examine, and require such persons to answer any question or furnish any information or produce any book, paper, document and article which the Commissioner may consider relevant;

(c) administer an oath to or require a solemn affirmation from any such witness.

(9) The Assessors shall have the same power of entry and inspection as the Commissioner.

(10) Affidavits and statutory declarations may, by permission of the Court, be used as evidence at the hearing.

(11) At the time and place appointed for holding the inquiry, the court may proceed with the inquiry whether the parties, upon whom a notice of inquiry has been served or who have obtained leave to appear, or any of them, are present or not.

(12) The court shall hold the inquiry in open court save to the extent to which the Court directs, in relation to any part of the evidence or any argument relating thereto, that the inquiry be held in private in the interest of justice or in the public interest.

(13) The Member who carried out or, before its discontinuance under regulation 10, was carrying out an investigation into an accident to which the inquiry relates and a member of the Review Board shall be entitled to be present at any proceedings of the Commissioner held in private.

19. Proceedings of public inquiries

(1) The proceedings on the inquiry shall commence with opening speech by or on behalf of the other parties. The proceedings shall continue with the production and examination of witnesses on behalf of the Attorney General. These witnesses, after being examined on behalf of the Attorney General, may be cross-examined by the parties in such order as the Commissioner may direct, and may then be re-examined on behalf of the Attorney General.

(2) When the examination of the witnesses produced on behalf of the Attorney General has been concluded, the Commissioner shall proceed to hear the other parties to the proceedings. Each party to the proceedings shall be entitled to address the Commissioner and produce witnesses or recall any of the witnesses who have already been examined for further examination and generally adduce evidence. The parties shall be heard and their witnesses examined, cross-examined and re-examined in such order as the Commissioner shall direct. Further witnesses may also be produced and examined on behalf of the Attorney General and may be cross-examined by the parties and re-examined on behalf of the Attorney General.

(3) When the whole of the evidence has been concluded any of the parties who desires so to do may address the Commissioner upon the evidence and the Commissioner may be addressed in reply upon the whole case on behalf of the Attorney General.

(4) The Commissioner may adjourn the inquiry from time to time and from place to place, and, where an adjournment is asked for by any party to the inquiry, the Commissioner may impose such terms as to payment of costs or otherwise as he may think just as a condition of granting the adjournment.

(5) Upon completion of the inquiry, the Commissioner shall make a report to the Minister stating the facts relating to the accident and the opinion of the Commissioner concerning the cause or causes of the accident or on the particular matter referred to the Commissioner and adding any recommendations which the Commissioner thinks fit to make with a view to the preservation of life and the avoidance of accidents in the future.

(6) Each assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for any such dissent, and such reservations or dissent and reasons shall be forwarded to the Minister with the report.

(7) The Minister shall, unless in his opinion there are good reasons to the contrary, cause any such report and reservations or dissent and reasons to be made public wholly or in part in such manner as he thinks fit.

(8) Every person attending as a witness before the Commissioner shall be paid such expenses as would be paid to a witness attending before the High Court, and in case of a dispute as to the amount to be allowed, the same shall be referred by the Commissioner to a master of the High Court who on a request signed by the Commissioner shall ascertain and certify the proper amount of the expenses:

Provided that in the case of any party to the proceedings or of any person in the employment of such a party, any such expenses may be disallowed if the Commissioner in his discretion so directs.

20. Rehearing of public inquiries

(1) The Minister may, in any case where a public inquiry has been held, direct the inquiry to be reheard either generally or as to any part thereof and shall do so—

(a) if, after the completion of the inquiry, evidence has been disclosed which is in his opinion new and important; or

(b) if, for any other reason, there is in his opinion ground for suspecting that a miscarriage of justice has occurred.

(2) If the Minister directs any inquiry to be reheard, the Chief Justice may direct that the inquiry shall be reheard either by the Commissioner by whom it was heard in the first instance or by some other person appointed by him to hold the rehearing.

(3) Any inquiry reheard shall be subject to and conducted in accordance with the provisions of these Regulations relating to the holding of public inquiries.

PART V

MISCELLANEOUS

21. Accidents to aircraft registered outside Malawi

(1) Where an accident has occurred in or over Malawi to an aircraft registered in any country or territory other than Malawi, the Minister may authorize an investigator appointed by the duly competent authority of that other country or territory to carry out an investigation in Malawi and in that event the Minister shall, so far as he is able, facilitate inquiries by the investigator so appointed.

(2) In any formal investigation or any public inquiry an accredited representative of the country or territory in which the aircraft is registered, or of any country or territory in which the aircraft was manufactured or which has, on request, furnished information in connexion with the accident, may take part in the investigation or in the inquiry, as the case may be, that is to say, he shall be permitted to visit the scene of the accident, examine the wreckage, question witnesses, receive copies of all pertinent

documents (saving all just exceptions), have access to all relevant evidence and make submissions; and he may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the country or territory by which he is appointed.

(3) Where an accident has occurred elsewhere than in Malawi to an aircraft registered in any country or territory other than Malawi, the Board shall have power to take the measures described in regulation 9 for the purpose of obtaining any information relevant to the investigation of the accident by the duly competent authority of the country or territory conducting such investigation.

22. Extension of time

The Board, in the case of the period of 28 days prescribed in regulation 12 (3), and the Minister, in the case of the period of 21 days prescribed in regulation 13 (1), shall have power to extend the said periods, and this power shall be exercisable notwithstanding that the period so prescribed has expired.

23. Obstruction of investigation

(1) A person shall not obstruct or impede the Commissioner or the Review Board or any Member or an assessor or any person acting under the authority of the Minister in the exercise of any powers or duty under these Regulations.

