



Government Notice /2019

Notice of Intention to Make Regulations

CIVIL AVIATION ACT, 2016 (ACT NO. 6 OF 2016)

NAMCARS PART 24: AIRWORTHINESS STANDARDS: NON-TYPE CERTIFICATED AIRCRAFT

DRAFT REGULATIONS (2018) AND (Selected) TECHNICAL STANDARDS (2018)

FOR PUBLIC COMMENT

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PART 24: AIRWORTHINESS STANDARDS: NON-TYPE CERTIFICATED AIRCRAFT

List of regulations

SUBPART 1: GENERAL

24.01.1	Applicability
24.01.2	Airworthiness
24.01.3	Registration
24.01.4	Aircraft documentation
24.01.5	Instruments, Equipment and Placards
24.01.6	Issuing of Airworthiness Directives
24.01.7	Safety Inspections and Audits
24.01.8	Register of certificates
24.01.9	Transitional provision

SUBPART 2: AUTHORITY TO FLY, PROVING FLIGHT AUTHORITY AND SPECIAL FLIGHT PERMIT

24.02.1	Application
24.02.2	Requirements
24.02.3	Issuing
24.02.4	Special flight permit
24.02.5	Form
24.02.6	Period of validity
24.02.7	International operations
24.02.8	Currency fee
24.02.9	Transferability
24.02.10	Aircraft type approval

SUBPART 3: APPROVAL OF ORGANISATION

24.03.1	Application
24.03.2	Cost recovery
24.03.3	Approved organisations

SUBPART 1: GENERAL

Applicability

24.01.1 (1) This Part applies to –

- (a) Amateur-built aircraft;
- (b) Production-built aircraft;
- (c) Veteran aircraft including warbirds;
- (d) Ex-military aircraft;
- (e) Any other aircraft not qualifying, or no longer qualifying for the issue of a certificate of airworthiness in terms of Part 21 of these Regulations.

- (2) The aircraft referred to in sub-regulation (1) are classified in the following sub-groups –
- (a) Aeroplanes, including microlight aeroplanes
 - (b) Helicopters
 - (c) Gyroplanes and gyrogliders
 - (d) Gliders, including self-launching gliders and touring gliders
 - (e) Manned captive and manned free balloons
 - (f) Airships
 - (g) Unmanned aerial vehicles
 - (h) Hang-gliders, including powered hang-gliders
 - (i) Paragliders, including powered paragliders and paratrikes
 - (j) Parachutes
 - (k) Model aircraft
 - (l) Rockets
- (3) This Part does not apply to any aircraft that, for the purpose of flight –
- (a) is to be attached to and towed by a vehicle or vessel travelling on the surface;
 - (b) other than a manned captive balloon, is to be moored to the surface or any construction on the surface; and
 - (c) is to be flown line-controlled by a person on the surface -

Provided that such aircraft may not be operated in contravention of these regulations, or cause or be an obstruction to aviation.

- (4) The airworthiness design standards for each sub-group of aircraft referred to in sub-regulation (2) are those referred to in regulation 24.01.2(4)(a).

24.01.2 Airworthiness

- (1) Before a non-type certificated aircraft, other than an aircraft classified in paragraphs (k) and (l) in regulation 24.01.1(2), is considered to be airworthy it must–
- (a) have been issued with an authority to fly or a proving flight authority or special flight permit, as the case may be in terms of this Part;
 - (b) have been maintained in accordance with the provisions of subpart 3 of this Part;
 - (c) have no known condition which could make the aircraft unsafe for flight; and
 - (d) have on-board, and in working order, the relevant communication and navigation equipment prescribed in Part 94 and Part 96 as applicable for the operation of the particular type of aircraft.
- (2) In the case of –
- (a) amateur built aircraft, only those aircraft, of which the build standard has been submitted to the Executive Director in the following manner, may be built or imported and flown within Namibia:
 - (i) Before any person commences with the construction of an aircraft, which is intended to be put on the Namibian Civil Aircraft Register, such person must apply for a build number.
 - (ii) The application must be made to the Executive Director or the organisation designated for the purpose in terms of the Act, as the case may be, in the format prescribed in Document NAM-CATS 24 and must be accompanied by a copy of the design criteria of the aircraft, as prescribed in Document NAM-CATS 24 .

