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**GOVERNMENT NOTICE**  
**MINISTRY OF WORKS AND TRANSPORT**

No.

2021

**AMENDMENT OF NAMIBIAN CIVIL AVIATION REGULATIONS:  
AVIATION ACT, 2016**

**Under section 22 of the Aviation Act, 2016, (act No. 6 of 2016) I have amended the regulations set out in the Schedule.**

**A.G. !Naruseb**  
**MINISTER OF WORKS AND TRANSPORT**

**Windhoek, Date**

**SCHEDULE**

**Definition**

1. In these regulations –

“the principal regulations” means the Namibian Civil Aviation Regulations Government Notice No. 1 of 2 January 2001 as amended by Government Notices No. 57 of 1 April 2006 and No. 201 of 20 November 2006;

“Document NAM-CATS-OPS 136” means a document on the Namibia Civil Aviation Technical Standards relating to Free Balloon Operations which is published by the Executive Director in terms of section 22A of the Act;”

**Insertion of new Part into the principal regulations**

2. The following Part is inserted after Part 135 of the Schedule to the principal regulations:

**“PART 136**  
**COMMERCIAL OPERATIONS OF FREE BALLOONS**

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## **SUBPART 1**

### **GENERAL**

#### **Definitions in this Part**

##### **136.01.1** For the purposes of this Part –

“operations area” means any area or proposed area of operation for free balloons which has been approved by the Executive Director; and

“operations base” in relation to an operator’s free balloon operations means the place or site which serves as that operator’s administrative and operational base and where information required to be kept in terms of this Part is kept; and

“operations site” in relation to free balloon flight operations means any launching or landing site which is used or intended to be used for free balloon or proposed free balloon operations pursuant to this Part.

#### **Applicability**

##### **136.01.2** This Part shall apply to –

- (a) manned free balloons engaged in commercial air transport operations within Namibia;
- (b) manned free balloons registered in Namibia and engaged in international commercial air transport operations;
- (c) the issue of air operator certificates for Namibian free balloon operators issued in terms of this Part, and matters related thereto;
- (d) persons acting as crew members of manned free balloons operated ~~under~~ under this Part ~~and~~ and
- (e) persons who are on board a manned free balloon operated under this Part.
- (f) The provisions of Part 91 and Part 102, shall mutatis mutandis apply to any free balloon operated in terms of this Part.

#### **Authority of pilot-in-command**

**136.01.3** All persons on board a manned free balloon shall obey all lawful commands given by the pilot-in-command of the free balloon for the purpose of securing the safety of such manned free balloon and of persons or property carried therein.

#### **Authority of personnel to operate a free balloon**

**136.01.4** No operator or pilot-in-command, as the case may be, of a free balloon, shall permit the operation of or operate, and no person shall operate, a free balloon under this Part, unless the person at the controls of such free balloon is the holder of a valid free balloon commercial licence issued in terms of Part 61.

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### **Search and rescue information**

**136.01.5** The operator or pilot-in-command, as the case may be, of a free balloon, shall ensure that all essential information concerning the search and rescue services in the area over which it is intended that the free balloon will be flown, is available on board such free balloon.

### **Information on emergency and survival equipment carried**

**136.01.6** (1) The operator of a free balloon shall have available for immediate communication to rescue co-ordination centres, a list containing information regarding the emergency and survival equipment carried on board the free balloon.

(2) The minimum information to be contained in the list referred to in subregulation (1) shall be as prescribed in Document NAM-CATS-OPS 136.

### **Method of carriage of persons**

**136.01.7** No person shall be in any part of a free balloon in flight which is not a part designed for the accommodation of persons, unless temporary permission has been granted by the pilot-in-command to access such part of the free balloon for the purpose of taking action necessary for the safety of such free balloon or of any person, animal or goods therein.

### **Admission to pilot's compartment**

**136.01.8** (1) The operator of a free balloon shall ensure that no person is admitted to, or carried on the pilot's compartment of a partitioned basket free balloon, unless such person is –

- (a) a flight crew member assigned to the flight;
- (b) an authorised officer, inspector or authorised person; or
- (c) permitted by, and carried in accordance with, the instructions contained in the operations manual referred to in regulation 136.06.3.

(2) The final decision regarding the admission of any person to the pilot's compartment shall be the responsibility of the pilot-in-command: Provided that in the case of an authorised officer, inspector or authorised person on an official inspection, such admission shall not be unreasonably withheld.

(3) The admission of any person to the pilot's compartment shall not interfere with the operation of the free balloon.

(4) Any person carried on the pilot's compartment, shall be made familiar with the applicable safety procedures.

### **Endangering safety**

**136.01.9** No person shall, through any act or omission -

- (a) endanger the safety of a free balloon or person therein; or

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(b) cause or permit the free balloon to endanger the safety of any person or property.

### **Intoxication**

**136.01.10** (1) The operator of a free balloon shall not permit, and no person shall enter or be in, the free balloon while under the influence of any alcohol or psychoactive substance, to the extent where the safety of such free balloon or its occupants is, or is likely to be, endangered.

(2) The operator shall establish procedures to ensure that any person referred to in subregulation **(1)** -

(a) is refused embarkation; or

(b) if such person is on board, is restrained or disembarked.

### **Aviation Directives**

**136.01.11** (1) The Executive Director may direct by means of an aviation directive that an operation shall be prohibited, limited or subject to certain conditions, in the interests of safe operations.

(2) An aviation directive shall state -

(a) the reason for its issue;

(b) its applicability and duration; and

(c) action required to be taken by the operator.

(3) Operational directives issued in terms of subregulation (1) are supplementary to the provisions of this Part.

(4) The operator shall ensure that all operational directives are brought to the attention of personnel engaged, employed or contracted by the operator in his or her operations.

### **Power to inspect**

**136.01.12** An operator shall ensure that any person authorised by the Executive Director is permitted at any time to board and fly in any free balloon operated in accordance with an air operator certificate issued by the Executive Director and to enter and remain on the pilot's compartment provided that the commander may refuse access to the pilot's compartment if, in his or her opinion, the safety of the free balloon would thereby be endangered.

## **SUBPART 2**

### **AIR OPERATOR CERTIFICATE**

#### **Requirement for air operator certificate**

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**136.02.1** (1) No person or organisation shall operate a free balloon for commercial air transport purposes in Namibia and no Namibian operator shall operate a free balloon for commercial air transport purposes except under the authority of, and in accordance with the conditions of, an air operator certificate issued under this Subpart.

**Application for issue or amendment of air operator certificate**

**136.02.2.** (1) An application for the issue of an air operator certificate, or any amendment thereof, shall be -

(a) made to the Executive Director in the appropriate form as prescribed in Document NAM-CATS-OPS 136; and

(b) accompanied by –

(i) the appropriate fee as prescribed in Part 187;

(ii) the operations manual referred to in regulation 136.06.3;

(iii) a valid air service licence issued under the Air Services Act, 1949 (Act No. 51 of 1949);

(iv) proof that the applicant is financially capable of conducting the type of operation, and the maintenance of the type of the free balloon, covered by the application;

(v) in respect of the operator's maintenance system, and for each type of free balloon to be operated-

(aa) the maintenance control manual referred to in regulation 136.09.6;

(bb) the operator's free balloon maintenance programme referred to in regulation 136.09.5;

(cc) the free balloon technical log referred to in regulation 136.09.7;

(dd) the technical specifications of the maintenance contract between the applicant and a free balloon maintenance organisation approved in terms of Part 145, if applicable;

(vi) the operator's safety management system manual referred to in regulation 136.03.7;

(vii) an indication of the number of free balloons to be used in the operation; and

(viii) a detailed map showing the proposed operations area.