(2) A person shall not without reasonable excuse fail, after having had the expenses (if any) to which he is entitled under these Regulations tendered to him, to comply with any summons or requisition of the Commissioner holding a public inquiry or of a Review Board or of a Member holding an investigation or undertaking any inquiry with a view to determining whether any investigation should be held under these Regulations.

24. Offences and penalties

Any person who—

(a) willfully obstructs or impedes the Board, or the Review Board or a Commissioner or a Member or an assessor or any person acting under the authority of the Minister in exercise of any powers or duties under these Regulations;

(b) without any reasonable excuse (proof whereof shall lie on him) fails after having the expenses (if any) to which he is entitled rendered to him to comply with any summons or requisition of the Commissioner holding a public inquiry or the Review Board or a Member holding a Member's investigation under these Regulations; or

(c) without reasonable excuse (proof whereof shall lie on him) fails to comply with any of the provisions of regulations 5 and 7,

shall be guilty of an offence and liable to a fine of K1,000 and to imprisonment for twelve months.

25. Saving

Any investigation commenced, or anything made or done under the provision of the Aviation (Investigation of Accidents) Regulations, 1971 having effect immediately prior to the coming into operation of these Regulations, shall continue to have effect and shall be deemed for all purposes to have been commenced, made or done, under the provisions of these Regulations. G.N. 22/1971

AVIATION (AIR TRANSPORT LICENSING) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

1. Citation
2. Interpretation
3. Exemptions

PART II

4. Application of Part II
5. Restriction on operation without a licence
6. Grant of licence by Minister
7. Applications for licences
8. Publication of applications
9. Objections or representations
10. Minister may appoint a tribunal
11. Composition, powers, rights and privileges of a tribunal
12. Hearings by a tribunal
13. Notice of hearing
14. Grant of short-term special licences
15. Period of licence
16. Grant of provisional licences

17. Publication of the Minister's decisions
18. Revocation or suspension of licences
19. Surrender of licences
20. Fees for licences
21. Returns by holders of licences

PART III

22. Application of Part III
23. Restriction on operation without a permit
24. Grant of permits
25. Applications for permits
26. Powers of Chief Civil Aviation Officer
27. Revocation or suspension of permits
28. Fees for permits

PART IV

29. Offences and penalties
30. Licences and permits not transferable
31. Non-disclosure of information
32. Reference to licence to include provisional licence
33. No rights of continuance
34. Proceeding in the case of an offence
35. Immunities

Schedule and Appendix

GN. 23/1971

22/1977

2/1980

63/1980

67/1982

99/1993

87/1996

28/2000

AVIATION (AIR TRANSPORT LICENSING) REGULATIONS

under s. 19

PART I

1. Citation

These Regulations may be cited as the Aviation (Air Transport Licensing) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“air service” means any service performed by any aircraft for hire or reward.

“the convention” means the convention on International Civil Aviation concluded at Chicago on the 7th day of December, 1944;

“licence” means a licence granted under regulation 6 in respect of scheduled journeys;

“permit” means a permit granted under regulation 24 in respect of non-scheduled journeys;

“scheduled journey” means one of a series of journeys which are undertaken 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 it.

3. Exemptions

Nothing in these Regulations shall apply to any flight—

(a) by a civil aircraft operating on a scheduled journey as a result of and under the terms of an air services agreement entered into by the Government;

(b) by a civil aircraft engaged in the operation of a journey other than a scheduled journey and registered in a state (other than Malawi) which is for the time being a party to the Convention for the sole purpose of the carriage of passengers, none of whom are taken on or discharged from the aircraft in Malawi, or the carriage of cargo or mail none of which is taken on or discharged in Malawi:

Provided that the person in command of such aircraft gives notice to the Director of Civil Aviation of his intention to land in Malawi before the aircraft enters Malawi airspace and that the aircraft shall follow such route in Malawi airspace as the Director of Civil Aviation may prescribe;

(c) solely for the purpose of the training or testing of persons in the performance of duties in connexion with aircraft;

(d) solely for the purpose of providing ambulance or rescue facilities;

(e) solely for the purpose of the carriage of emergency food or emergency medical supplies;

(f) solely for the purpose of testing or demonstrating any aircraft or of any apparatus or equipment whether or not that apparatus or equipment is carried in the aircraft.

PART II

LICENCES FOR SCHEDULED JOURNEYS

4. Application of Part II

This Part shall not apply to the carriage of passengers, mail or cargo by air for hire or reward upon journeys other than scheduled journeys.

5. Restriction on operation without a licence

Subject to the provisions of these Regulations, it shall not be lawful for any person to use any aircraft in Malawi for the carriage of passengers, mail or cargo for hire or reward upon any scheduled journey between two places of which at least one is in Malawi except under, and in accordance with the provisions of, a licence or provisional licence granted by the Minister.

6. Grant of licence by Minister

(1) The Minister may grant to any person applying therefor a licence to carry passengers, mail or cargo by air for hire or reward on such scheduled journeys, and subject to such conditions, as may be specified in the licence.

(2) The Minister may attach such conditions to any licence as he may think fit, having regard to the nature and circumstances of the application therefor.

(3) It shall be a condition of every licence—

(a) 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—

(i) refuse booking facilities to any other holder of a licence;

(ii) grant such facilities to such holder only on onerous terms;

(b) that the holder of the licence shall perform all such reasonable services as the Postmaster General may from time to time require in regard to the conveyance of mails and of any persons who may be in charge thereof upon journeys made under the licence. The remuneration for any such service shall be such as may from time to time be determined by agreement between the Postmaster General and the holder of the licence;

(c) that any dispute, difference or question which may arise as to the remuneration to be paid to the holder of the licence in respect of such services, or as to the rights, duties or liabilities of the holder of the licence or the Postmaster General hereunder, or otherwise in relation to any of the matters aforesaid, shall in default of agreement be referred to a single arbitrator in pursuance of the provisions of the Arbitration Act. Cap. 6:03

7. Applications for licences

(1) Applications for licences shall be made in the form and manner and shall contain the particulars prescribed in the Schedule.

