

NAMCAR: PART 96 (Draft NAM-CAR)
COMMERCIAL OPERATION OF NON-TYPE CERTIFICATED AIRCRAFT

LIST OF REGULATIONS

SUBPART 1: GENERAL

[96.01.1](#) Applicability

SUBPART 2: FLIGHT CREW

[96.02.1](#) In-flight relief of flight crew members

[96.02.2](#) Cabin crew member compliment

[96.02.3](#) Flight time and duty periods

[96.02.4](#) Training and checking

SUBPART 3: DOCUMENTATION AND RECORDS

[96.03.1](#) Operations manual

[96.03.2](#) Exemptions

[96.03.3](#) Disclosure

SUBPART 4: OPERATING CERTIFICATE

[96.04.1](#) Operating certificate

[96.04.2](#) Application for operating certificate

[96.04.3](#) Adjudication of application for operating certificate

[96.04.4](#) Period of validity of operating certificate

[96.04.5](#) Safety inspections and audits

[96.04.6](#) Duties of holder of operating certificate

[96.04.7](#) Register of operating certificates

SUBPART 5: MAINTENANCE

[96.05.1](#) General

[96.05.2](#) Certificate of airworthiness

SUBPART 1: GENERAL

96.01.1 Applicability

- (1) This Part applies to -
 - (a) non-type certificated aircraft engaged in flying training or commercial air transport operations within Namibia;
 - (b) non-type certificated aircraft registered in Namibia;
 - (c) persons acting as flight crew members of non-type certificated aircraft registered in Namibia and engaged in flying training or commercial air transport operations; and
 - (d) persons on board a non-type certificated aircraft engaged in flying training or commercial air transport operations.
- (2) A non-type certificated aircraft shall not be used in commercial air transport operations unless the operator is the holder of the appropriate air service licence issued in terms of the Air Services Act: Provided that no amateur-built aircraft shall be issued with an Air Service Licence.
- (3) An amateur-built aircraft may be issued with an air service licence for the purpose of flipping and for conducting owners or operator's flying training, as defined in sub-regulation (7).
- (4) A non-type certificated aircraft shall not be used for flight training unless the operator is the holder of the appropriate ATO approval, issued in terms of Part 141 of these Regulations or an appropriate DTO declaration issued in terms of Part 149 of these Regulations.
- (5) The provisions of Part 24, Part 91 and Part 94 of these Regulations shall apply with the necessary changes to any non-type certificated aircraft unless specifically exempted by the provisions of this Part.
- (6) For the purpose of sub-regulation (2), tandem operations with hang-gliders, paragliders or parachutes, even if carried out for remuneration or reward, shall not be considered to be providing an air service as defined in the Air Services Act, nor to be a commercial air transport operation, as defined in **Part 1** of these Regulations.
- (7) For the purpose of sub-regulation (3), flipping is defined as the carrying of fare-paying passengers for the purpose of sight-seeing, and such operations shall be restricted as follows:
 - (a) flights shall commence and end at the same aerodrome or helicopter landing site without any intermediate landing, and without any disembarking taking place by any means while the aircraft is in flight;
 - (b) ; and
 - (c) the number of passengers carried, whether fare-paying or carried for free, shall not exceed nine.

SUBPART 2: FLIGHT CREW

96.02.1 In-flight relief of flight crew members

In the case of a non-type certificated aircraft engaged in commercial air transport operations, the provisions of Part 121, 127 or 135 shall apply, as the case may be.

96.02.2 Cabin crew member compliment

In the case of a non-type certificated aircraft engaged in commercial air transport operations, the provisions of Part 121, 127 or 135 shall apply, as the case may be.

96.02.3 Flight time and duty periods

- (1) The operator of a non-type certificated aircraft engaged in commercial air transport shall -
 - (a) establish a scheme for the Regulation of flight time and duty periods for each flight crew member;
 - (b) include the scheme referred to in Regulation 96.03.1;
 - (c) ensure that each flight crew member complies with the provisions of the scheme referred to in paragraph (a);
 - (d) not cause or permit any flight crew member to fly in the aircraft if such operator knows or has been made aware that such flight crew member -
 - (i) will exceed the flight time and duty periods referred to in sub-regulation (1)(a) while on flight duty; or
 - (ii) is suffering from or, having regard to the circumstances of the flight to be undertaken, is likely to suffer from fatigue which may endanger the safety of the aircraft or its flight crew members and passengers; and
 - (e) not schedule a flight crew member for active flight duty for a period exceeding eight consecutive hours during any given flight time and duty period unless authorised in the scheme referred to in paragraph (a).
- (2) Except with the approval of the Executive Director, the flight time and duty scheme of the operator shall not be in conflict with the provisions of Part 91.
- (3) The provisions to be included in a flight time and duty scheme referred to in sub-regulation (1) shall be as prescribed in Document NAM-CATS 96.