(2) An application for the issue of an air operator certificate, shall be submitted to the Executive Director at least 90 days before the date of commencement of the intended operation.

(3) An application for the amendment of an air operator certificate, shall be submitted to the Executive Director at least 30 days before the date of commencement of the intended amendment.

(4) An applicant for the issue of an air operator 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 any application made in terms of this regulation.

**Assessment of application and issue of air operating certificate**

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**136.02.3** (1) In considering an application for the issue of an air operator certificate, or an amendment thereof, the Executive Director may conduct any investigation he or she deems necessary.

(2) An applicant will not be granted an air operator certificate unless:

(a) the free balloons operated have valid certificates of airworthiness issued in terms of Part 21, or in the case of a foreign registered free balloon the foreign certificate of airworthiness has been validated in terms of Part 21;

(b) the maintenance system referred in regulation Subpart 9 has been approved by the Executive Director;

(c) the applicant has satisfied the Executive Director that he or she has the ability to -

(i) establish and maintain an adequate organisation referred to in Subpart 3;

(ii) establish and maintain the quality system referred to in regulation 136.03.7;

(iii) comply with training programmes required in terms of Subpart 5;

(iv) comply with maintenance requirements, consistent with the nature and extent of the operations specified;

(d) the applicant has the financial capability to conduct the operation; and

(e) the Executive Director is satisfied that the applicant will not conduct the operation concerned contrary to any provision of the Civil Aviation Act, the Namibian Civil Aviation Regulations, or any other law.

(3) An air operator certificate shall be issued on the appropriate form and under such conditions which the Executive Director may determine.

(4) An Air Operator Certificate and its associated Operations Specifications shall specify -

(a) the name and principal place of business of the operator;

(b) the date on which the certificate was issued and its period of validity;

(c) a description of the type of operation authorised;

(d) the type of free balloons authorised for operation;

(e) the nationality and registration marks of each free balloon authorised for operation;

(f) the approved operations area; and

(g) the conditions of the certificate.

### **Period of Validity**

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**136.02.4** (1) An air operator certificate shall be valid for the period determined or authorised by the Executive Director, which period shall not exceed 12 months, calculated from the date of issue or renewal thereof.

(2) The certificate shall remain in force until it expires or is varied, suspended or cancelled by the Executive Director in terms of regulation 136.02.10.

(3) The holder of a certificate which expires, shall, as soon as is reasonably practicable, surrender the certificate to the Executive Director.

(4) The holder of a certificate which is varied or suspended, shall forthwith produce the certificate upon variation or suspension thereof, to the Executive Director for the appropriate endorsement.

(5) The holder of a certificate which is cancelled, shall within 30 days from the date on which the certificate is cancelled, surrender such certificate to the Executive Director.

#### **Renewal of air operator certificate**

**136.02.5** (1) The holder of an air operator certificate shall, at least 30 days immediately before the date on which the certificate expires, apply for the renewal of such certificate.

(2) The provisions of regulations 136.02.2 and 136.02.3 shall, subject to necessary changes required by context, apply to an application for renewal of a certificate made in terms of this regulation.

(3) If the holder of an air operating certificate applies at least 30 days prior to the expiry thereof, for the renewal of the certificate, such certificate shall, notwithstanding the provisions of subregulation (1), remain valid until such holder is notified by the Director of the result of the application for the renewal of such certificate.

#### **Duties of holder of an air operator certificate**

**136.02.6** The holder of an air operator certificate shall -

(a) engage, employ or contract -

(i) adequate flight crew for the type of operation authorised, who are trained and checked in accordance with the provisions of Subpart 5;

(ii) adequate ground personnel for the nature and scale of the type of operation authorised, who have a thorough understanding of their responsibilities within the organisation of the operator;

(iii) adequate supervisors for the structure of the operator and the number of personnel engaged, employed or contracted, who possess experience and personal qualities sufficient to ensure the attainment of the standards specified in its approved operations manual;

(b) ensure that-

(i) each flight is conducted in accordance with the approved operations manual;

(ii) the type of free balloon authorised for use, is equipped, and its crew qualified, as required for the area and type of operation authorised;

(iii) arrange appropriate ground handling facilities to ensure the safe handling of its flights;

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(iv) if the provision of certain of its services is contracted to another organisation, retain responsibility for the maintenance of the standards for such services, specified in its approved operations manual;

(v) maintain operational support facilities at the main operating base, appropriate for the area and type of operation authorized; and

(vi) maintain each free balloon in accordance with the requirements of subpart 9.

#### **Display of air operator certificate**

**136.02.7** The holder of an air operator certificate shall display the certificate in a prominent place, generally accessible to the public at such holder's principal place of business and, if a copy of the certificate is displayed, shall produce the original certificate to an authorised officer, inspector or authorised person if so requested by such officer, inspector or person.

#### **Advertisements**

**136.02.8** Any advertisement by an organisation indicating that it is the operator of a free balloon, shall reflect the number of the air operator certificate issued by the Executive Director.

#### **Transfer of air operator certificate**

**136.02.9** (1) Subject to the provisions of subregulation (2), an air operator certificate shall not be transferable.

(2) A change in ownership of the holder of a certificate shall be deemed to be a change of significance referred to in regulation 136.03.6.

#### **Variation, Suspension and Revocation of Certificate**

**136.02.10** (1) Subject to subregulations (3) and (4), the Executive Director may, by written notice to the holder of an air operator certificate, vary, suspend, or cancel an air operator certificate if the Executive Director is satisfied that the operator-

(a) can no longer maintain an adequate organisation to ensure safe operations;

(b) fails to comply with any condition of the certificate;

(c) fails to comply with the Act or these regulations;

(d) is convicted of an offence in terms of the Act or these regulations; or

(e) the variation, suspension or cancellation is necessary in the interests of aviation safety.

(2) The notice referred to in subregulation (1) shall -

(a) specify the reasons why the certificate is being varied, suspended or cancelled;

(b) request the holder to rectify the defect within the period specified in the notice;

(c) invite the holder to make any representations he or she may wish to make in relation to the variation, suspension or cancellation to the Executive Director within the period specified in the notice; and

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- (d) be delivered to the holder by the quickest possible means available to the Executive Director.
- (3) If the holder makes representations to Executive Director as requested, the Executive Director shall consider the representations and may confirm or revoke the variation, suspension or cancellation, and advise the holder within a reasonable period of time after receiving the representations.
- (4) If the holder fails to comply with a notice issued in terms of subregulation (1) within the specified period, the Executive Director shall confirm the variation, suspension or cancellation and inform the holder in writing of the decision and the holder's right to appeal against the decision.
- (5) The Executive Director may disregard the procedures set out in subregulations (1) to (3) in circumstances where the immediate variation, suspension or cancellation of the certificate is necessary to prevent serious harm, injury or damage to any person or property or is in the interest of aviation safety in general.
- (6) A person who is aggrieved by a decision made by the Executive Director in terms of this regulation may appeal against that decision to the High Court of Namibia. The appeal shall be made in terms of the Civil Aviation Act No. 6 of 2016, section 42, subsection (3).
- (7) An appeal in terms of subregulation (6) shall not suspend the application of a decision of the Executive Director made in terms of this regulation unless the High Court determines otherwise.
- (8) Regardless of subregulation (6), the Executive Director may revoke or vary a decision made in terms of this regulation if the Executive Director is satisfied that the reason for the initial decision no longer exists and that the continuation of operations will not endanger aviation safety.