- (iii) The Executive Director or the organisation designated for the purpose in terms of the Act, as the case may be, must on receipt of the prescribed documentation issue the build number to the applicant.
 - (iv) The Executive Director or the organisation designated for the purpose in terms of the Act, as the case may be, must retain a register of build numbers issued and make relevant information available to any authorised officer, inspector or authorised person who needs such information for the purpose of oversight and inspection.
 - (v) The applicant, on being issued with the build number, must enter a record of the build number in the aircrafts logbook or any other document associated with the construction of the aircraft.
- (b) production built aircraft, only those aircraft, of which the type design, the local or foreign manufacturing organisation and facility, the local assembling organisation and facility or agent/distributor, and the build standard has been approved by the Executive Director may be built or imported and flown within Namibia.
- (3) For the purposes of sub-regulation (2), the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, may consider a foreign manufacturing organisation as being approved if that facility was approved by an appropriate authority.
- (4) The design criteria and the build standard for an amateur- or production-built aircraft must –
- (a) comply with the appropriate design criteria as prescribed in Document NAM-CATS 24;
 - (b) comply with any special conditions prescribed in regulation 24.02.4 by the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149, as the case may be; and
 - (c) incorporate no feature or characteristic that makes the aircraft type unsafe for its intended use.
- (5) In the case of –
- (i) amateur built aircraft, static tests, as required, are to be carried out on the aircraft prior to its first flight or after a structural modification, referred to in Regulation 44.01.10, according to Document NAM-CATS 24.
 - (ii) production built aircraft, in the absence of static test documentation from an appropriate authority acceptable to the Executive Director, static tests, as required, are to be carried out on the aircraft prior to its first flight or after a structural modification, referred to in regulation 44.01.10, according to Document NAM-CATS 24.
- (6) The airworthiness of the aircraft, classified in sub-paragraphs (h) to (l) in regulation 24.01.1(2), is the sole responsibility of the owner or operator in accordance with generally accepted practices for such aircraft or as laid down by the organisation, approved for the purpose in terms of Part 149.

24.01.3 Registration

No non-type certificated aircraft classified in the sub-groups (a) to (g) of sub-regulation 24.01.1(2) may be flown unless it has been registered and marked in accordance with the provisions of Part 47.

24.01.4 Aircraft documentation

(1) The owner of a non-type certificated aircraft specified under regulation 24.01.1(1) and classified in the sub-groups (a) to (g) of sub-regulation 24.01.1(2) must submit to the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149, as the case may be, for approval, the documentation prescribed in NAM-CATS 24.

(2) In the case of a production-built aircraft, a copy of the approved manuals, together with the aircraft logbook/s, must accompany the aircraft, the kit, or (and except for the logbooks) the approved build standards on its delivery to a customer.

(3) In the case where proving flights for the purpose of consideration and issue of an authority to fly are carried out, the owner of the non-type certificated aircraft must retain all documents and records, generated in the process, for the duration of the life of the aircraft.

24.01.5 Instruments, equipment and placards

(1) Any flight instrument, required to be installed in terms of these Regulations, must be calibrated before first flight, and be checked for calibration annually thereafter.

(2) The minimum instrumentation and equipment and the placards to be installed in non-type certificated aircraft must be as prescribed in Document NAM-CATS 24.

24.01.6 Issuing of airworthiness directives

(1) The Executive Director may issue appropriate airworthiness directives in respect of design changes that are necessary to correct the unsafe condition of a non-type certificated aircraft.

(2) Where the Executive Director issues an airworthiness directive in terms of sub-regulation (1), the holder of any certificate issued in terms of this Part for the aircraft or its component, must –

- (a) upon the request of the Executive Director, submit appropriate design changes to the Executive Director for approval; and
- (b) upon approval of the design changes, if applicable, make the descriptive data covering the changes available to all operators of the product.