96.02.4 Training and checking

- (1) The owner of a non-type certificated aircraft engaged in commercial air transport operations shall establish and maintain a ground and flight training and recurrent training programme for flight crew members in his permanent or part-time employ.
- (2) The training shall be provided by the holder of an ATO approval issued in terms of Part 141, or a DTO declaration issued in terms of Part 149..
- (3) Training shall be in accordance with the syllabi prescribed in Document NAM-CATS 96.

SUBPART 3: DOCUMENTATION AND RECORDS

96.03.1 Operations manual

- (1) The operator of a non-type certificated aircraft used for the purpose of flight training or in commercial air transport operations shall draw up an operations manual containing all information required under this Part and setting out the manner in which such operator will conduct the flying training for which he or she has been

approved in terms of Part 141 or declared in terms of Part 149 of these Regulations, or operate the air service for which such operator is licensed in terms of the Air Services Act, as the case may be.

- (2) The operator shall submit the operations manual in duplicate or via electronic submission to the Executive Director for approval.
- (3) If the Executive Director is satisfied that the operator -
 - (a) will comply with the provisions of Regulation 96.04.7; and
 - (b) will not conduct flying training contrary to the conditions of the ATO approval or DTO declaration held, or operate the air service concerned contrary to any provision of the Act or the Air Services Act, as the case may be,the Executive Director, or his delegate shall certify in writing on both copies of the operations manual, or via an official letter in the case of electronic submission, that such manual has been approved, and shall return one copy of the approved operations manual to the operator.
- (4) The operator shall submit an amendment to an approved operations manual in duplicate, or via electronic submission, to the Executive Director for approval.
- (5) If the Executive Director is satisfied that the operator will comply with the provisions of sub-regulation (3)(a) and (b), the Executive Director shall certify in writing on both copies of the amendment, or via official letter in the case of electronic submission of the amendment to the approved operations manual that such amendment has been approved, and shall return one copy of the approved amendment to the operator.
- (6) The operator shall at all times operate the non-type certificated aircraft, when operated in terms of this Part, in accordance with the approved operations manual or an approved amendment thereto.
- (7) The operator shall -
 - (a) ensure that all operations personnel are able to understand the technical language used in those sections of the operations manual which pertain to their duties;
 - (b) ensure that every flight is conducted in accordance with the operations manual and that those parts of the operations manual which are required for the conduct of a flight, are easily accessible to the flight crew members on board;
 - (c) make the operations manual available for the use and guidance of operations personnel;
 - (d) provide the flight crew members with their own personal copy of the sections of the operations manual which are relevant to the duties assigned to them;
 - (e) keep the operations manual up to date; and
 - (f) keep the operations manual in a safe place.
- (8) The contents of the operations manual shall not contravene the conditions contained in the operating certificate issued to the operator in terms of Regulation 96.04.3.
- (9) The structure and contents of the operations manual referred to in sub-regulation (1) shall be as prescribed in Document NAM-CATS 96.

96.03.2 Exemptions

Notwithstanding the provisions of NAMCAR 91, a person may operate an amateur-built or production-built aircraft, while conducting flight training or in a commercial air transport operation without carrying on board any of the documents prescribed in the foregoing Regulation should such carriage not be safely or practically possible.

96.03.3 Disclosure

- (1) A provider of flight training using, or a commercial air transport operator of, a non-type certificated aircraft shall disclose to any student or any fare-paying passenger to be carried on board the aircraft, as applicable, the warning that the aircraft is an aircraft not required to comply with all the Regulations for type-certificated aircraft and that boarding the aircraft is at one's own risk.
- (2) The disclosure referred to in sub-regulation (1) shall be made to any potential student before commencing flight training, or to any passenger before a ticket is purchased by means suitable to the kind of operation and shall be repeated in the flight training agreement or on the passenger ticket or similar contract of carriage, as applicable.

SUBPART 4: OPERATING CERTIFICATE

96.04.1 Operating certificate

The operator of a non-type certificated aircraft used for the provision of flight training or in commercial air transport operations, as the case may be, shall not operate the aircraft unless such operator is the holder of a valid -

- (a) ATO approval, issued in terms of Part 141; or
- (b) DTO declaration, issued in terms of Part 149; or
- (c) licence issued in terms of the Air Services Act; and
- (d) operating certificate issued in terms of Regulation 96.04.3.

96.04.2 Application for operating certificate

An application for an operating certificate shall be made to the Executive Director in the appropriate form as prescribed in Document NAM-CATS 96 and shall be accompanied by the appropriate fee as prescribed in Part 187.