#### **Loss of air operator certificate**

**136.02.11** If an air operator certificate is lost, mutilated or destroyed, the operator shall within five days of such loss, mutilation or destruction notify the Executive Director in writing and may at the same time apply for issue of a duplicate certificate which the Executive Director shall issue subject to payment of the fee set out in Part 187.

#### **Register of certificates**

**136.02.12** (1) The Executive Director shall maintain a register of all air operator certificates issued, amended or renewed in terms of the regulations in this Subpart.

- (2) The register shall contain the following particulars:
- (a) the full name of the holder of the certificate;
  - (c) the postal address of the holder of the certificate;
  - (d) the email address of the holder of the certificate;
  - (c) the telephone number of the holder of the certificate;
  - (d) the date on which the certificate was issued, amended or renewed;
  - (e) the number of the certificate issued, amended or renewed;
  - (f) the conditions of the certificate;

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(g) the nationality of the holder of the certificate; and

(h) the date on which the certificate was cancelled, if applicable.

(3) The particulars referred to in subregulation (2) shall be recorded by the Executive Director in the register within seven days from the date on which the certificate was issued, amended, renewed or cancelled, as the case may be.

(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 register.

### **Dry lease of a free balloon**

**136.02.13** (1) A Namibian operator who intends to dry lease a free balloon for operation under this Part, shall –

(a) ensure that the free balloon can be operated and is operated in accordance with the requirements prescribed in this Part; and

(b) obtain prior approval from the Executive Director to operate such free balloon.

(2) The approval referred to in subregulation (1)(b) shall, subject to such condition as the Executive Director may determine, be granted if such free balloon is –

(a) type certificated in accordance with the requirements prescribed in Part 21;

(b) maintained in accordance with the operator's maintenance system referred to in Subpart 9;

(c) operated under the air operator certificate held by the operator referred to in Subpart 2.

(3) The conditions of approval referred to in subregulation (2) shall be part of the lease agreement between the operator referred to in subregulation (1) and the operator or entity from whom the free balloon is leased.

(5) On request of the operator of a Namibian registered free balloon, the Executive Director may subject to application in writing, remove the free balloon from the air operator certificate held by such operator.

### **Wet lease of a free balloon**

**136. 02.14** (1) A Namibian operator who intends to wet lease a free balloon for operations under this Part, shall obtain prior approval from the Executive Director to operate such free balloon.

(2) The approval referred to in subregulation (1) shall, subject to such conditions as the Executive Director may determine, be granted if such free balloon –

(a) is wet leased from an operator who is the holder of an air operator certificate or equivalent authorisation issued under this Part;

(b) has been type certificated by the appropriate authority;

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(c) holds a valid certificate of airworthiness or similar document issued by such appropriate authority;

(d) is maintained and operated in accordance with safety standards prescribed in this Part; and

(e) will be operated in terms of the air operator certificate held by the operator referred to in [Subpart 2](#).

(3) The operator referred to in subregulation (1) shall -

(a) satisfy the Executive Director that the safety standards of the lessor are not less than the safety standards prescribed in this Part;

(b) ensure that any law applicable to the maintenance and operation of the free balloon to be wet leased, is complied with.

(4) The operator of a Namibian registered free balloon who intends to wet lease the free balloon to any operator, shall remain the operator of the free balloon for the purposes of this Subpart, and the responsibility for the surveillance of the maintenance and operation of such free balloon shall not be transferred to the lessee.

#### **Leasing of foreign registered balloon.**

**136.02.15** (1) A Namibian operator who intends to lease a foreign registered free balloon from another contracting state shall comply with the requirements of regulations 136.02.13 or 136.02.14 as applicable for a wet lease or dry lease and shall additionally:

(a) seek approval from the authority in the contracting state where the balloon is registered; and

(b) define the operational control responsibilities in the approval mentioned in paragraph (a).

(2) The operator of a Namibian registered free balloon may lease the free balloon to an operator of another contracting state provided that, they have approval in writing from the authority of the contracting state for the requirements of surveillance or the maintenance and operation of the free balloon.

(3) The approval referred to in subregulation (1) or (2) must be carried on board.

#### **Subchartering**

**136.02.16** (1) In the exceptional circumstances as prescribed in Document NAM-CATS-OPS 136, an operator may subcharter a free balloon and crew from any operator who holds a valid air operator certificate, or similar document, for the free balloon, issued by an appropriate authority; Provided that –

(a) the sub charter period does not exceed five consecutive days; and

(b) the operator of the free balloon so subchartered, informs the Executive Director, within 24 hours, of such sub charter.

(2) The provisions of regulation 136.02.13, 136.02.14, and 136.02.15 shall, subject to necessary changes required by context, apply to any subcharter referred to in this regulation.

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## **SUBPART 3**

### **ORGANISATION AND GENERAL DUTIES OF CERTIFICATE HOLDER**

#### **Management and executive staff**

**136.03.1** (1) The operator shall establish an effective management structure consisting of suitably experienced and competent personnel whose duties and responsibilities shall be clearly defined in writing.

(2) The positions of key personnel including that of the senior person identified as the accountable manager and compliance officer of the operator concerned, to whom contractual authority has been granted to ensure that all activities undertaken by the operator are carried out in accordance with the applicable requirements prescribed in this Subpart, shall be listed in the operations manual for approval by the Executive Director.

(3) The accountable manager referred to in subregulation (2) shall, in addition to any other powers or duties imposed on him or her, be vested with the following powers and duties in respect of the compliance with such requirements:

- (a) unrestricted access to work performed or activities undertaken by all other persons as employees of, and other persons rendering services under contract with the operator;
- (b) full rights of consultation with any such person in respect of such compliance by him or her;
- (c) power to order cessation of any activity where such compliance is not effected;
- (d) duty to establish liaison mechanisms with the Executive Director with a view to ascertain correct manners of compliance with the said requirements, and interpretations of such requirements by the Executive Director and the operator concerned; and
- (e) powers to report directly to the management of the operator on his or her investigations and consultations generally, and in cases contemplated in subregulation (3)(c), and with regard to the results of the liaison contemplated in subregulation (3)(d).

#### **Adequacy and supervision of staff**

**136.03.2** (1) The operator shall engage, employ or contract competent persons who are responsible for -

- (a) quality assurance, and who have direct access to the accountable manager and compliance officer referred to in regulation 136.03.1 on matters affecting airworthiness, free balloon maintenance and aviation safety;
- (b) flight operations;
- (c) the maintenance system;
- (d) crew training; and
- (e) ground operations.

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(2) The operator shall engage, employ or contract competent persons who are responsible for the planning, performance, supervision and inspection of the type of operation and the maintenance of the type of free balloons operated by the operator.

(3) Depending on the nature and size of the operation, arrangements shall be made for the appointment of a chief pilot who shall be responsible for the training and supervision of the operator's pilots to ensure the maintenance of high professional standards.

(4) The applicant shall establish a procedure for initially assessing, and a procedure for maintaining, the competency of those personnel involved in planning, performing or supervising the type of operation, and the maintenance of the type of free balloon, covered by the certificate.

### **Office facilities and accommodation**

**136.03.3** The operator shall ensure that -

(a) working space available at each operations base is sufficient for personnel pertaining to the safety of flight operations, taking into account the needs of ground personnel, personnel concerned with operational control, the storage and display of essential records and flight planning by crew;

(b) office services are capable, without delay, of distributing operational instructions and other information to all concerned; and

(c) suitable office accommodation is available at appropriate locations for the personnel referred to in regulation 136.03.2(1).