24.01.7 Safety inspections and audits

(1) An applicant for the issuing of any certificate, approval or authorisation in terms of this Part, must permit an authorised officer, inspector or authorised person to carry out such safety inspections and flight and ground tests as may be necessary to verify the validity of any application made in terms of this Part.

(2) The holder of any certificate, approval or authorisation issued under this Part, must permit an authorised officer, inspector or authorised person to carry out such safety inspections and audits, including safety inspections and audits of its partners or subcontractors, which may be necessary to determine compliance with the appropriate requirements prescribed in this Part.

(3) Any inspection carried out on a non-type certificated aircraft in terms of sub-regulation (1) is of a conditional nature, in that the inspector, an appropriately rated approved AMO, AME or approved person, rated in accordance with subpart 4 of Part 66 is not required to guarantee the airworthiness of the aircraft. The owner or operator of the aircraft must at all times be responsible for the airworthiness status of the aircraft and, if called upon, must prove to an inspector that the aircraft is in an airworthy condition.

24.01.8 Register of certificates

(1) The Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149 as the case may be, must maintain within the Civil Aviation Register a register of all certificates, approvals or authorisations issued in terms of the regulations in this Part.

(2) The register must contain the following particulars:

- (a) the full name of the holder of the certificate, approval or authorisation;
- (b) the postal address of the holder of the certificate, approval or authorisation;

- (c) the date on which the certificate approval or authorisation was issued; and
- (d) a true, certified copy of the issued certificate, approval or authorisation.

(3) The particulars referred to in sub-regulation (2) must be recorded in the register within thirty days from the date on which the certificate, approval or authorisation is issued.

(4) The register must be kept in a safe place at the office of the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149 as the case may be.

(5) A copy of the register must be furnished by the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149 as the case may be, on payment of the appropriate fee as prescribed in Part 187, to any person who requests the copy.

24.01.9 Transitional provision

For the purposes of this Part, and until such time that an organisation has been approved in terms of Part 149, any person building or maintaining a non-type certificated aircraft for aviation recreational purposes must comply with the airworthiness standards and procedures prescribed for its members by the national body representative of the particular aviation sport, provided that these standards and procedures include those prescribed in, and are not in conflict with, the provisions of this Part.

SUBPART 2: AUTHORITY TO FLY, PROVING FLIGHT AUTHORITY AND SPECIAL FLIGHT PERMIT

24.02.1 Application

(1) (a) An owner of a non-type certificated aircraft classified in the paragraphs (a) to (g) of sub-regulation 24.01.1(2), or his, her or its authorised representative, may apply for the issuing of an authority to fly for the aircraft, or for an amendment thereof. An authority to fly so issued is an aviation document.

(b) In respect of an aircraft, classified in paragraphs (h) to (l) of sub-regulations 24.01.1(2), no authority to fly or proving flight authority is required.

(2) An application for the issuing of an Authority to fly, or an amendment thereof, must be –

- (a) made to the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149 of these Regulations, as the case may be, on the form prescribed by the Executive Director; and
- (b) accompanied by –
 - (i) the appropriate fee as prescribed in Part 187;
 - (ii) proof of compliance with the provisions of regulation 24.01.2(5);
 - (iii) the aircraft logbook/s or similar document, or certified true copies of all entries;
 - (iv) certified true copies of all documents and records in the construction or testing file;
 - (v) a certified true copy of the flight manual, if applicable; and
 - (vi) a certified true copy of the approved maintenance schedule, referred to in Part 44.03.1.

24.02.2 Requirements

(1) An applicant for the issuing of an authority to fly for a non-type certificated aircraft, or an amendment thereof must provide the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149, as the case may be, with proof that, in the case of –

