



## **Government Notice /2019**

### **Notice of Intention to Make Regulations**

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

#### **NAMCARS PART 44: MAINTENANCE RULES – NON-TYPE CERTIFICATED AIRCRAFT**

FOR PUBLIC COMMENT

**(PLEASE NOTE: ANY NAMCATS REQUIRED TO BE ISSUED SUPPLEMENTING THE NAMCARS AS PUBLISHED HEREWITH FOR COMMENTS ARE AVAILABLE ON THE NCAA's PRELIMINARY WEBSITE – <http://www.ncaa.com.na/res-legislation.htm>)**

**PART 44: MAINTENANCE RULES – NON-TYPE CERTIFICATED AIRCRAFT**

**SUBPART 1: GENERAL**

44.01.1 Falsification, reproduction or alteration of maintenance document

44.01.2 Logbooks

44.01.3 Loss of logbooks

44.01.4 Persons to carry out maintenance

44.01.5 Rectification of unsatisfactory items

44.01.6 Annual inspections

44.01.7 Periodic and other inspections

44.01.8 Mandatory maintenance and inspections

44.01.9 Mass and Balance

44.01.10 Modifications

44.01.11 Test flights

44.01.12 Aircraft compass requirements

44.01.13 Release to Service

44.01.14 Record keeping and audits

44.01.15 Entries of special significance

44.01.16 Overhaul, repair and substitution of major components

44.01.17 Temporary and permanent repairs after accidents or incidents

**SUBPART 2: PRIVATE NON-TYPE CERTIFICATED AIRCRAFT USE**

44.02.1 Accepted Maintenance Schedule

**SUBPART 3: COMMERCIAL NON-TYPE CERTIFICATED AIRCRAFT USE**

44.03.1 Accepted Maintenance Schedule

44.03.2 Maintenance control manual

**SUBPART 1: GENERAL**

**44.01.1 Falsification, reproduction or alteration of maintenance documents**

No person may make or cause to be made –

- (a) any fraudulent or false entry in any record, which is required to be made, kept or used to show compliance with any requirements prescribed in this Part.
- (b) any reproduction or alteration for fraudulent purposes, of any record or report made in terms of the provisions of this Part.

**44.01.2 Logbooks**

(1) Subject to the provisions of sub-regulation (2), the following logbooks must be kept in respect of non-type certificated aircraft registered in Namibia and other specified equipment for the purpose of recording therein the maintenance history of the equipment to which each relates:

- (a) a single approved aircraft logbook. The logbook may also be used as the engine, propeller and airframe logbook; or
- (b) an approved logbook for –
  - (i) the aircraft airframe.
  - (ii) the engine(s), one logbook per engine.
  - (iii) the propeller(s), one logbook per propeller. In the case of a fixed pitch propeller the airframe logbook may be used as the propeller logbook.
- (c) In the event that existing logbooks in accordance with paragraph (b), above, have been used, then the logbooks in accordance with paragraph (b), above, must continue to be used.

(2) Certain non-type certificated aircraft have been exempted from the provisions of sub-regulation (1) in terms of regulation 94.03.2.

(3) (a) Logbooks must not be kept in the aircraft under any circumstances.

(b) It is the owner's responsibility to keep the logbooks in a safe place.

(4) All logbooks to be kept and maintained in terms of the preceding sub-regulations must be made available to an authorised officer, an inspector or an authorised person at all times for inspection.

(5) For an aircraft with an approved separate system as specified in its accepted maintenance schedule, for the purposes of component and major repair tracking, the logbook(s) must refer to this system and must meet the requirements as prescribed for logbooks.

(6) The format of the logbook(s) must be as prescribed in Document NAM-CATS 44.

(7) The logbook(s) required to be kept in accordance with this regulation must be preserved for a period of not less than six months from the date of destruction of the airframe, engine or propeller for which they were kept: Provided that the Executive Director, or the organisation designated for the purpose in terms of Part 149, as the case may be, may prescribe a longer period in respect of the logbooks of an aircraft, its engine(s) or propeller(s) involved in an accident or incident.

(8) Logbook(s) may not be carried in the aircraft to which they relate. In the case where logbook(s) are needed for maintenance purposes and no other means of forwarding such logbook(s) are reasonably available, the logbook(s) are to be carried in the relevant aircraft.

(9) Entries in the logbook(s) required to be kept in accordance with sub-regulation (1) must be effected and signed by an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66.

(10) The logbook(s) referred to in sub-regulation (1) must be kept up to date and maintained in a legible and permanent manner and in accordance with the instructions for use as prescribed in Document NAM-CATS 44.