### **Operations and balloons library**

**136.03.4** (1) The operator shall, at the operations base, keep and maintain in an orderly manner, an adequate library of maps, charts, flight guides, operations manuals and other documents and information to be used by personnel at the operations base and in flight operations.

(2) Any amendments made to the documents or information referred to in subregulation (1) shall be timeously made in the records and brought to the notice of pilots and other operating staff.

(3) The operator shall ensure that each free balloon used in his or her operations is equipped with an adequate supply of manuals, maps and flight guides and other necessary documents to be used for operations and supported by an efficient amendment service.

### **Quality assurance system**

**136.03.5** (1) An operator shall establish one quality assurance system and designate one quality manager to monitor compliance with, and the adequacy of, procedures required to ensure safe operational practices and airworthy free balloons. Compliance monitoring must include a feedback system to the accountable manager to ensure corrective action as necessary.

(2) The quality assurance system must include a quality assurance programme that contains procedures designed to verify that all operations are being conducted in accordance with all applicable requirements, standards, and procedures.

(3) The quality assurance system and the quality manager must be acceptable to the Executive Director.

(4) The minimum standards for a quality assurance system shall be as prescribed in Document NAM-CATS-OPS 136.

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### **Changes in quality management system**

**136.03.6** (1) If the holder of an air operator certificate desires to make any change in the quality assurance system referred to in regulation 136.03.5 which is significant to the showing of compliance with the appropriate requirements prescribed in this Part, including –

- (a) any particulars on the certificate
- (b) the identity of the accountable manager and compliance officer;
- (c) the identities of the persons referred to in regulation 136.03.1 or 136.03.2;  
and
- (d) the conditions of the certificate,

such holder shall apply to the Executive Director for the approval of such change.

(2) The provisions of regulation 136.02. 2 and 136.02.3 shall, subject to necessary changes required by the context, apply to an application for the approval of a change in the quality assurance system.

(3) An application for the approval of a change in the quality assurance system shall be granted by the Executive Director if the applicant satisfies the Executive Director, upon submission of appropriate proposed changes to its operations manual, that it will continue to comply with the provisions of regulations 136.03.1 to 136.03.7 inclusive after the implementation of such approved change.

### **Safety management**

**136.03.7** (1) The operator shall establish a safety management system which shall enable both the operator and the Executive Director to assess the operator's approach to safety and the risk to which his or her operation is open

(2) An operator's safety management system shall be incorporated into and become part of the operator's flight safety documentation system to be approved by the Executive Director.

(3) The guidelines for safety management systems for free balloon operators as established in NAMCARS 140 shall be complied with.

### **Safety Inspection and Audits**

**136.03.8** (1) The holder of an air operator certificate shall 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.

### **Preservation of documents**

**136.03.9** The operator of a free balloon, who is required to retain any of the documents for the specified period referred to in Subpart 6, shall retain such documents for such specified period irrespective of the fact that such operator, before the expiry of such specified period, ceases to be the operator of the free balloon concerned.

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## **Occurrence reporting**

**136.03.10** (1) If a flight incident occurs -

(a) the operator or pilot-in-command of a free balloon shall submit a report to the Executive Director of any incident that has endangered or may have endangered safe operation of the flight; and

(b) the report shall be dispatched within 72 hours of the event, unless exceptional circumstances prevent this.

(2) The pilot-in-command of a free balloon shall ensure that all technical defects and exceedance of technical limitations occurring while he or she was responsible for the flight are recorded in the free balloon's technical log.

(3) The pilot-in-command of a free balloon shall submit an air traffic incident report in accordance with ICAO PANS RAC whenever a free balloon in flight has been endangered by -

(a) a near collision with any other flying device;

(b) faulty air traffic procedures or lack of compliance with applicable procedures by air traffic services or by the flight crew; or

(c) a failure of air traffic services facilities.

(5) If an in-flight emergency occurs and the situation permits, the pilot-in-command of a free balloon shall inform the appropriate air traffic services unit of any dangerous goods on board.

(6) Following an act of unlawful interference on board a free balloon, the pilot-in-command of a free balloon shall submit a report, as soon as practicable, to the Executive Director.

(7) The pilot-in-command of a free balloon shall notify the appropriate ground station as soon as practicable whenever a potentially hazardous condition such as -

(a) an irregularity in a ground or navigational facility;

(b) a meteorological phenomenon;

(c) a volcanic ash cloud; or

(d) a high radiation level is encountered during flight.

## **Accident reporting**

**136.03.11** (1) An operator shall establish procedures to ensure that the nearest appropriate authority is notified by the quickest available means of any accident, involving a free balloon, resulting in serious injury, or death of any person or substantial damage to the free balloon or property.

(2) Reporting of accidents in subregulation (1) shall be made to the Department of Aircraft Accident and Incident Reporting and the Executive Director within 72 hours.

## **Documentation**

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136.03.12 (1) The holder of an air operator certificate shall make the necessary arrangements for the production of manuals, amendments, and other documents.

(2) The documentation referred to in subregulation (1) shall include:

- (a) flight operations manual;
- (b) quality manual;
- (c) safety manual;
- (d) standard operating procedures;
- (e) maintenance control manual; and
- (f) maintenance programmes.

## **SUBPART 4**

### **CREW MEMBERS**

#### **Composition of crew**

**136.04.1** (1) The minimum number and composition of the crew shall not be less than the minimum number and composition specified in the free balloon flight manual referred to in regulation 136.06.5.

(2) If the crew consists of more than one pilot the operator shall designate one pilot among the flight crew as pilot-in-command of the free balloon who may delegate the conduct of the flight to another suitably qualified pilot.

(3) The operator of a free balloon shall allocate additional crew members when it is required by the type of operation, and the number of such additional crew members shall not be less than the number specified in the operations manual referred to in regulation 136.06.3.

(4) The operator shall ensure that the crew members are competent to perform the duties assigned to them.

(5) Any flight crew member operating the radio installation in the free balloon shall be the holder of a valid radiotelephony operator certificate, authorising such member to operate the type of radio transmitting equipment to be used.

(6) When deemed necessary for the safe conduct of a flight, the flight crew shall include at least one member who is proficient in navigating over the route to be flown.

#### **Crew member responsibilities**

**136.04.2** (1) No person shall act as a crew member of a free balloon -

- (a) while under the influence of any psychoactive substance;
- (b) within 24 hours, following scuba diving by such crew member;
- (c) within 48 hours, following blood donation by such crew member;

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(d) if the crew member knows or suspects that he or she is suffering from or, having due regard to the circumstances of the flight to be undertaken, is likely to suffer from fatigue to such an extent that it may endanger the safety of the free balloon or its occupants; or

(e) if the crew member is in any doubt of being able to accomplish his or her assigned duties on board such free balloon.

(2) No crew member shall -

(a) engage in any kind of problematic use of substances;

(b) use any alcohol or psychoactive substance less than eight hours prior to commencing standby for flight duty or flight, which flight duty shall be deemed to commence at the specified reporting time, if applicable;

(c) commence flight duty with a blood alcohol level exceeding 0,02 gram per 100 milliliters; or

(d) use any alcohol or psychoactive substance during flight duty or whilst on standby, or within eight hours after an accident or incident involving the free balloon, unless the accident or incident was not related to his or her duties.

(3) No person shall act as a flight crew member of a free balloon if, prior to each flight, the planned flight time exceeds, or is likely to exceed, the permissible flight time and duty period as specified in the flight time and duty scheme referred to in regulation 136.04.7.