(2) Every applicant shall furnish to the Minister such further information as the Minister may reasonably require for the discharge of his duties in relation to the application.

8. Publication of applications

The Minister shall cause to be published, in the manner prescribed in the Schedule, such particulars of any applications for licences received by him as are prescribed in the Schedule, and the cost of any such publication shall be borne by the applicant. G.N. 2/1980

9. Objections or representations

Any Government officer acting on the instructions of the Minister, or any person providing transport by air for passengers or cargo, or any owner of an aerodrome, may in the form and manner and within the time prescribed in the Schedule, make objections or representations with regard to the applications for a licence.

10. Minister may appoint a tribunal

As soon as may be after the expiration of the period prescribed in the Schedule the Minister may, whether or not an objection or representation has been made to him, refer the application to be dealt with by a tribunal.

11. Composition, powers, rights and privileges of a tribunal

(1) A tribunal shall consist of an officer in the public service of Malawi and such assessors as the Minister shall appoint.

(2) Any such tribunal may be appointed generally for any period or periods, or specifically for the purpose of dealing with a particular application.

(3) The powers, rights and privileges of a tribunal in any inquiry shall be the same as those conferred on a commission of inquiry by the Commissions of Inquiry Act. Cap. 18:01

(4) Assessors shall be entitled to such remuneration and allowance as the Minister may determine.

12. Hearings by a tribunal

Every hearing by a tribunal shall be held in public unless the Minister shall otherwise decide in relation to the whole or part of a particular case.

13. Notice of hearing

Before hearing any application for a licence or objections or representations with regard to the application the Minister shall give to the applicant and to any person who has made such objections or representations such notice in such form as is prescribed in the Schedule, and shall give the applicant and any such person an opportunity of being heard at the hearing of the application.

14. Grant of short term special licences

Where an application is made to the Minister for a licence to remain in force for a period not exceeding thirty days and he is satisfied that it is in the public interest that the application should be determined with expedition, he may determine the application and grant a licence accordingly; and the provisions of this Part as to the publication of particulars of applications, the making of objections and representations, and the holding of enquiries at the instance of the applicant or an objector shall not in that case apply.

15. Period of licence

The Minister may grant licences to remain in force for such period not exceeding five years, as he may in each case determine, commencing on the date on which the licence is expressed to take effect:

Provided that if, on the date of the expiration of a licence, an application to the Minister is pending for the grant of a new licence in substitution for an existing licence held by the applicant, the existing licence shall continue in force until the application is granted or refused.

16. Grant of provisional licences

The Minister may, if he 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.

17. Publication of the Minister's decisions

The Minister shall cause to be published in the manner prescribed in the Schedule such particulars of his decisions on applications for licences and of his decisions to revoke or suspend licences as are prescribed in the Schedule, and the cost of any such publication shall be borne by the applicant or the holder of the licence, as the case may be. G.N. 2/1980

18. Revocation or suspension of licences

(1) Subject to the provisions of subregulation (2), the Minister may revoke or suspend a licence—

(a) if the holder of the licence has, since the licence was granted, committed an offence under any written law relating to air navigation or carriage by air;

(b) where the holder of the licence is a body corporate, if any officer of that body corporate has, since the licence was granted, in his capacity as such officer, committed an offence under any written law relating to air navigation or carriage by air;

(c) if the holder of the licence fails to operate the services to which the licence refers with sufficient regularity to satisfy the Minister; or

(d) if the holder of the licence, or any person acting on his behalf, shall have made any false statement, whether wilfully or otherwise; either in the application for a licence or at any hearing of such application by a tribunal appointed by the Minister under regulation 10.

(2) The Minister shall not revoke or suspend the licence unless he is satisfied that in all the circumstances the licence should be revoked or suspended, and before revoking or suspending any licence under subregulation (1) (c) the Minister—

(a) shall give to the holder of the licence such notice as is prescribed in the Schedule, specifying the grounds upon which it is proposed to revoke or suspend the licence; and

(b) may, if he thinks fit, hold a private enquiry.

(3) The expression "officer" in subregulation (1) (b) means a Director, General Manager, Secretary or other similar officer and includes any person who, with the authority of the body corporate acts as such officer.

19. Surrender of licences

A licence may at any time be surrendered by the holder to the Minister for cancellation. If, during the currency of a licence, the holder applies to the Minister for a new licence in substitution for

the current licence, he shall, if a new licence is granted, surrender the current licence for cancellation on the date from which the new licence is expressed to take effect.

20. Fees for licences

(1) There shall be paid to the Government— G.N. 22/1977, 63/1980, 67/1982, 99/1993, 87/1996, 28/2000

(a) in respect of every licence, a fee of US\$1,000 in respect of each year, or part of a year, of the term for which the licence is expressed to remain in force; or

(b) in respect of every provisional licence granted under regulation 16, a fee of US\$500.

(2) No refund of any fee paid in respect of the grant of a licence shall be made, whether on the surrender of the licence or otherwise, save where a licence is surrendered before the normal date of expiry upon the grant of a new licence authorizing a service over the same route, in which case there shall be refunded the sum of US\$600 for each full year of the unexpired period of the licence.

21. Returns by holders of licences

Every holder of a licence shall, from time to time, provide such information relating to the operation of the air services which are the subject of the licence as the Minister may require.

PART III

PERMITS FOR JOURNEYS OTHER THAN SCHEDULED JOURNEYS

22. Application of Part III

This Part shall not apply to the carriage of passengers, mail or cargo by air for hire or reward on scheduled journeys.