- (a) a non-type certificated aircraft built in Namibia, –
 - (i) the provisions of Document NAM-CATS 24 in respect of proving flights and of performance, handling and strength tests have been complied with; and
 - (ii) the aircraft, other than an amateur-built aircraft, was manufactured or assembled by an organisation approved by the Executive Director in terms of regulation 24.03.1;
 - (b) an imported non-type certificated aircraft, where the owner requests the aircraft to be registered in the Namibian Civil Aircraft Register, the aircraft –
 - (i) has been de-registered in the country of export or was never registered;
 - (ii) had been issued with a certificate of airworthiness, an authority to fly, or similar certificate by the military or Civil Aviation Authority of the country of de-registration; and
 - (iii) complies with all the applicable provisions of this Part; or
 - (iv) where the aircraft is a production-built aircraft which has not been previously issued with an authority to fly or similar certificate by a Civil Aviation Authority, it was manufactured or assembled by an organisation approved by the Executive Director in terms of regulation 24.03.1.
- (2) Prospective owners of an aircraft referred to in paragraph (b) of sub-regulation (1) must first consult the Executive Director and obtain approval before importing such an aircraft.
- (3) Examples of documentation, required to show compliance with the provisions of sub-regulation (1), are outlined in Document NAM-CATS 24.
- (4) Except for the production-built aircraft referred to in sub-regulation (1)(b)(iv), only aircraft which previously have been registered and issued with a certificate of airworthiness, an authority to fly, or similar document by the appropriate military or civil aviation authority of the country of deregistration may be imported into Namibia.
- (5) The applicant must, in addition to the provisions of sub-regulation (1), provide the Executive Director with proof that –
- (a) any modification to the aircraft conforms to the design changes approved for the type;
 - (b) the aircraft complies with all appropriate airworthiness directives issued in terms of regulation 24.01.6;
 - (c) the aircraft is issued with the appropriate flight manual, and any logbooks, repair and alteration forms and documents which the Executive Director may require;
 - (d) an annual inspection has been carried out in accordance with the requirements of regulation 44.01.6; and
 - (e) the aircraft is in a condition for safe operation.
- (6)
- (a) Where the application is in respect of a previously type-certificated aircraft, other than a veteran aircraft, the applicant must provide proof that the original identification plate has been removed and handed to the appropriate authority and the aircraft re-registered as a different make and type of aircraft.
 - (b) The Executive Director must inform the original manufacturer of the fact that the aircraft no longer meets its type certificate.
- (7) In addition to the provisions of sub-regulation (1), (5) and (6), the applicant must provide the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149, as the case may be, with –
- (a) any other airworthiness data which the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149, as the case may be, may require; and

(b) any document relating to the operation of the aircraft which the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149, as the case may be, may require.

(8) An application referred to in sub-regulation (1) must be accompanied by the appropriate fee as prescribed in Part 187.

24.02.3 Issuing

(1) An application in terms of regulation 24.02.1 must be granted and an authority to fly issued if the applicant complies with the provisions of regulation 24.02.2.

(2) An authority to fly is issued subject to such conditions and limitations which may be determined by the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149 of these Regulations, as the case may be.

(3) Whether the authority to fly will include permission to operate the aircraft at night, under IMC, or in commercial air transport operations or to conduct semi-acrobatic or acrobatic flights, depends on the results of the proving flights and the installed equipment.

(4) In the case of a locally built amateur-built aircraft, or in the case of any aircraft that previously has been issued with a certificate of airworthiness in terms of Part 21 or a similar document issued by another State in accordance with Annex 8 to the International Convention of Civil Aviation, or of which the certificate of airworthiness or authority to fly has become invalid as a result of a proposed major modification, the authority to fly may normally be granted, or re-issued as the case may be, in two stages, namely, a proving flight authority and, thereafter, where applicable, the authority to fly.

(5) (a) Before a proving flight authority or an authority to fly is issued, the Executive Director may require the aircraft to be inspected by an authorised officer, inspector or authorised person, and the owner must be advised accordingly.

(b) The owner must make the aircraft available for such inspection, where and when required by the Executive Director.

24.02.4 Proving flight authority

(1) A proving flight authority must show the base from which the proving flights are to be carried out.

(2) A proving flight authority may be extended for further periods at the discretion of the Executive Director, or if applicable, the organisation designated for the purpose in terms of Part 149 of these Regulations, as the case may be, on the submission of an inspection report equivalent to an annual inspection.

(3) The constructor, as required, may effect modifications and repairs during the periods of validity of the proving flight authority. However, should a major modification or repair be required, the Executive Director or the organisation designated in terms of Part 149 of these Regulations, may require that the proving flights be commenced anew.