(4) If a flight crew member expects his or her cumulative flight hours projected for a particular operation, to exceed the appropriate limit specified in such flight time and duty scheme, the flight crew member shall inform the operator accordingly.

#### **Crew member emergency duties**

**136.04.3** (1) The operator and, where appropriate, the pilot-in-command of a free balloon shall assign to each crew member concerned, the necessary functions to be performed in an emergency or a situation requiring emergency evacuation.

(2) The functions referred to in subregulation (1) shall be such as to ensure that any reasonably anticipated emergency can be adequately dealt with and shall take into consideration the possible incapacitation of individual crew members.

(3) Flight crew members are required to demonstrate the emergency procedures detailed in NAM-CATS-OPS 136 before flight.

#### **Laws, regulations and procedures**

**136.04.4** (1) In an emergency situation which endangers a free balloon, crew members or passengers, the pilot-in-command may, in the interests of aviation safety –

(a) take any action which he or she considers necessary under the circumstances; and

(b) deviate from any law, regulation, or operational procedure.

(2) If a pilot-in-command deviates from any law, regulation, or operational procedure in an emergency situation referred to in subregulation (1), he or she shall forthwith notify the Executive Director of such deviation within 72 hours.

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(3) If the Executive Director requests the pilot-in-command to submit a report on such deviation, the pilot-in-command shall submit the report to the Executive Director within the period specified by the Executive Director.

#### **Duties of pilot-in-command regarding flight preparation**

**136.04.5** (1) The pilot-in-command of a free balloon shall not commence a flight unless he or she is satisfied that -

- (a) the free balloon is airworthy;
- (b) the instruments and equipment required for the particular type of operation to be undertaken, are installed and are serviceable,
- (c) the free balloon has been released to service in accordance with the provisions of Part 43;
- (d) The balloon shall be loaded according to the load chart specified in the balloon flight manual and shall be within the limitations of the Maximum Take Off Mass as well as the Minimum Landing Mass as specified in the flight manual of such balloon;
- (e) the load carried by the free balloon is properly secured, fit to be conveyed in accordance with the provisions of Part 92 and is so distributed that the load limits are within the limits specified in such free balloon flight manual;
- (f) all the document and forms required to be carried on board, current maps, charts and associated documents, are carried;
- (g) the search and rescue information, referred to in regulation 136.01.4, is available on board;
- (h) the requirements in respect of fuel and minimum safe altitudes, operating area minima and availability of alternate landing sites, are complied with;
- (i) the status of the free balloon and the relevant airborne systems are appropriate for the specific flight to be undertaken;
- (k) the weather at the launching site concerned and the physical condition of the launching site within the route or perimeter to be flown is satisfactory and in compliance with Part 102;
- (l) the fuel required is sufficient for duration of the planned flight and sufficient contingencies are calculated for the planned flight
- (m) the type of fuels needed for different applications in various parts of the flight have been considered and are available and sufficient for the required planned flight.
- (n) the balloon is equipped with the appropriate and sufficient emergency equipment such as oxygen / life jackets / emergency blankets as may be necessary for the planned flight.

#### **Duties of pilot-in-command regarding flight operations**

**136.04.6** (1) The pilot-in-command of a free balloon shall be responsible for -

- (a) the operation and safety of the free balloon.
- (b) the conduct and safety of crew members and passengers carried; and

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(c) the maintenance of discipline by all persons on board.

(2) The pilot-in-command shall have the authority -

(a) to give such commands he or she deems necessary in the interest of the safety of the free balloon, persons or property; and

(b) to restrain any person, using only reasonable or sufficient force, if necessary, or disembark any person or cargo which in his or her opinion, represents a potential hazard to the safety of the free balloon, persons or property.

(3) The pilot-in-command shall -

(a) ensure that the pre-flight inspection has been carried out, and that the checklists, and where applicable, the pilot's compartment procedures and other instructions regarding the operation of the free balloon, the limitations contained in the free balloon flight manual referred to in regulation 136.06.5, or equivalent certification document, are fully complied with at appropriate times during a flight;

(b) decide whether or not to accept a free balloon with unserviceability allowed by flight manual

(c) before take-off, ensure that the passengers are briefed on the location and general manner of use of the relevant emergency equipment carried for collective or individual use and, when an emergency arises, instruct the passengers to take such emergency action as may be appropriate;

(d) ensure that during take-off and landing and whenever, by reason of turbulence or any emergency occurring during a flight, the precaution is considered necessary, all persons on board the free balloon are in a safe position and/or secured in their compartment by means of restraint harnesses if available in the free balloon;

(4) The pilot-in-command shall ensure that -

(a) oxygen is available to crew members and passengers if flights in a non-pressurised free balloon are contemplated above 10 000 feet up to 12 000 feet in excess of 60 minutes, or above 12 000 feet; and

(b) oxygen is carried in sufficient quantities for all flights at such altitude where a lack of oxygen might result in impairment of faculties of crew members, or harmfully affect passengers.

(5) The pilot-in-command shall not -

(a) require a crew member to perform any duties during a critical phase of the flight, except those duties required for the safe operation of the free balloon;

(b) permit any activity during a critical phase of the flight which could distract any crew member from the performance of his or her duties or which could interfere in any way with the proper conduct of those duties; and

(c) continue a flight beyond the nearest suitable landing site, in the event of a crew member becoming unable to perform any essential duties as a result of fatigue, sickness, lack of oxygen or any other reason; and

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(6) The pilot-in-command or, in his or her absence, the operator of the free balloon, shall report any act of unlawful interference with the operation of such free balloon, or the authority of the pilot-in-command -

(a) if the act of unlawful interference occurs within Namibia, to the nearest ATS unit; or

(b) if the act of unlawful interference occurs in a Namibian registered free balloon within or over the territory of a foreign State, to the Executive Director.

### **Flight time and duty scheme**

**136.04.7** (1) The operator of a free balloon shall -

(a) establish a scheme for the regulation of flight time and duty periods for each crew member;

(b) include the scheme in the operations manual referred to in regulation 136.06.3;

(c) ensure that each crew member complies with the provisions of such scheme;

(d) not cause or permit any crew member to be on flight duty in the free balloon if such operator knows or has been made aware that such crew member -

(i) will exceed the flight time and duty periods referred to in paragraph (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 free balloon or its crew members and passengers;

(e) not schedule a crew member for active flight time 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) The provisions to be included in a flight time and duty scheme referred to in subregulation (1), shall be as prescribed in Document NAM-CATS-OPS 136.

## **SUBPART 5**

### **FLIGHT CREW TRAINING AND TESTING**

#### **Training of Flight crew**

**136.05.1** (1) The operator shall establish and maintain a ground and flight training programme for use by crew members of such operator and such programme shall be contained in the operator's training manual based on the information prescribed under subregulation (3).

(2) An operator's training manual may be incorporated into and become part of the operator's operations manual if approved by the Executive Director.

(3) The Executive Director shall prescribe the appropriate training programmes and syllabi for flight crew of free balloons in Document NAM-CATS-OPS 136.

(4) The operator shall ensure that -

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(a) the flight crew receives training in accordance with the training manual referred to in subregulation (1);

(b) the training shall only be provided by an aviation training organisation approved, by the Executive Director; and or a certified instructor approved by the Executive Director

(c) the flight crew passes a written examination with regard to all the subjects of the training syllabi prescribed in subregulation (3).

(5) The provisions of this Subpart shall apply in respect of full-time and part-time employed crew members.