23. Restriction on operating without a permit

Subject to the provisions of these Regulations, it shall not be lawful for any person to use any aircraft for the provision in Malawi of any air services except under, and in accordance with, the conditions of a permit granted by the Director of Civil Aviation.

24. Grant of permits

(1) The Director of Civil Aviation may grant to any person applying therefor a permit to use aircraft for the provision in Malawi of such air services (other than such a service as is referred to in regulation 5) for such period and on such conditions as may be specified in the permit.

(2) The Director of Civil Aviation may attach such conditions to any permit as he may think fit having regard to the nature and circumstances of the application therefor.

25. Applications for permits

Applications for permits shall be made in such form, and shall contain such information as the Director of Civil Aviation may from time to time require.

26. Powers of Director of Civil Aviation

(1) In respect of an application for a permit for a period in excess of thirty days the Director of Civil Aviation shall cause such particulars of such application as he deems necessary to be published in at least one issue of a newspaper circulating in Malawi and once in the Gazette, the cost of any such publication shall be borne by the applicant. G.N. 2/1980

(2) In addition to the provisions contained in this Part the provisions of regulations 9, 10, 11, 12, 13, 16, 17 and 21 shall, mutatis mutandis, apply to any application to which this regulation refers as if such application were an application for a licence.

27. Revocation or suspension of permits

(1) The Director of Civil Aviation may revoke or suspend any permit—

(a) if the holder of the permit has, since the permit was granted, committed an offence under any written law relating to air navigation or carriage by air;

(b) where the holder of the permit is a body corporate, if any officer of the body corporate has, since the permit was granted, in his capacity as such officer, committed an offence under any written law relating to air navigation or carriage by air.

(2) The expression “officer” in subregulation (1) (b) means a Director, General Manager, Secretary or other similar officer and includes any person who, with the authority of the body corporate, acts as such officer.

28. Fees for permits

(1) There shall be paid to the Government— G.N. 22/1977, 63/1980, 67/1982, 99/1993, 87/1996, 28/2000

(a) in respect of a permit to operate a single flight the following fees—

US\$(i)when using aircraft of all-up weight of less than 30,000 kg1500(ii)when using aircraft of all-up weight of 30,000 kg and over4500

(b) in respect of a permit to operate flights for a period of thirty days or less, not being a single flight operation, the following fees—

US\$(i)when using aircraft of all-up weight of less than 30,000 kg10000(ii)when using aircraft of all-up weight of 30,000 kg and over20000

(c) in respect of a permit to operate flights for a period in excess of thirty days but not exceeding twelve months, the following fees—

US\$(i)when using aircraft of all-up weight of less than 30,000 kg20000(ii)when using aircraft of all-up weight of 30,000 kg and over1,000000Provided that in respect of the operations of a bona fide flying club, there shall be paid to the Government, in lieu of the fees payable under subparagraph (i) or (ii), a fee of30 00;or

(d) in respect of every provisional permit granted pursuant to regulation 16, a fee equivalent to half that specified in paragraph (c).

PART IV

GENERAL PROVISIONS

29. Offences and penalties

Any person who contravenes regulation 5 or regulation 23 shall be guilty of an offence and shall be liable to a fine of K1,000 and to imprisonment for one year.

30. Licences and permit not transferable

A licence or permit 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 permit, or the appointment of a receiver or manager or trustee in relation to the business of the holder of a licence or permit, the person for the time being lawfully carrying on that business shall, if within fourteen days of his commencing so to do, make application to the Minister or the Director of Civil Aviation, as the case may be, for a new licence or permit, be entitled to provide the air services authorized by the existing licence or permit subject to the conditions thereof, until the application is determined.

31. Non-disclosure of information

Nothing in these Regulations shall require the disclosure by any applicant for a licence or permit to any person other than the Minister or the Director of Civil Aviation, as the case may be, of information as to the financial resources of the applicant, and any such information shall be treated as confidential.

32. References to licences to include provisional licences

Any reference to a licence in regulations 6 (2) and (3), 21, 30 and 33 shall be construed as including reference to a provisional licence.

33. No rights of continuance

Nothing in these Regulations shall confer upon the holder of a licence or permit or upon any other person any right to the continuance of any benefits arising from the provisions of these Regulations or from any licence or permit granted thereunder or from any conditions attached to any such licence or permit.

34. Proceedings in the case of an offence

(1) No proceedings for an offence against these Regulations shall be instituted except with the consent of the Director of Public Prosecutions.

(2) Where an offence against these Regulations has been committed by a body corporate, every person who, at the time of the commission of the offence was a Director, General Manager, Secretary or other similar officer of the body corporate, or was purporting to act in such capacity, shall be deemed to be guilty of that offence, unless he proves that he exercised all diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

35. Immunities

No action shall lie on behalf of any person in respect of any act or omission by the Minister or the Director of Civil Aviation or any member of a tribunal appointed by the Minister under regulation 10 whilst acting in their official capacity.

SCHEDULE

1. Every application for a licence shall be made (through the Director of Civil Aviation) to the Minister in the form as set out in Form No. 1 in the Appendix.

2. The Minister shall, within fourteen days of the receipt of an application for a licence, cause to be published in the manner prescribed in paragraph 9, a notice containing particulars of the application as set out in Form No. 2 in the Appendix and shall in such notice specify a period being not less than fourteen days nor more than twenty-eight days after the date of the first publication of the notice by which any representations or objections with regard to the application must be made to the Minister.

3. Any representations or objections with regard to an application for a licence shall be made in duplicate to the Minister on or before the day specified for such purpose in the notice published with regard to that application in accordance with the provisions of paragraph 2 in the form as set out in Form No. 3 in the Appendix and shall contain the specific grounds upon which it is based and any special conditions which it may be desired should be attached to the licence, if granted.