(4) Proving flights must be carried out as prescribed in document NAM-CATS 24.

(5) Flights conducted in terms of a proving flight authority –

(a) are limited to an area not exceeding 100 km radius from the specified base from which such flights are to be undertaken, unless stated otherwise on the proving flight authority;

(b) may only be conducted under VMC by day;

(c) are forbidden over open-air assemblies of persons; and

- (d) are forbidden over built-up areas, except where necessary for take-off and landing.
- (6) Only essential crew members, including those persons assigned to carry out in-flight inspections, may be carried on board the aircraft during flights conducted in terms of a proving flight authority.
- (7) Where a proving flight authority is issued in respect of an aircraft of a new design, or of which the originally-approved design has undergone major modification, the first flight or flights must be conducted by a pilot with the appropriate test flight rating pilot.
- (8) With the approval of the Executive Director, the flight or flights referred to in sub-regulation (7), the owner of the aircraft, if suitably qualified, may carry out additional proving flights. For the purpose of this sub-regulation, where the 'owner' consists of more than one natural person, one of these persons must be designated by the test pilot to carry out the proving flights.
- (9) The owner, referred to in sub-regulation (8), must be a licensed pilot, holding the appropriate category and class rating, and having been converted on type by an appropriately rated flight instructor.
- (10) Apart from any conversion training, which may be required in terms of sub-regulation (14), no flight training may be conducted on an aircraft, operated in terms of a proving flight authority.
- (11) Where the limitations for flight still have to be established, such proving flight or flights must be carried out by a pilot with the appropriate test flight rating.
- (12) The final proving flight for the issue of an authority to fly must be carried out by a pilot with the appropriate test flight rating who, if applicable, must be the pilot who carried out the proving flights, referred to in sub-regulation (11).

24.02.4 Special flight permit

- (1) The Executive Director or the organisation designated for the purpose in terms of Part 149 of these Regulations, as the case may be, may issue a special flight permit.
- (2) A special flight permit for an aircraft may be issued for the purposes of –
 - (a) ferrying an aircraft, where the authority to fly has become invalid, to a base where maintenance can be carried out;
 - (b) delivering or exporting the aircraft;
 - (c) evacuating the aircraft from areas of impending danger;
 - (d) carrying out a flight or a series of flights while the aircraft does not conform to the appropriate airworthiness design standards referred to in regulation 24.01.2; or
 - (e) operation of an aircraft at a mass in excess of its maximum certificated take-off mass for flights beyond the normal range over water or over land areas where adequate landing facilities or appropriate fuel is not available. The excess mass that may be authorised under this sub-regulation is limited to the additional fuel, fuel-carrying facilities, and navigation and emergency equipment necessary for the flight.
- (3) An applicant for the issuing of a special flight permit for an aircraft or an amendment thereto, must be made to the Executive Director, or the organisation designated for the purpose in terms of Part 149, as the case may be, on the form prescribed in Document NAM-CATS 24.

(4) A special flight permit issued in terms of this Part shall be valid only for flights within the borders of Namibia and over international waters. For flights over or within the territory of another State permission of the responsible aeronautical authority is required.

24.02.5 Form

An authority to fly and a proving flight authority must be issued on the appropriate form as prescribed by the Executive Director.

24.02.6 Period of validity

(1) An authority to fly and a proving flight authority are valid until –

- (a) the expiry date which has been determined by the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be;
- (b) it is surrendered by the holder thereof, or is suspended by an authorised officer, inspector or authorised person;
- (c) cancelled by the Executive Director, or the organisation designated for the purpose in terms of Part 149, as the case may be;
- (d) a major modification is effected to the aircraft; or
- (e) the aircraft is involved in an incident or accident that results in major damage to its primary structure.

(2) Subject to the provisions of sub-regulation (1), an authority to fly or proving flight authority shall remain valid for as long as –

- (a) the aircraft remains registered on the Namibian Civil Aircraft Register; and
- (b) the aircraft is maintained in accordance with the regulations.