#### **44.01.3 Loss of logbooks**

(1) When the registered owner of an aircraft reports the loss of a logbook currently in use, a request to open a substitute logbook must be made in writing to the Executive Director, or the organisation designated for the

purpose in terms of Part 149, as the case may be, accompanied by an affidavit which includes the last available logbook entries as signed by an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66.

(2) Once the opening of a new logbook has been approved, the relevant authorisation must be made a permanent part of that logbook.

(3) The procedure to be followed for the opening of a substitute logbook is prescribed in NAM-CATS 44.

(4) When a logbook has been lost, the authority to fly is considered invalid until such time that all the requirements for the opening of a substitute logbook have been met.

#### **44.01.4 Persons to carry out maintenance**

(1) A person may carry out maintenance on an amateur built aircraft or a production-built non-type certificated aircraft, or any component thereof, if such person –

- (a) is appropriately rated or approved on type by the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, to carry out maintenance; or
- (b) carries out the maintenance under the prescribed supervision of a person authorised by the Executive Director or by the organisation referred to in paragraph (a). A dual check of the maintenance carried out must be performed by a person referred to in sub-paragraph (a); or
- (c) is the owner of the aircraft provided that an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66, performs a dual check on the maintenance which was carried out; or
- (d) is an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66.

(2) (a) Components and parts intended to be used on non-type certificated aircraft may be fabricated by a person or organisation not licensed in terms of Part 66 or Part 145.

(b) The owner of the aircraft must provide the Executive Director, or the organisation designated for the purpose in terms of Part 149, as the case may be, with evidence that the components or parts meet the minimum specification for the component or part as specified by the Original Equipment Manufacturer.

(c) An appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66 must sign off the component or part in the appropriate logbook.

#### **44.01.5 Rectification of unsatisfactory items**

(1) When during maintenance or at any other time any part, product, component, equipment or item is found to be unserviceable or is unlikely to remain serviceable under normal operating conditions during the period preceding the next inspection, such rectification action as considered necessary must be taken to ensure the continued serviceability of the part, component or item prior to releasing the aircraft to service.

(2) Any maintenance carried out to restore the serviceability of any part, component, equipment or item must be clearly recorded in the relevant logbook.

(3) For the case when an unsatisfactory item cannot be rectified an entry must be made into the relevant logbook by an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66, stating any limits to the serviceability of the aircraft.

#### **44.01.6 Annual inspections**

- (1) A non-type certificated aircraft, specified in regulation 24.01.1(1) and classified in paragraphs (a) to (g) of regulation 24.01.1(2) must undergo an annual inspection no later than 365 days since the previous annual inspection, or an inspection equivalent to an annual inspection, was carried out.
- (2) The items to be inspected as part of an annual inspection are those listed in Document NAM-CATS 44 for the particular type of aircraft, and must be incorporated in the Accepted Maintenance Schedule.
- (3) The annual inspection must be recorded in the aircraft logbook and certified by the organisation or person by whom, or under whose prescribed supervision, the annual inspection was carried out.
- (4) Within 30 days from the day that the annual inspection is completed, the annual inspection form, as prescribed in Document NAM-CATS 44, must be completed and forwarded to the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, together with the currency fee prescribed in regulation 24.02.8.
- (5) The inspection, prior to the issue of a proving flight authority and the inspection prior to the issue or reissuing of an authority to fly of an amateur-built or production-built aircraft, referred to in regulation 24.02.2(5)(d), must be carried out by an appropriately rated Approved Person who may not be the owner of the aircraft, even if the owner is also an appropriately rated Approved Person.

#### **44.01.7 Periodic and other inspections**

- (1) In addition to the annual inspection, referred to in regulation 44.01.6, the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, may prescribe additional periodic inspections for non-type certificated aircraft depending on the type of aircraft and its intended use.
- (2) A schedule, reflecting the periodic inspections prescribed in sub-regulation (1) must be incorporated in the Accepted Maintenance Schedule, referred to in regulation 44.02.1 or regulation 44.03.1, as applicable.
- (3) In addition to the periodic inspections, referred to in sub-regulation (1), the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, may prescribe any additional inspection of a non-type certificated aircraft if considered necessary in the interest of safety. The format of this prescription is in the form of a Mandatory Airworthiness Notice.

#### **44.01.8 Mandatory maintenance and inspections**

All special inspections and modifications prescribed by the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, to detect and correct an unsafe condition of a non-type certificated aircraft are to be considered mandatory.

#### **44.01.9 Mass and balance**

- (1) Except with the written permission of the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, no person may operate a non-type certificated aircraft registered in Namibia unless its current empty mass has been established by means of a suitable mass meter and its centre of gravity computed within the preceding five years as prescribed in Document NAM-CATS 44.