4. Forthwith upon the receipt of any representations or objections the Minister shall cause the duplicate copy thereof to be delivered to the applicant in respect of whose application such representations or objections have been made.

5. In cases where for the purposes of determining an application for a licence a hearing in public or in private is to be held by a tribunal appointed by the Minister under regulation 10, the notice to be given by the Minister to the applicant and to any person who has duly made representations or objections with regard to the application shall be not less than seven days' notice in writing in the form as set out in Form No. 4 in the Appendix.

6. In any case in which it is proposed to revoke or suspend a licence, notice of such intention shall be sent to the holder of the licence in the form as set out in Form No. 5 in the Appendix.

7. Particulars of the decisions of the Minister—

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

shall be published by notice in the form as set out in Form No. 6 in the Appendix and in the manner prescribed in paragraph 9:

Provided that no reasons for any decisions shall be published unless the Minister shall otherwise direct.

8. Publication under this Schedule shall be by notice published in the Gazette.

APPENDIX

GOVERNMENT OF MALAWI

MINISTRY OF TRANSPORT AND COMMUNICATIONS

FORM No. 1

Aviation (Air Transport Licensing) Regulations

APPLICATION FOR A LICENCE TO OPERATE A SCHEDULED SERVICE

1. Full name of applicant

2. Registered business address

(a) Head office

(b) in Malawi

3. Nationality of applicant (if an individual)

4. The names of the partners (if a partnership) and their nationalities:

NameNationality.....
.....

5. If the applicant is a company or statutory corporation—

(i) state the names and nationalities of the directors, or board members:

NameNationality.....
.....

(ii) state country of incorporation (if applicable):

.....

(iii) state the names and countries of incorporation of any subsidiary companies holding shares in the applicant's business:

.....

.....

.....

(iv) state the names and countries of incorporation of any subsidiary companies of the applicant:

.....

.....

.....

6. Give details of applicant's previous experience, if any, in the operation of commercial air services:

.....

.....

.....

.....

7. Give details of other air services operated by the applicant at the time of this application:

.....

.....

.....

8. Particulars of route it is desired to operate including points at which traffic rights are required
.....

.....

9. Types and classes of traffic to be conveyed

.....

10. Date(s) on which services) is planned to commence

.....

11. Period for which licence is required

.....

12. Type and number of aircraft to be operated

.....

13. Annexures:

(a) Copy of Memorandum and Articles of Association, or Deed of Partnership, Vendors', Founders' or Promoters' Agreement, as applicable.

(b) Proposed schedule of frequencies, with details of intended timetables.

(c) Passenger rates (through and intermediate).

(d) Freight rates (through and intermediate).

(e) Free baggage allowance and excess baggage rates.

(f) Total number of aircraft owned and/or operated by applicant (individual types and seating capacities).

(g) Total aircrew personnel on payroll (e.g. pilots, co-pilots, navigators, radio operators, cabin crew, etc.).

(h) Details of the insurance of the aircraft for the proposed route.

(i) Evidence of the demand for such a service.

I hereby declare that the particulars contained in this form, and in any annexures thereto, are true in every respect.

Date

Signature of applicant

CONDITIONS

NOTE: Before the application overleaf is considered by the Minister, the applicant must first satisfy the Chief Civil Aviation Officer as regards operational procedures to be followed.

NOTES:

(A) Should there be insufficient space in any paragraph of this form to enable the required particulars to be completed, the relevant information may be given on separate sheets of paper with appropriate cross references to the paragraph(s) concerned.

(B) This form, when completed, should be forwarded to:

Chief Civil Aviation Officer,

Private Bag 322,

Lilongwe 3,

Malawi.

(C) If any applicant has previously completed Form No. 1 in respect of some previous application for a licence, he is not required to complete paragraphs 4 to 7, nor submit Annexures (a), (g), (h) unless there has been some material alteration since such previous application was made.

FORM No. 2

Publication by the Minister of Transport and Communications of application to operate Scheduled Air Service

AVIATION (AIR TRANSPORT LICENSING) REGULATIONS

NOTICE

In accordance with the provisions of regulation 8 of the Aviation (Air Transport Licensing) Regulations, the Minister of Transport and Communications hereby publishes the prescribed particulars of the under-mentioned application to operate a scheduled air service in, to and from Malawi.

Any representation regarding this application or objections thereto, must be made in duplicate to the Secretary for Transport and Communications on or before the

Particulars of Application to operate Scheduled Air Service

1. Applicant

2. Route applied for

3. Purposes of services (passenger, freight, mails)

.....

4. Points of departure, final destination and intermediate points of call
.....

.....

5. Date on which the service is to commence

6. Period for which the licence is applied for

7. Frequency of flights

8. Provisional time-table

9. Type of aircraft

Signed

Secretary for Transport and

Communications

Date

FORM No. 3

Representation or Objections regarding proposed Scheduled Air Service (to be made in duplicate)

The Secretary for Transport and Communications,

With reference to the published notice dated regarding the under-mentioned application to operate a scheduled air service and in accordance with regulation 9 of the Aviation (Air Transport Licensing) Regulations, I beg to submit representations/ objections relating thereto.

2. The application referred to is that from Applicant
..... to operate a service from to
.....

3. Representations/Objections are as follows:

.....
.....
.....
.....

Dated

Signed

FORM No. 4

Notification of Enquiry before determining Application to operate Scheduled Air Service

From: The Secretary for Transport and Communications

To:

Address

Date

Sir,

I am directed to notify you in accordance with regulation 13 of the Aviation (Air Transport Licensing) Regulations, that the Minister will hold a private/public hearing to consider the application by for a licence to operate the route and invites you to attend this hearing for the purposes of being heard with regard to the said application.