(3) The holder of an authority to fly or proving flight authority which has expired must forthwith surrender the authority to fly or proving flight authority to the Executive Director or, if applicable, the organisation designated for the purpose in terms of these Regulations, as the case may be.

(4) The holder of an authority to fly or proving flight authority which is suspended must forthwith produce the authority to fly or proving flight authority upon suspension thereof, to the authorised officer, inspector or authorised person concerned for the appropriate endorsement.

(5) The holder of an authority to fly or proving flight authority which is cancelled must, within 30 days from the date on which the authority to fly or proving flight authority is cancelled, surrender such certificate to the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149 of these Regulations, as the case may be.

(6) An authority to fly or a proving flight authority, which has been suspended, must be reinstated when the cause for the suspension has been corrected to the satisfaction of the Executive Director or, if applicable, the organisation designated for the purpose in terms of Part 149 of these Regulations, as the case may be.

24.02.7 International operations

(1) An authority to fly is only valid for flight in Namibian airspace.

(2) Notwithstanding the provision of sub-regulation (1), a non-type certificated aircraft, issued with a Namibian authority to fly, may be flown outside Namibia's borders if the appropriate authority with jurisdiction over the relevant airspace has given prior permission for the aircraft to be flown in such airspace, in the full knowledge that the authority to fly is not equivalent to a certificate of airworthiness issued in terms of ICAO Annex 8 to the International Convention on Civil Aviation.

24.02.8 Currency fee

- (1)
 - (a) A currency fee, as prescribed in Part 187, shall be payable by the holder of an authority to fly, on the anniversary date of such authority to fly.
 - (b) Should the authority to fly not be valid at the time for any of the reasons stated in regulation 24.02.6, the currency fee must be waived until such time that the authority to fly is reinstated and the relevant fee for reinstatement becomes payable.
- (2) The reinstatement date becomes the new anniversary date.

24.02.9 Transferability

- (1) Although a proving flight authority or an authority to fly may be transferred in the name of a new owner, the aircraft may be re-registered in the new owner's name only –
 - (a) if all documents related to the airworthiness of the aircraft, including reports related to proving flights and the aircraft's logbooks, have been handed over to the new owner; or
 - (b) if the provisions of paragraph (a) have not or cannot be met, an inspection equivalent to an annual inspection has been carried out by a suitably qualified person other than the original owner, and the aircraft has been certified to be airworthy.
- (2) After the transfer of a proving flight authority, the provisions of regulation 24.02.3 (6) to (17) apply with the necessary changes.
- (3) The Executive Director, or if applicable, the organisation designated for the purpose in terms of Part 149, as the case may be, must determine the conditions for the continuation of the proving flights by or on behalf of the new owner, which conditions may include the instruction that the proving flights must be commenced anew.
- (4) The provisions of Part 47 of these Regulations apply with the necessary changes in respect of an application for the re-registration of an aircraft following a change of ownership.

24.02.10 Aircraft type approval

- (1) An applicant, who requires an aircraft type approval for an amateur-built aircraft to qualify as a production-built aircraft, must make the application to the Executive Director on the form prescribed by the Executive Director, accompanied by –
 - (a) the appropriate fee as prescribed in Part 187;
 - (b) proof of compliance with the provisions of regulation 24.01.2, and in particular the technical standard 24.01.2.(2.2);
 - (c) a copy of the authority to fly issued for the prototype aircraft; and
 - (d) proof that the applicant meets the requirements of regulation 24.03.1.
- (2) When the Executive Director is satisfied that –
 - (a) the applicant has been or may be approved as a manufacturing organisation in terms of regulation 24.03.1; and
 - (b) the aircraft will be manufactured according to the approved build standard, he or she must issue a production-built aircraft type certificate on the form prescribed in Document NAM-CATS 24.

SUBPART 3: APPROVAL OF ORGANISATION

24.03.1 Application

- (1) An applicant for the approval of a maintenance organisation or repair facility must comply with the provisions of Part 145.
- (2) An applicant for the approval of a manufacturing organization must comply with provisions of Part 148.

24.03.2 Approved organisations

A list of approved organisations, if any, must be provided in Document NAM-CATS 24.