

PRESIDENT'S OFFICE

No. 597. 12 April 1996

NO. 10 OF 1996: INTERNATIONAL AIR SERVICES AMENDMENT ACT, 1996.

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

General Explanatory Note:

Words *in bold italics* indicate omissions from existing enactments.

Words *in italics* indicate insertions in existing enactments.

ACT

To amend the International Air Services Act, 1993, so as to amend certain definitions and to define certain expressions; to further regulate the operation of an international air service; to extend the conditions under which a licensee has to apply for the amendment of a licence; to further regulate the processing of a licence and permit; to further regulate the adjudication of an application for a licence or amendment thereof; to extend the conditions under which a licence is issued; to further regulate the duties of the licensee; to extend the conditions upon which a permit is issued; to provide for the approval of an operations manual; to further regulate certain offences and penalties; and to extend the power of the Minister to make regulations; and to provide for matters connected therewith.

(English text signed by the President.) (Assented to 3 April 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa, a follows:-

Amendment of section 1 of Act 60 of 1993

1. Section 1 of the International Air Services Act, 1993 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the substitution in paragraph (a) of the definition of "airport" for subparagraph (ii) of the following subparagraph:

"(ii) is a port of entry referred to in section 1(c) of the ***Admission of Persons to the Republic Regulation Act, 1972 (Act No. 59 of 1972)*** ***Aliens Controls Act, 1991 (Act No. 96 of 1991)***; or";

(b) by the insertion after the definition of "appropriate authority" of the following definitions:

" *'authorized officer'* means an authorized officer as defined in section 1 of the Aviation Act, 1962 (Act No. 74 of 1962);

'close corporation' means a close corporation as defined in section 1 of the Close Corporations Act, 1984 (Act No. 69 of 1984);";

(c) by the insertion after the definition of "Commissioner for Civil Aviation" of the following definition:

" *'company'* means a company as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973);";

(d) by the insertion after the definition of "foreign licence" of the following definition:

" *'inspector'* means an inspector as defined in section 1 of the Aviation Act, 1962 (Act No. 74 of 1962);"

(e) by the substitution for the definition of "licence" of the following definition:

" 'licence' means an international air service licence referred to in section 13(1) or **46(1) 47(1)**";

(f) by the substitution for the definition of "licensee" of the following definition:

" 'licensee' means the person to whom a licence has been issued in terms of section 17(2) or (4) or deemed in terms of section **46(1) 47(1)** to have been so issued;"; and

(g) by the substitution for the definition of "operating certificate" of the following definition:

" 'operating certificate' means an operating certificate issued in terms of section 31(2) or deemed in terms of section **46(1) 47(1)** to have been so issued;".

Amendment of section 13 of Act 60 of 1993

2. Section 13 of the principal Act is hereby amended-

(a) by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of this Act, no person shall use *or attempt to use* an aircraft to operate an international air service, except under and in accordance with the terms and subject to the conditions of an international air service licence issued to that person in terms of this Act or deemed to have been so issued."; and

(b) by the addition of the following subsections:

"(7) The council may upon application, exempt any applicant from the provisions of subsection (1) or from any other provision of this Act if, in the opinion of the council, the applicant is operating or proposes to operate an international air service on a non-profit basis for purposes incidental to social welfare or charity, or for purposes of salvage on humanitarian grounds, or where the granting of the exemption will assist in saving life.

(8) Any exemption granted under subsection (7) shall be limited so as to apply only in respect of one or more aircraft, or one or more particular routes, journeys or transactions, and shall be limited as to time, area or distance, or otherwise as the council may deem fit.

(9) The council shall publish the prescribed particulars in respect of each exemption referred to in subsection (7) which was granted for a period of 90 days or more by notice in the Gazette."

Amendment of section 15 of Act 60 of 1993

3. Section 15 of the principal Act is hereby amended-

(a) by the insertion after subsection (2) of the following subsection:

"(2A) If a licensee desires to-

(a) in the case of a partnership, amend the particulars of any partner associated in the partnership;

(b) in the case of a close corporation-

(i) amend the particulars of any member associated in the close corporation; or

(ii) amend its legal status by means of a conversion into a company in terms of section 29C of the Companies Act, 1973 (Act No. 61 of 1973);

(c) in the case of a company-

(i) amend the controlling shareholding of the company; or

(ii) amend its legal status by means of a conversion into a close corporation in terms of section 27 of the Close Corporations Act, 1984 (Act No. 69 of 1984);

(d) amend the particulars of the prescribed personnel appointed by the licensee to be responsible and accountable for the safety and reliability of the international air service,

he, she or it shall apply to the council on the prescribed form for such amendment.";
and

(b) by the addition of the following subsection:

"(4) An application for exemption from the provisions of section 17(5)(c) shall be made to the council on the prescribed form."

Amendment of section 16 of Act 60 of 1993

4. Section 16 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Any person may in writing address representations in the prescribed manner to the council against or in favour of such application within 28 days after the publication of the notice referred to in subsection (1), or such longer period as the council may allow on good cause shown."

Amendment of section 17 of Act 60 of 1993

5. Section 17 of the principal Act is hereby amended-

(a) by the insertion in subsection (3) after paragraph (a) of the following paragraph:

"(aA) (i) At such meeting the council may serve on the applicant a written request for further particulars to be supplied within 90 days.

(ii) The particulars so supplied shall be open for inspection by the persons referred to in paragraph (a) until the subsequent meeting date contemplated in subparagraph (iii).