### **Initial training of pilot-in-command**

**136.05.2** The pilot-in-command employed by the operator of a free balloon shall have successfully completed the initial training and appropriate skill test as prescribed in Part 61.

### **Conversion training**

**136.05.3** (1) The operator of a free balloon shall ensure that -

(a) a flight crew member completes the operator's type conversion course before commencing unsupervised flying

(i) when changing to a free balloon for which a new type rating is required; or

(ii) unless already rated for such type

(b) type conversion training is conducted by a competent person in accordance with the detailed course syllabus included in the operations manual referred to in regulation 136.06.3, and as prescribed in Document NAM-CATSOPS 136;

(d) the amount of training required by the operator's type conversion course is determined after due note has been taken of the pilot-in-command previous training as recorded in the training records referred to in regulation 136.06.8;

(e) the minimum standards of qualification and experience required of pilot-in-command before undertaking type conversion training are specified in the operations manual;

(f) each pilot-in-command undergoes the checks referred to in subregulation 136.05.5(2) and the training and checks referred to in subregulation 136.05.5(6) before commencing line flying under supervision;

(g) upon completion of line flying under supervision the check referred to in subregulation 136.05.5(4) is undertaken; and

(h) crew resource management training as prescribed in Document NAM-CATSOPS 136, shall be included in the conversion course.

(2) In the case of changing from one type of free balloon to another the check referred to in subregulation 136.05.5(2) may be combined with the type rating course prescribed in Part 61.

(3) The operator's type conversion course and the type rating course prescribed in Part 61 may be combined.

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(4) The operator's type conversion course shall include the items, and shall be conducted in the order, as prescribed in Document NAM-CATS-OPS 136.

(5) When a flight crew member has not previously completed the operator's type conversion course, the operator shall ensure that, in addition to the provisions of subregulation (4), the flight crew member undergoes general first aid training and, if applicable, ditching procedure training using the appropriate equipment in water.

#### **Differences training and familiarisation training**

**136.05.4** (1) The operator of a free balloon shall ensure that a pilot-in-command completes difference training when -

(a) operating a variant of the type of free balloon currently operated; or  
(b) a change of equipment or procedures on types or variants currently operated, requires the acquisition of additional knowledge and

(2) The operator shall ensure that a pilot-in-command completes familiarisation training when -

(a) operating another free balloon of the same type or variant; or  
(b) a change of equipment or procedures on types or variants currently operated, requires the acquisition of additional knowledge.

(3) The operator shall specify in the operations manual referred to in regulation 136.06.3, when differences training or familiarisation training is required.

#### **Recurrent training and checking**

**136.05.5** (1) The operator of a free balloon shall ensure that –

(a) each flight crew member undergoes recurrent training and checking and that all such training and checking is relevant to the operation and the type or variant of free balloon for which the pilot-in-command is licensed and rated;

(b) a recurrent training and checking programme is included in the operations manual referred to in regulation 136.06.3;

(c) recurrent training is conducted by -

(i) a competent person, in the case of ground and refresher training;

(ii) competent personnel, in the case of emergency and safety equipment training and checking; and

(iii) competent personnel, in the case of crew resource management training;

(d) recurrent checking is conducted by-

(i) a designated examiner, in the case of operator proficiency checks; and

(ii) an appropriately type rated flight instructor qualified as pilot-in-command, designated by the operator, in the case of flight checks; and

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(e) each pilot-in-command undergoes such proficiency checks once every 24 months, provided the pilot remain current on the basis of 3 take-offs and 3 landings within a 90 days period.

(2) The operator shall ensure that, in the case of the operator proficiency checks referred to in subregulation (1)(e) –

(a) each pilot-in-command undergoes such checks to demonstrate his or her competency in carrying out normal, abnormal and emergency procedures; and

(3) Upon successful completion of each operator proficiency check referred to in subregulation (1)(e), the operator shall issue a certificate of competency to the pilot-in-command concerned, which certificate shall be valid for a period of 24 calendar months calculated from the date on which such certificate as issued or the date of the previous expiry whichever is later.

(4) The operator shall ensure that, in the case of a flight check, each flight crew member undergoes a check in the free balloon to demonstrate his or her competency in carrying out normal line operations specified in the operations manual referred to in regulation 136.06.3.

(5) Upon successful completion of a flight check referred to in subregulation (4), the operator shall issue a certificate of competency to the flight crew member concerned, which certificate shall be valid for a period of 24 calendar months calculated from the date on which such certificate was issued or the date on which the previous check expired which ever was later.

(6) The operator shall ensure that, in the case of emergency and safety equipment Training and checking, each flight crew member undergoes training and checking on the location and use of all emergency and safety equipment carried.

(7) Upon successful completion of the emergency and safety equipment check referred to in subregulation (6), the operator shall issue a certificate of competency to the flight crew member concerned which certificate shall be valid for a period of 12 calendar months calculated from the date on which such certificate was issued

(8) The operator shall ensure that, in the case of crew resource management training, each flight crew member undergoes such training as part of the recurrent training.

(9) The operator shall ensure that, in the case of ground and refresher training, each flight crew member undergoes such training every 12 calendar months.

(10) The operator's recurrent training and checking programme shall include the items, and shall be conducted in the order, as prescribed in Document NAM-CATSOPS 136.

## **SUBPART 6**

### **DOCUMENTS AND RECORDS**

#### **Documents to be carried on board**

**136.06.1** (1) The operator or pilot-in-command, as the case may be, of free balloon, shall ensure that the following documents, or certified true copies thereof, are carried on board the free balloon on each individual flight –

- 
- (a) the certificate of registration;
  - (b) the certificate of airworthiness;
  - (c) the appropriate licenses, ratings and medical certificate of each crew member;
  - (d) the journey logbook or general declaration;
  - (e) if passengers are carried, the passenger manifest, unless the information is included in the general declaration referred to in the paragraph (d);
  - (f) the free balloon flight manual referred to in regulation 136.06.5;
  - (g) the load calculations, referred to in regulation 136.08.7(9); should be available in the ground retrieval vehicle;
  - (h) the technical log, or similar document and copy of all the above and below documents should be kept in the ground retrieval vehicle as well (in the case of a balloon accident, all these documents must be made available on the ground for further investigations to take place);
  - (i) proof of insurance liability required under subpart 10 should be kept at base of operations, unless for a cross-border flight);
  - (j) the air operator certificate; however it may be kept at the base of operations, (unless for a cross-border flight);
  - (k) those parts of the operation manual which are required for the conduct of a flight, and which must be accessible to the crew during flight;
  - (l) appropriate meteorological information; and
  - (m) if flying in controlled airspace, the relevant aeronautical charts necessary for the route to be flown.

#### **Documents to be retained on ground**

**136.06.2** (1) The operator of a free balloon shall ensure that, at least for the duration of each flight or series of flights -

(a) information relevant to the flight or series of flights, and appropriate to the type of operation, is preserved on the ground and is retained until it has been duplicated at the place at which it will be stored in accordance with regulation 136.03.9.

(2) The information referred to in subregulation (1) shall include –

- (a) copies of relevant parts of the technical log;
- (b) the mass and balance documentation referred to in regulation 136.08.7(9); and
- (c) the special loads notification, if applicable.

#### **Operations manual**

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**136.06.3** (1) The operator of a free balloon shall draw up an operations manual containing all information required under this Part and setting out the manner in which such operator will operate the commercial air transport operation to be authorised by the air operator certificate.