(2) The hearing will be held on (date) at the hour of at the place of meeting

Signed

Secretary for Transport
and Communications

FORM No. 5

Notice of Intention to consider the Revocation or Suspension of a licence to operate a Scheduled Air Service

From: The Secretary for Transport and Communications

To:

Date

Sir,

I am directed to notify you in accordance with regulation 18 (2) of the Aviation (Air Transport Licensing) Regulations, that the Minister proposes to consider the revocation/suspension of the Licence No which you hold to operate the route at a hearing to be held at (place) on (date) at the hour of

2. You are entitled to be present or to be represented at this hearing.

3. The grounds on which it is proposed to revoke/suspend your licence are as follows:

.....

Secretary for Transport
and Communications

FORM No. 6

Publication of Decision of the Minister of Transport and Communications re
grant/refusal/suspension/revocation of a Licence

In accordance with the provisions of regulation 17 of the Aviation (Air Transport Licensing) Regulations, the Minister of Transport and Communications hereby publishes the following particulars of this decision regarding the grant/refusal/suspension/revocation of a licence to operate the under-mentioned service.

Applicant/Licence Holder

Licence No. (if any)

Date of application/licence

Route(s)

Frequency of flights

Type of aircraft

DECISION

Licence granted

Application refused

Licence No. Revoked

Licence No. suspended

Reasons—

Signed

Secretary for Transport
and Communications

AVIATION (AERODROME CHARGES) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Passenger service charges
4. Entrance charges
5. Payment of charges
6. Exemption from payment of charges
7. Offences and penalties

First Schedule

Scheduled Aerodromes

Second Schedule

Passenger service charges

Third Schedule

Entrance charges

GN. 182/1974

96/1978

112/1978

62/1980

103/1981

149/1981

38/1982

34/1984

96/1987

63/1988

96/1988

93/1992

58/1995

84/1996

68/1997

18/1998

30/2000

24/2003

AVIATION (AERODROME CHARGES) REGULATIONS

under s. 19

1. Citation

These Regulations may be cited as the Aviation (Aerodrome Charges) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“entrance charge” means the charge payable in accordance with regulation 4;

“passenger service charge” means the charge payable in accordance with regulation 3;

“scheduled aerodrome” means any aerodrome listed in the First Schedule to these Regulations;

“transit passenger” means a person holding a valid air ticket who, after arriving on a flight from a specified place outside Malawi, makes a stop-over in Malawi of not more than 24 hours before departing from a scheduled aerodrome in Malawi on a flight to a specified destination outside Malawi other than the specified place from which he arrived. G.N. 34/1984

3. Passenger service charge

Any passenger departing from a scheduled aerodrome shall pay such passenger service charge as is specified in the Second Schedule in respect of such aerodrome:

Provided that no such charge shall be payable in respect of— G.N. 34/1984

- (a) any transit passenger; and
- (b) any child under two years of age.

4. Entrance charge

Any person shall, upon entering any, or portion of any, scheduled aerodrome described in the Third Schedule hereto, pay such entrance charge as is specified in the said Third Schedule in respect thereof:

Provided that this regulation shall not apply to—

- (a) any passenger who is awaiting departure on any flight from such scheduled aerodrome and who is in possession of a current embarkation card;
- (b) any person whose normal place of employment is at such scheduled aerodrome;
- (c) any person who is required to enter any, or portion of any, such scheduled aerodrome in the course of his normal official duties; and
- (d) any child under two years of age.

4A. Car parking charges

Any person shall upon parking a car in an area set aside for that purpose, pay such car parking charge as is specified in respect thereof. GN. 68/1997

5. Payment of charges

(1) All charges payable under these regulations shall be paid in cash to the Revenue Collector at the said scheduled aerodrome at any time prior to departure.

(2) Upon payment by any person of any charge under these regulations a receipt for the amount paid shall be issued:

Provided that any right or licence conferred on any person by reason of the issue of such receipt may be revoked at any time by any officer of the Revenue Collecting Authority on duty for the time being at the said scheduled aerodrome.

6. Exemption from payment of charges

The Minister may in his discretion and subject to such conditions or limitations as he thinks fit exempt from payment of any or all charges under these Regulations any person or classes of persons.

7. Offences and penalties

A person to whom regulation 3 or 4 applies who contravenes, or fails to comply with, that regulation shall be guilty of an offence and be liable— GN. 96/1987, 93/1992

(a) in the case of a person to whom regulation 3 applies, to a fine of K50; and

(b) in the case of a person to whom regulation 4, applies, to a fine of K100.

FIRST SCHEDULE reg. 2, GN. 103/1981, 93/1992, 84/1996, 30/2000

SCHEDULED AERODROMES

Lilongwe International Airport

Chileka Airport

Karonga Airport

Mzuzu Airport

SECOND SCHEDULE reg. 3, G.N. 149/1981, 96/1987, 63/1988, 96/1988, 93/1992, 58/1995, 84/1996, 18/1998, 30/2000, 24/2003

PASSENGER SERVICE CHARGES

A. INTERNATIONAL PASSENGERS

Kt1.For a passenger travelling on a Malawi Passport 1,500002.For a passenger travelling on a foreign passport but who, for the time being is a resident of Malawi under a Permanent Residence Permit issued under the Immigration Act1,500 003.For a passenger travelling on a foreign passport and to whom item 2 does not applyUS\$3000

B. DOMESTIC PASSENGERS

For a passenger travelling on a wholly internal flight in Malawi20000

THIRD SCHEDULE reg. 4, G.N. 103/1981, 96/1987, 93/1992, 58/1995, 84/1996, 30/2000

ENTRANCE CHARGES

Chileka Airport

Lilongwe International Airport

Such rooms or parts of annexes to the terminal building as are for the time being, used for the purposes of a—