(iii) If the council requests such further particulars the meeting shall be adjourned to any subsequent date in order to hear further arguments against or in favour of such application, taking into account the further particulars referred to in subparagraph (i).";

(b) by the substitution for subsection (10) of the following subsection:

"(10) The council may, in its discretion, exempt an applicant from the provisions of subsection (5)(c) if the council is satisfied that such applicant complies with the prescribed requirements in respect of such aircraft and issue or amend the licence concerned subject to the conditions the council deems fit regarding the operation and maintenance of that aircraft."; and

(c) by the addition of the following subsection:

"(14) (a) If an applicant ignores an order contemplated in subsection (3)(a) to appear before the council at a meeting or fails to appear on two successive occasions without furnishing reasons to the satisfaction of the council, or if an applicant fails to respond to a request contemplated in subsection (3)(aA)(i), and thereby delays the final adjudication of such application, the council may in its discretion order that the application be struck off the roll whereupon the applicant shall forfeit the application fee paid.

(b) If an application is struck off the roll in terms of paragraph (a) the applicant shall not be allowed to proceed on the same papers, but shall lodge a new application if he, she or it wishes to proceed therewith."

Amendment of section 22 of Act 60 of 1993

6. Section 22 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The licensee shall-

(a) notify the Commissioner for Civil Aviation, in the prescribed manner, before any change is effected to the particulars on his, *her or its* operating certificate;

(b) furnish the council within the prescribed period with the prescribed statistical information;

(c) keep his, *her or its* licence and operating certificate in a safe place *and produce such licence and operating certificate to an authorized officer or inspector for inspection if so requested by such officer or inspector*; and

(d) notify the council in ***the prescribed manner-***

(i) writing of any prescribed change regarding the particulars referred to in section 15(3) or the requirements referred to in section 17(5); or

(ii) of any curtailment, abandonment or extension to the operation of the international air service concerned or any part thereof, and such notice shall reach the council at least 14 days before such change curtailment, abandonment or extension is effected."

Amendment of section 23 of Act 60 of 1993

7. Section 23 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection;

"(1) ***An*** *Unless otherwise decided by the Commissioner for Civil Aviation, and subject to such conditions as he or she may determine, an application for a permit shall be made to the Commissioner for Civil Aviation on the prescribed form."*

Amendment of section 24 of Act 60 of 1993

8. Section 24 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Any person may in writing address representations *in the prescribed manner* to

the Commissioner for Civil Aviation against or in favour of such application within 28 days after the publication of the notice referred to in subsection (1), or such longer period as the Commissioner for Civil Aviation may allow on good cause shown."

Amendment of section 25 of Act 60 of 1993

9. Section 25 of the principal Act is hereby amended by the substitution, in the Afrikaans text, for paragraph (a) of subsection (3) of the following paragraph:

"(a) 'n bestaande lisensiehouer 'n internasionale lugdiens oor dieselfde roete bedryf as waarvoor by die *raad Kommissaris van Burgerlugvaart* ingevolge artikel 23(1) of (2) aansoek gedoen word; of".

Amendment of section 28 of Act 60 of 1993

10. Section 28 of the principal Act is hereby amended by the deletion in subsection (1) of the word "and" at the end of paragraph (b) and the addition to the said subsection of the following paragraph:

"(d) the permit holder shall communicate on arrival at any airport in the Republic the particulars of the permit to the manager of the airport."

Substitution of section 30 of Act 60 of 1993

11. The following section is hereby substituted for section 30 of the principal Act:

"Application for operating certificate and approval of operations manual

30. (1) A licensee shall apply to the Commissioner for Civil Aviation on the prescribed form for the issuing of an operating certificate.

(1A) A licensee shall apply to the Commissioner for Civil Aviation in the prescribed manner for the approval of an operations manual.

(2) An application in terms of subsection (1) shall be accompanied by the prescribed particulars and documents.

Amendment of section 40 of Act 60 of 1993

12. Section 40 of the principal Act is hereby amended-

(a) by the substitution for paragraph (e) of subsection (1) of the following paragraph:

"(e) uses *or permits to be used* a licence, permit, operating certificate or other document issued under this Act of which he, *she or it* is not the holder;"

(b) by the insertion in subsection (1) after paragraph (e) of the following paragraph:

"(eA) permits a licence, permit, operating certificate or other document issued under this Act of which he, she or it is the holder, to be used by any other person;";

(c) by the addition to subsection (1) of the following paragraph:

"(g) uses an aircraft which is being used in operating an international air service in contravention of the terms of an exemption granted to him, her or it under section 13(7),"; and

(d) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

*"(b) in the case of an offence referred to in subsection (1)(b), (d), (e), **or** (eA), (f) or (g), be liable to a fine, or to imprisonment for a period not exceeding five years."*

Amendment of section 43 of Act 60 of 1993

13. Section 43 of the principal Act is hereby amended by the insertion in subsection (1) after paragraph (f) of the following paragraphs:

"(fA) the circumstances under which, and the persons to whom, exemption may be granted from the requirement to pay the appropriate fee in respect of an application for a permit;

(fB) the manner and form in which an application for a tour operator's permit shall be addressed to the Commissioner for Civil Aviation;

(fC) the criteria according to which an application for a tour operator's permit shall be considered, and the adjudication of such application;

(fD) the issuing of a tour operator's permit and the period of validity of such permit;

(fE) the carrying out of in-flight inspections;".

Short title and commencement of certain provisions

14. This Act shall be called the *International Air Services Amendment Act, 1996* , and sections 4, 8, 11 and 13 shall be deemed to have come into operation on 15 April 1994.