- (2) (a) The empty mass and centre of gravity of an aircraft must be determined before any proving flight authorization will be issued by the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be.
- (b) The mass and centre of gravity data must be signed by an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66.
- (c) The appropriate form is prescribed by the Executive Director.
- (3) The person who was responsible for establishing the mass and the computing of the centre of gravity of the aircraft must make an appropriate entry in the airframe logbook of the aircraft concerned.

#### **44.01.10 Modifications**

(1) A person may not carry out any modifications, including changes to equipment or the installation thereof, which affect, or are likely to affect, the serviceability of the aircraft, or the safety of its occupants or any other persons or property other than in compliance with the provisions of this Part. In the case of-

- (a) a minor modification, as defined in Part 1, to –
- (i) an amateur built aircraft, a notification of the modification must be submitted to the Executive Director, or the organisation designated for the purpose in terms of Part 149, as the case may be, once the modification has been performed.
- (ii) a production built aircraft, a notification of the modification must be submitted to the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, within 30 days of the modification being performed. All subsequent modifications are treated as an amendment to the build standard.
- (b) a major modification, as defined in Part 1, to amateur built and production built aircraft, an application for the approval of the modification and authority to fly, as prescribed in Document NAM-CATS 44, must be submitted to the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, before the modification has been performed.

(2) The application as specified in sub-regulation (1) must be accompanied by the appropriate fee as described in Part 187.

(3) All approved modifications must be entered into the appropriate logbook(s).

(4) An appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66 must sign in the appropriate logbook(s) that all procedures, as stated in the application for modification, were adhered to and that he or she is satisfied with the quality of the work which was carried out.

#### **44.01.11 Test flights**

(1) After any major repair or major modification to an aircraft, which may affect the flight characteristics, serviceability or safety, test flights must, if required by the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, be carried out in the aircraft under such conditions and in the manner as prescribed in the Document NAM-CATS 44.

(2) Only essential crew, as required for the purpose, may be carried aboard any aircraft undergoing a test flight

#### **44.01.12 Aircraft compass requirements**

(1) Any compass fitted to a non-type certificated aircraft must be swung and maintained in accordance with the requirements as prescribed in Document NAM-CATS 44.

(2) Notwithstanding sub-regulation (1), alternate means of direction indication may be installed in non-type certificated aircraft according to regulation 44.01.10.

(3) Maintenance for all direction indication equipment must be carried out initially and thereafter every 5 years and in the event of an equipment modification which could affect it, as prescribed in Document NAM-CATS 44.

#### **44.01.13 Release to Service**

(1) The release to service for an aircraft must be issued subject to the compliance with the Accepted Maintenance Schedule as prescribed in regulation 44.02.1 or 44.03.1, as applicable.

(2) In the case of a non-type certificated aircraft operated in terms of –

- (a) Part 94, the release to service must be confirmed by the aircraft owner following simple line maintenance or the annual inspection.
- (b) Part 96 or Part 141, the release to service must be issued by an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66.

(3) The format for the issuing of the release to service must be that as described by the Executive Director.

#### **44.01.14 Record keeping and audits**

(1) Unless specifically exempted in terms of Part 94, the owner of a non-type certificated aircraft, classified in paragraphs (a) to (g) of regulation 24.01.01(2), must maintain accurate maintenance records in accordance with sub-regulation (3) and as prescribed in Document NAM-CATS 44.

(2) The Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, may from time to time carry out audits of the equipment, records and procedures to ascertain whether the aircraft continues to be maintained in a safe and satisfactory manner, and the owner must allow unrestricted access thereto.

(3) A person who carries out maintenance on a non-type certificated aircraft or aircraft component must record, on completion of the maintenance all details as specified in the Document NAM-CATS 44.

#### **44.01.15 Entries of special significance**

When repairs to an aircraft, aircraft engine or component or fixed or removable equipment were required in consequence either of damage caused by an irregular occurrence other than an accident, the entry or entries made in the relevant logbook(s) in respect of such repairs must state that they were so required and must identify the irregular occurrence in question.

#### **44.01.16 Overhaul, repair and substitution of major components**

(1) Overhaul of a Class I or Class II product and repairs to the primary structure of an aircraft, its engine(s) or propeller(s) must be signed out by an appropriately rated approved AMO, AME or Approved Person, in terms of Subpart 4 of Part 66.

(2) The procedure for the reissuing of a proving flight authority or authority to fly deemed suspended when an aircraft is involved in an accident that renders one or more Class I products defective is prescribed in Document NAM-CATS 44.