(a)public restaurant;(b)public balcony; and(c)public bar:per personK500

FOURTH SCHEDULE G.N. 68/1997, 30/2000

CAR PARKING CHARGES

Kt1.Single parking, per vehicle20002.Parking a car for a day5000

AVIATION (AIRPORT SECURITY) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

PRELIMINARY

1. Citation
2. Interpretation

PART II

AUTHORITY FOR AVIATION SECURITY

3. Designation of authority
4. Powers

PART III

NATIONAL AVIATION SECURITY PROGRAMME

5. Responsibilities
6. National Aviation Security Committee
7. Airport security committees
8. Airport security programmes

9. Operator security programme
10. Tenant security programme
11. Restricted areas
12. Restricted area permits
13. Control of access
14. Search of persons, baggage and cargo
15. Refused search
16. Powers of arrest and detention
17. Carriage of firearms
18. Persons in custody

PART IV

MISCELLANEOUS

19. Offences and penalties

GN. 20/1998

AVIATION (AIRPORT SECURITY) REGULATIONS

under s. 19

PART I

PRELIMINARY

1. Citation

These Regulations may be cited as the Aviation (Airport Security) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“appropriate authority for aviation security” means the Director of Civil Aviation;

“acts of unlawful interference” means an act of—

(a) violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft;

(b) destroying an aircraft in service or causing damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;

(c) placing or causing to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or causing damage to it which renders it incapable of flight, or causing damage to it which is likely to endanger its safety in flight;

(d) destroying or damaging air navigation facilities or interfering with their operation, if any such act is likely to endanger the safety of aircraft in flight;

(e) communicating information which is known to be false, thereby endangering the safety of an aircraft in flight; or

(f) unlawfully and intentionally using any device, substance or weapon—

(i) in performing an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death;

(ii) in destroying or seriously damaging the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupting the services of the airport,

if any such act endangers or is likely to endanger safety at that airport;

“air side” means the movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is controlled;

“baggage” means property of passengers or crew carried on an aircraft by agreement with the airline operator;

“cargo” means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage;

“check-in” means the process of reporting to an aircraft operator for acceptance on a particular flight;

“crew member” means a person assigned by an operator to duty on an aircraft during flight time;

“dangerous goods” means articles or substances which are capable of posing significant risk to health, safety or property when transported by air;

“inadmissible person” means a person who is or will be refused admission to a State by its authorities;

“land side” means that area of an airport and buildings to which the non-travelling public has free access;

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

“permits” means cards or other documents issued to individual persons employed on airports or who otherwise have need for authorized access to airports or to any restricted part thereof, for the purposes of facilitating access and identifying the individual and includes vehicle documentation issued for similar purposes;

“screening” means the application of technical or other means which are intended to detect weapons, explosives or other dangerous devices which may be used to commit an act of unlawful interference;

“security control” means a way by which the introduction of weapons, explosives or articles likely to be utilized to commit an act of unlawful interference can be prevented;

“security equipment” means devices of a specialized nature for use, individually or as part of system, in the prevention or detection of acts of unlawful interference with civil aviation and its facilities;

“security programme” means measures adopted to safeguard international civil aviation against acts of unlawful interference;

“security restricted area” means those areas of an airport, building or facility into which access is restricted or controlled for security and safety purposes;

“sterile area” means that area between any passenger inspection or screening station and aircraft into which access is strictly controlled;

“transit passengers” means passengers departing from an airport on the same flight as that on which they arrived.

PART II

AUTHORITY FOR AVIATION SECURITY

3. Designation of authority

(1) The appropriate authority for aviation security in Malawi shall be the Director of Civil Aviation.

(2) Notwithstanding subregulation (1), it shall not be construed as preventing any officer to properly perform duties relating to aviation security when so appointed by the Director of Civil Aviation.

4. Powers

The Director of Civil Aviation shall have powers for the better carrying out of the national aviation security programme which shall include powers to—

- (a) develop, implement and maintain the national security programme;
- (b) define and allocate responsibilities for the implementation of the various aspects of the national aviation security programme;
- (c) establish the means of coordinating activities between organizations concerned with the various aspects of the national aviation security programme;
- (d) issue written versions of the appropriate parts of the national aviation security programme to airport administrations, operators and other concerned organizations;
- (e) review and maintain the effectiveness of the national aviation security programme, including re-evaluating security measures, and procedures following an act of unlawful interference;
- (f) review and approve operator and airport security programme;
- (g) ensure that airport security services are provided with necessary supporting facilities and training;
- (h) develop and revise broad national policies relating to civil aviation security;
- (i) develop and issue comprehensive regulations relating to civil aviation security;
- (j) ensure that architectural and infrastructure related requirements for the implementation of aviation security measures are integrated in the design and construction of facilities including alterations to existing facilities; and
- (k) develop and implement a national aviation security training programme and to coordinate and approve aviation security training programmes by individual agencies and organizations.

PART III

NATIONAL AVIATION SECURITY PROGRAMME

5. Responsibilities

The Director of Civil Aviation, airport administrators, tenants and operators shall be responsible for the implementation of the National Civil Aviation Security Programme.

6. National Aviation Security Committee

(1) There shall be established a National Aviation Security Committee to advise the Government on security policy, recommend and review the effectiveness of security measures and procedures and coordinate the implementation of the National Civil Aviation Security Programme.

(2) The National Aviation Security Committee shall consist of the Director of Civil Aviation, the Commander of Malawi Army, the Inspector General of Police, the Chief Immigration Officer, the Controller of Customs and Excise, the Postmaster General, the Secretary for Foreign Affairs, the Chairman of the Board of Airline Representatives and the General Manager of Airport Developments Limited.