(2) If the Executive Director is satisfied that –

(a) the operations manual complies with the provision of subregulation (7);

(b) the operator will comply with the provision of regulation 136.02.6; and

(c) the operator will not operate the commercial air transport operation concerned contrary to any provision of any law,

the Executive Director shall certify in writing on such operations manual that it has been approved and shall return the approved operations manual to the operator.

(3) In the case of an amendment to the operations manual, if the Executive Director is satisfied that the amendment and the operator comply with the provisions of subregulation (2), the Executive Director shall certify in writing on such amendment that it has been approved, and shall return the approved amendment to the operator.

(4) The operator shall at all times operate the free balloon in accordance with the approved operations manual and any approved amendment thereto.

(5) The operator shall –

(a) ensure that all operations personnel are able to understand the technical language used in those parts 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 crew members on board;

(c) make the operations manual available for the use and guidance of operations personnel;

(d) provide the crew members with their own personal copy of the parts 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.

(6) The contents of the operations manual shall not contravene the conditions contained in the air operator certificate issued to the operator in terms of regulation 136.02.3.

(7) The structure and contents of the operations manual shall be as prescribed in Document NAM-CATS-OPS 136.

(8) The operator shall, upon receipt of the approved operations manual, or an amendment approved thereto, from the Executive Director, furnish the Executive Director with a copy thereof.

#### **Free balloon standard operating procedure**

**136.06.4** (1) The operator of a free balloon shall make available operating instructions for use by the crew members employed by such operator.

- 
- (2) The free balloon standard operating instructions shall contain –
- (a) the normal, abnormal and emergency procedures relating to the free balloon;
  - (b) details of the free balloon system;
  - (c) the checklists to be used by the crew members; and
  - (d) other such items as specified in NAM-CATS-OPS 136.
- (3) The operator shall provide each crew member with a copy of those parts of the free balloon Operating instructions which are relevant to the operational duties assigned to such crew member.
- (4) The operator shall ensure that the free balloon operating instructions are provided in a hard copy or in an approved electronic format.
- (5) The free balloon operating instructions may be included in the Operating manual referred to in regulation 136.06.3.

#### **Free balloon flight manual**

- 136.06.5** (1) The operator of a free balloon shall keep an accepted and current free balloon flight manual for each free balloon of which he or she is the operator.
- (2) The crew members of the free balloons shall, on each flight, operate such free balloon in accordance with the free balloon flight manual, unless an emergency dictates otherwise.
- (3) The free balloon flight manual may be included in the free balloon operating manual referred to in regulation 136.06.3.

#### **Operational flight plan**

- 136.06.6** (1) The operator of a free balloon shall ensure that an operational flight plan is completed for each flight undertaken by the free balloon.
- (2) The operational flight plan and its use shall be included in the operations manual referred to in regulation 136.06.3.
- (3) All entries in the operational flight plan shall be current and entries made permanent in nature.
- (4) The items to be contained in the operational flight plan shall be as prescribed in Document NAM-CATS-OPS 136.
- (5) Each operational flight plan shall be retained by the operator for a period of 90 days.

#### **Technical log**

- 136.06.7** (1) The operator or pilot-in-command, as the case may be, of a Namibian registered free balloon shall ensure that the free balloon or retrieval vehicle carries a technical log, or any other similar document, which contains the information as prescribed in regulation 136.09.7, at all times.
- (2) The technical log shall be kept up to date and maintained in a legible manner.

- 
- (3) All entries shall be made immediately upon completion of the occurrence to which they refer.
- (4) In the case of rectification of defects having been undertaken on the free balloon, the entry shall be certified by the person taking responsibility for the maintenance performed.
- (5) The operator shall retain the technical log for a period of 5 years calculated from the date of the last entry therein.

#### **Free balloon checklist**

**136.06.8** (1) The operator or pilot-in-command, as the case may be, of a free balloon, shall, where applicable, establish and make available to the crew and other personnel needing the information, a checklist system for the free balloon, which shall be used by such crew and other personnel for all phases of the operation under normal, abnormal and emergency conditions.

#### **Crew member training records**

**136.06.9** (1) The operator of a free balloon shall maintain the records of all training and proficiency checks undertaken by the crew members employed by such operator, and such records shall incorporate certificates indicating the successful completion of such training and proficiency checks.

(2) The operator shall retain the record of each pilot-in-command for a period of at least three years from the date on which the crew member concerned has left the employ of such operator.

(3) The certificate referred to in subregulation (1) shall be made available by the operator to the crew member concerned on request.

#### **Journey log**

**136.06.10** (1) An operator shall retain the following information for each flight in the form of a journey log –

- (a) free balloon registration;
- (b) date of flight;
- (c) names of crew members;
- (d) duty assignment of crew members;
- (e) place of departure;
- (f) place of arrival;
- (g) time of departure airborne time
- (h) time of arrival or time of deflation
- (i) hours of flight;
- (j) nature of flight;
- (k) incidents, observations (if any); and

- 
- (1) commander's signature (or equivalent).
  - (2) An operator may be permitted not to keep a free balloon journey log, or parts thereof, by the Executive Director if the relevant information is available in other documentation.
  - (3) An operator shall ensure that all entries are made concurrently and that they are permanent in nature.
  - (4) the journey log, or information therein, if made part of another similar document shall be retained for period of twenty-four (24) months.

### **Fuel records**

- 136.06.11** (1) The operator of a free balloon shall maintain fuel records for each flight undertaken by the free balloon under the control of such operator for three months.
- (2) The pilot-in-command of the free balloon shall enter the fuel records referred to it subregulation (1), on the technical log, or similar document.

### **Certificate of release to service**

- 136.06.12** (1) No operator or pilot-in-command, as the case may be, of a free balloon, shall operate –
- (a) a Namibian registered free balloon without holding a valid certificate of release to service signed by an approved aircraft maintenance organization, an appropriately rated aircraft maintenance engineer, or an authorised person approved by the Executive Director, in the case of a manned free balloon which is intended to be used in commercial air transport operations; or
  - (b) a foreign registered free balloon without holding a valid certificate, equivalent to the certificate referred to in paragraph (a), issued by an appropriate authority.
- (2) The operator or pilot-in-command of a free balloon shall –
- (a) ensure that one copy of such certificate of release to service, or equivalent certificate, is carried on board the free balloon to which it relates and, in the case of a Namibian registered free balloon, a second copy shall be filed at the operational base of such free balloon; and
  - (b) retain a copy of the certificate for a period of 12 months calculated from the date of issue of such certificate.

### **Flight time and duty period records**

- 136.06.13** (1) The operator of a free balloon shall –
- (a) maintain current flight time and duty period records of all crew members employed by such operator; and
  - (b) retain the flight time and duty period records for a period of 15 calendar months calculated from the date of the last flight of each crew member.

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(2) A crew member in the part-time employment of an operator shall maintain his or her own flight time and duty period records and shall provide copies thereof to the operator to enable such operator to ensure that the crew member does not exceed the limits specified in the flight time and duty scheme referred to in regulation 136.04.7.

### **Records of emergency and survival equipment**

**136.06.14.** (1) The operator of a free balloon shall compile a list of all the survival and emergency equipment to be carried in the free balloon and shall have such list available at all times for immediate communication to rescue co-ordination centers.

(2) The survival and emergency equipment list shall be included in the operations manual referred to in regulation 136.06.3.

### **Document storage periods**

**136.06.15** An operator shall ensure that all records and all relevant operational and technical information for each individual flight, are stored for the periods prescribed in these regulations.