96.04.3 Adjudication of application for operating certificate

- (1) In considering an application referred to in Regulation 96.04.2 the Executive Director may conduct the investigation he or she deems necessary.
- (2) An application shall be granted and the operating certificate issued if the Executive Director is satisfied that -
 - (a) the applicant will comply with the provisions of Regulation 96.04.7; and
 - (b) the applicant will not conduct flight training contrary to the ATO approval or DTO declaration held, or operate the air service concerned contrary to any provision of the Act, or the Air Services Act.

- (3) If the Executive Director is not so satisfied, he or she shall notify the applicant, stating the reasons in the notification, and grant the applicant the opportunity to rectify or supplement any defect within the period determined by the Executive Director, after which period the Executive Director shall grant or refuse the application concerned.
- (4) An operating certificate shall be issued on the appropriate form as prescribed in Document NAM-CATS 96, under such conditions that the Executive Director may determine.

96.04.4 Period of validity of operating certificate

- (1) Unless otherwise specified by the Executive Director, an air operator certificate remains valid and in force for an indefinite period but –
 - (a) (a) the operator must submit, 30 days prior to the anniversary date of initial issue, the appropriate application form and annual fee as provided for in Part 187;
 - (b) (b) the operator must successfully complete the audits and inspections carried out by the Executive Director, including the satisfactory resolution of any findings reported to the operator by the Executive Director;
 - (c) (c) the air operator certificate must not otherwise have been suspended, cancelled or voluntarily surrendered to the Executive Director; and
 - (d) (d) the operator must continue to meet the requirements for the issue of an air operator certificate

96.04.5 Safety inspections and audits

- (1) An applicant for an operating certificate shall permit an authorised officer, inspector or authorised person to carry out such safety inspections and audits which may be necessary to verify the validity of an application made in terms of Regulation 96.04.2.
- (2) The holder of an operating certificate shall permit an authorised officer, inspector or authorised person to carry out such safety inspections and audits which may be necessary to determine compliance with the appropriate requirements prescribed in this part.

96.04.6 Duties of holder of operating certificate

The holder of an operating certificate shall -

- (a) notify the Executive Director in the manner as prescribed in Document NAM-CATS 96, before any change is effected to the particulars on the operating certificate;
- (b) keep the operating certificate in a safe place and produce such operating certificate to an authorised officer, inspector or authorised person for inspection if so requested by such officer, inspector or person authorised person; and
- (c) not commence or continue with the air service concerned unless such holder is the holder of a valid operating certificate.

96.04.7 Register of operating certificates

- (1) The Executive Director shall maintain a register of all operating certificates issued in terms of this Part.
- (2) The register shall contain the following particulars -
 - (a) the full name and, if any, the trade name of the holder of the operating certificate;
 - (b) the postal address of the holder of the operating certificate;
 - (c) the number of the operating certificate issued to the holder;
 - (d) particulars of the type of air service for which the operating certificate was issued;
 - (e) particulars of the category of aircraft for which the operating certificate was issued; and
 - (f) the date on which the operating certificate was issued.
- (3) The particulars referred to in sub-regulation (2) shall be recorded in the register within 30 days from the date on which the operating certificate is issued by the Executive Director.
- (4) The register shall be kept in a safe place at the office of the Executive Director.
- (5) A copy of the register shall be furnished by the Executive Director, on payment of the appropriate fee as prescribed in Part 187, to any person who requests the copy.

SUBPART 5: MAINTENANCE

96.05.1 General

- (1) A non-type certificated aircraft operated in terms of Part 96 used for the provision of flight training at an ATO or in commercial air transport operations shall be maintained by an appropriately rated AME or AP working under the auspices of an appropriately rated AMO specified in the approved Maintenance Control Manual.
- (2) The Maintenance Control Manual shall -
 - (a) be drawn up in the format as prescribed in Document NAM-CATS 44;
 - (b) prescribe who may carry out maintenance on the aircraft, and incorporate the terms of the contract between the operator and any outside maintenance personnel or organisation responsible for all or part of the maintenance, if any; and
 - (c) prescribe the environmental conditions under which maintenance may be carried out and, if applicable, the special tools and equipment that are to be used in maintenance.
- (3) Notwithstanding the provisions of subregulations (1) and regulation 96.01.1(4), the privilege extended by NAMCAR 44 shall apply only in respect of an owner who is the holder of the valid applicable AME licence and ratings issued in terms of Part 66.
- (4) In the case of a DTO, an aircraft shall be maintained by a person approved by the Executive Director or the organisation designated in terms of Part 149, as the case may be in accordance with Part 24 and Part 44, with the necessary changes as specified in the approved Maintenance Control Manual.

96.05.2 Certificate of airworthiness

The special flight permit or experimental permit or similar permit for a non-type certificated aircraft approved to be operated for the provision of flight training or in commercial air transport operations is issued in the form of a certificate of airworthiness for non-type certificated aircraft as prescribed in Document NAM-CATS 24.

DRAFT