(3) Where the manufacturer's instruction or recommendation has not been complied with, such components or equipment must be overhauled as and when their condition shows that it is necessary to keep the aircraft serviceable.

(4) (a) In the case of an aircraft operated in terms of Part 94, a component or part may be fitted to an aircraft for which traceable records are not available.

(b) It is the responsibility of the appropriately rated approved AMO, AME or Approved Person, in terms of Subpart 4 of Part 66, to ensure that the component or part is acceptable in fit, form and function.

(5) Notwithstanding the provisions of sub-regulation (2), non-type certificated aircraft operated under Part 96 or Part 141 –

(a) where the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, has approved a time between overhauls that differs from that recommended or specified by the manufacturer, such time between overhauls must be specified in the aircraft's accepted maintenance schedule, referred to in regulation 44.03.1. Furthermore, where a manufacturer has not recommended or specified the overhaul of an item at certain times but where the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, considers its overhaul at certain intervals necessary in the interest of safety, he or she may prescribe a time between overhauls for such item in the aircraft's accepted maintenance schedule;

(b) the requirements for the substitution of products, components and parts with new or overhauled items are those prescribed in Document NAM-CATS-24;

(c) no part may be fitted to an aircraft for which traceable records are not available. It is the responsibility of the appropriately rated approved AMO, AME or Approved Person, in terms of Subpart 4 of Part 66, to ensure that any part received comes from a reliable source and is serviceable, and that the storage limitations have not been exceeded. Substitutions must be certified by the holder of an appropriately rated licence or authorisation.

#### **44.01.17 Temporary and permanent repairs after accidents**

(1) Any repair to an aircraft or aircraft component, which has been damaged after an accident, must be carried out in accordance with the requirements as prescribed in Document NAM-CATS 44.

(2) Following the permanent repair of an aircraft that has been involved in an accident, as defined in paragraph (b) of the definition of 'accident' in Part 1, the aircraft must meet requirements for the initial authority to fly.

### **SUBPART 2: PRIVATE NON-TYPE CERTIFICATED AIRCRAFT USE**

#### **44.02.1 Accepted Maintenance Schedule**

(1) The owner of a non-type certificated aircraft for which a authority to fly is required in terms of these regulations must submit to the Executive Director, or the organisation designated for the purpose in terms of Part 149, as the case may be, for acceptance a Maintenance Schedule or document similar to Annex A in Document NAM-CATS 44, for the aircraft.

(2) A non-type certificated aircraft, specified in regulation 24.01.1(1) and classified in the paragraphs (a) to (j) of regulation 24.01.1(2), must be maintained in accordance with its Accepted Maintenance Schedule in such a manner that it is airworthy at the commencement of any flight.

(3) (a) Any non-type certificated aircraft, other than those referred to in sub-regulation (1) above, must be maintained by or on behalf of its owner in such a manner that it is airworthy at the commencement of any flight.

(b) Where the aircraft manufacturer or any approved organisation has issued maintenance instructions or guidelines, these instructions or guidelines, should be adhered to.

### **SUBPART 3: COMMERCIAL NON-TYPE CERTIFICATED AIRCRAFT USE**

#### **44.03.1 Accepted Maintenance Schedule**

(1) The owner of a non-type certificated aircraft for which an authority to fly is required in terms of these regulations must submit to the Executive Director or the organisation designated for the purpose in terms of Part 149, as the case may be, for acceptance a Maintenance Schedule or document similar to Annex A in Document NAM-CATS 44, for the aircraft.

(2) A non-type certificated aircraft, specified in regulation 24.01.1(1) and classified in paragraphs (a) to (j) of regulation 24.01.1(2), must be maintained in accordance with its Accepted Maintenance Schedule in such a manner that it is airworthy at the commencement of any flight.

(3) In the event that the aircraft is operated under Part 96, the Accepted Maintenance Schedule, referred to in sub-regulation (1) must –

- (a) prescribe the ratings of an appropriately rated approved AMO, AME or Approved Person, rated in accordance with Subpart 4 of Part 66.
- (b) specify any special conditions under which maintenance must be carried out; and
- (c) be in the format prescribed by the Executive Director.
- (4) (a) Any non-type certificated aircraft, other than those referred to in sub-regulation (1) above, must be maintained by or on behalf of its owner in such a manner that it is airworthy at the commencement of any flight.
- (b) Where the aircraft manufacturer or any approved organisation has issued maintenance instructions or guidelines, these instructions or guidelines must be adhered to.

#### **44.03.2 Maintenance control manual**

**44.03.2** Where an owner or operator is required in terms of Part 96 to maintain an operations manual, the latter must include a maintenance control manual in the format as prescribed in Document NAM-CATS 44.