7. Airport Security Committees

(1) Each scheduled aerodrome shall have an airport security committee to advise on the development and coordinate the implementation of security measures and procedures between various organizations at the aerodrome.

(2) The airport security committee shall consist of the Airport Commandant or Officer-in-Charge of the Airport, the officers-in-charge of Airport Police Security, Customs, Immigration, Postal Services, Air Traffic Services, Health, Aerodrome Fire and Rescue Services, airline representatives, refuelling agents and freight forwarders and catering companies.

8. Airport Security Programme

(1) Each scheduled aerodrome shall have an airport security programme defining responsibilities for aviation security and detailing measures and procedures in force to safeguard aviation security at the aerodrome.

(2) The airport administrations shall develop the necessary parts of the airport security programme in consultation with relevant organizations and interested parties.

(3) Each airport security programme shall be approved by the Director of Civil Aviation.

9. Operator Security Programme

(1) Each operator providing air services from Malawi shall adopt a security programme consistent with the requirements of the National Aviation Security Programme.

(2) The operators security programme shall cover all aspects of securing the aircraft when it is flying or not in service.

(3) The operator shall submit his security programme to the Director of Civil Aviation for approval and the Director of Civil Aviation may approve the operator's security programme after satisfying himself that it meets the requirements of the National Civil Aviation Security Programme.

10. Tenant Security Programme

(1) Each airport tenant whose concession or facility forms part of the land side or air side of the airport shall cause to be submitted to the Director of Civil Aviation a security programme consistent with the National Civil Aviation Security Programme.

(2) Where access can be gained from the land side to the air side through such concession or facility, the tenant shall control access in accordance with the relevant airport security programme.

11. Restricted areas

(1) There shall be established at each airport a restricted area where operations vital to the continued safe operation of civil aviation shall be carried out.

(2) The restricted areas shall be delineated and its boundaries clearly marked.

(3) The Director of Civil Aviation and the airport management shall designate the restricted area and its use.

12. Restricted area permits

(1) Any person working in the restricted area shall be required to have a restricted area permit issued in accordance with subregulations 3 of this regulation.

(2) The restricted area permit shall be displayed in a visible manner on the outer garment.

(3) The Airport Police Security Branch shall issue and administer restricted area permits for proper implementation of the National Civil Aviation Security Programme.

(4) The restricted area permit shall be retained by the holder during its validity and surrendered to the Airport Police Security Branch when no longer required and where such permit is lost, it shall be incumbent upon the holder to report the loss to the Police.

13. Control of access

(1) Access to a restricted area shall be controlled by the Airport Police Security Branch or any appointed security agent.

(2) The access to all restricted areas shall be limited to—

(a) bona fide passengers in possession of valid travel documents;

(b) staff in possession of an approved restricted area permit;

(c) persons in possession of an approved temporary permit for a particular restricted area;

and

(d) other security approved visitors.

14. Search of persons, baggage and cargo

(1) Any person going through the sterile area with the intention of boarding an aircraft or otherwise and any baggage or cargo intended to be transported by air shall be searched for any weapons, explosives and other dangerous devices which may be used to commit an act of unlawful interference.

(2) The Airport Police Security Branch or any employee or agent authorized by the operator for this purpose may, with the consent of the person, search that person and his baggage before he is allowed to proceed.

(3) The searching may be done manually or by electronic means:

Provided that no search shall be done on—

- (a) the State President;
- (b) visiting Heads of State and Heads of Government; and
- (c) Vice Presidents.

15. Refused search

(1) Any person who refuses search for the purpose of these Regulations shall not be allowed to proceed into the sterile area, and if a passenger, he shall be denied boarding together with his checked or carry-on baggage.

(2) Notwithstanding subregulation (1), where a passenger is refused boarding the aircraft, the operator shall be absolved of his responsibility under the contract of carriage.

16. Powers of arrest and detention

(1) The Airport Police Security Branch shall arrest and detain any person found and believed to be acting in a manner prejudicial to these Regulations.

(2) Where a suspected person is armed, all reasonable measures shall be taken to disarm him with minimum delay.

17. Carriage of firearms

(1) Firearms may be carried on board aircraft provided—

- (a) written approval is obtained from the Registrar of Firearms;
- (b) the Airport Police Security Branch are informed;
- (c) the operator consents to the carriage of firearms; and

(d) the operator or his representative ensures that the firearm is in the passenger checked baggage and is not loaded, nor stored in an area accessible to any person during flight.

(2) Where armed individuals are required to travel in the course of their duties, notwithstanding the provisions of subregulation (1) the operator shall ensure that—

(a) armed individuals are thoroughly briefed on the rules and regulations regarding the carriage of firearms prior to boarding;

(b) no alcohol is served to the armed individuals; and

(c) the pilot in command and all crew members are notified of the number of armed individuals on board the aircraft and their seat numbers.

18. Person in custody

(1) Where a person is travelling and is subject to administrative or judicial proceedings, the Airport Police Security Branch and the operator shall be informed.

(2) Where such person is inadmissible or the subject of a deportation order, the Malawi immigration authorities shall notify the relevant authorities in transit and destination states of the identity of the person, reason for deportation and the threat if any, posed by that person.

(3) Airline operators shall implement appropriate security measures and procedures to ensure the safety on board the aircraft when a person is obliged to travel because that person is subject of administrative or judicial proceedings.

PART IV

MISCELLANEOUS

19. Offences and penalties

(1) Any person who contravenes any provisions of these Regulations, not being a provision referred to in subregulation (2), shall be guilty of an offence and shall, upon conviction, be liable to a fine of K5,000 and in default to imprisonment for a term of three years.

(2) Any person who contravenes any provisions of regulations 12, 13, 14, 15, 16 and 17 shall be guilty of an offence and liable, upon conviction, to a fine of K10,000 and to imprisonment for a term of five years.