### **Production of documentation and records**

**136.06.16** (1) An operator shall -

(a) give any person authorised by the Executive Director access to any documents and records which are related to flight operations or maintenance; and

(b) produce all such documents and records, when requested to do so by the Executive Director, within a reasonable period of time.

(2) The pilot-in-command of a free balloon shall, within a reasonable time of being requested to do so by a person authorised by the Executive Director, produce to that person the documentation required to be carried on board.

## **SUBPART 7**

### **INSTRUMENTS AND EQUIPMENT**

#### **Approval of instruments and equipment**

**136.07.1** The operator of a free balloon shall ensure that a flight does not commence unless the instruments and equipment required under this Subpart, or otherwise installed in the free balloon, are approved and installed in accordance with the requirements, including airworthiness requirements applicable to such instruments and equipment.

#### **Use of instruments by pilot**

**136.07.2** (1) Instruments in a free balloon, which are used by a pilot, shall be arranged in such manner that the pilot can see their indication readily from his or her station, with the minimum practicable deviation from the position and line of vision which he or she normally assumes when looking forward along the flight path.

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(2) If a single instrument or item of equipment in the free balloon is required to be seen or operated by more than one pilot, such single instrument or item of equipment shall be installed in such manner that it can be readily seen or operated from each pilot station.

(3) The free balloon shall be equipped with means for indicating the adequacy of the power being supplied to the required flight instruments, if fitted with such equipment.

#### **Standard first aid kit**

**136.07.3** (1) No operator or pilot-in-command, as the case may be, of a free balloon, shall operate the free balloon unless such free balloon is equipped with an appropriate first aid kit as prescribed in Document NAM-CATS-OPS 136.

(2) The operator or pilot-in-command shall ensure that the content of the first aid kit is in a condition necessary for its intended use.

#### **Handheld fire extinguishers**

**136.07.4** No operator or pilot-in-command, as the case may be, of a free balloon shall operate the free balloon unless such free balloon is equipped with the appropriate hand fire extinguishers as prescribed in Document NAM-CATS-OPS 136.

#### **Survival equipment**

**136.07.5** (1) No operator or pilot-in-command, as the case may be, of a free balloon, shall operate the free balloon over areas where search and rescue would be especially difficult, unless such free balloon is equipped with the appropriate survival equipment as prescribed in Document NAM-CATS-OPS 136.

(2) The conditions, rules requirements procedures or standards for survival equipment shall be as prescribed in Document NAM-CATS-OPS 136.

#### **Communications equipment**

**136.07.6** (1) Except with the prior approval of the Executive Director, no operator or pilot-in-command, as the case may be, of a free balloon, shall operate the free balloon unless the pilot of such free balloon is in possession of radio communication equipment capable of maintaining two-way communication with an air traffic service unit or local area traffic as applicable.

(2) The radio communication equipment referred to in subregulation (1) shall be capable of providing communication on the aeronautical emergency frequency 121.5 MHz.

(3) The radio communication equipment installed in the free balloon shall be of the type as prescribed in Document NAM-CATS-OPS 136.

#### **Life Jackets**

**136.07.7** No operator or pilot-in-command of free balloon shall operate a free balloon for a flight that involves potential flight over water unless life jackets are provided for all persons on board.

### **SUBPART 8**

#### **FLIGHT OPERATIONS**

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### **Routes and areas of operation**

**136.08.1** The operator of a free balloon shall ensure that operations are only conducted along such routes, or within such areas, for which -

- (a) appropriate maps and charts are available; and
- (b) approval or authorisation has been obtained, where required.

(2) The operator shall ensure that-

- (a) the performance of the free balloon intended to be used, is adequate to comply with minimum and maximum flight altitude requirements as prescribed in Document NAM-CATS-OPS 136; and
- (b) the equipment of the free balloon intended to be used, complies with the minimum requirements for the planned operation.

### **Establishment of procedures**

**136.08.2** The operator of a free balloon shall establish -

- (a) procedures and instructions, for each free balloon type, containing ground personnel and crew member duties for all types of operations on the ground and in flight; and
- (b) procedures to ensure that crew members do not perform any activities during critical phases of the flight other than those required for the safe operation of the free balloon.

### **Operational control and supervision**

**136.08.3** (1) The operator of a free balloon shall exercise operational control and establish and maintain an approved method of supervision of flight operations, which shall be contained in the operations manual referred to in regulation 136.06.3.

(2) When considering the approval referred to in item (1) of this subregulation, the Executive Director shall give due consideration to the matters as prescribed in Document NAM-CATS-OPS 136.

### **Competency of operations personnel**

**136.08.4** (1) The operator of a free balloon shall ensure that all personnel assigned to, or directly involved in, ground and flight operations –

- (a) are properly instructed;
  - (b) have demonstrated their abilities and experience appropriate to their positions and the type of operation conducted by such operator; and
  - (c) are aware of their responsibilities and the relationship of such responsibilities to the operation as a whole.
- (2) The operator shall ensure that all employees, when operating outside Namibia, know that they have to comply with the laws, regulations and procedures of the State in or over which operations are conducted.

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### **Minimum flight altitudes**

**136.08.5** (1) The operator of a free balloon shall establish minimum flight altitudes and the methods to determine such minimum flight altitudes, which methods shall be approved by the Executive Director, for all route segments to be flown which provide for the required terrain clearance.

(2) The operator shall take into account the following factors when establishing minimum flight altitudes –

- (a) the accuracy with which the position of the free balloon can be determined;
- (b) the possible inaccuracies in the indications of the altimeters used;
- (c) the characteristics of the terrain along the routes or in the areas where operations are to be conducted;
- (d) the probability of encountering unfavorable meteorological conditions;
- (e) possible inaccuracies in aeronautical charts; and
- (f) airspace restrictions.

(3) In complying with the provisions of subregulation (2), the operator shall give due consideration to –

- (a) corrections for temperature and pressure variations from standard values;
- (b) the air traffic service requirements;
- (c) any contingencies which may reasonably occur along the planned route; and
- (d) free balloon mass and configuration.

### **Meteorological conditions**

**136.08.6** The pilot-in-command of the free balloon shall not commence take-off unless current meteorological reports, or a combination of current reports and forecasts, indicate that the meteorological conditions along the entire route, shall, at the appropriate time of flight, be such –

- (a) as to render full compliance with the provisions of visual flight rules (VFR) specified in Part 91 possible; and
- (b) unless otherwise approved by the director, with a surface wind not greater than 10kts.

### **Mass and balance**

**136.08.7** (1) The operator or pilot-in-command, as the case may be, of a free balloon, shall ensure that, during any phase of operation, the loading mass of the free balloon complies with the limitations specified in the free balloon flight manual referred to in regulation 136.06.5, or the operations manual referred to in regulation 136.06.3, if the limitations therein are more restrictive.

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(2) The accumulated effects of modifications and repairs of the free balloon shall be accounted for and properly documented by the operator or pilot-in-command.

(3) The free balloon shall be weighed in accordance with the provisions of subregulation (2), if the effect of modifications on the mass and balance is not accurately known.

(4) The operator or pilot-in-command of a free balloon shall determine the mass of all operating items and crew members included in the dry operating mass of the free balloon, by weighing or by using the appropriate standard mass as prescribed in Document NAM-CATS-OPS 136.

(5) The operator or pilot-in-command of a free balloon shall establish the mass of the traffic load, including any ballast, by actual weighing, or determine the mass of its traffic load in accordance with appropriate standard passenger and baggage mass as prescribed in Document NAM-CATS-OPS 136.

(6) The mass of the fuel will be determined as per the manufacturers specified cylinder masses and those weights that are specified by the balloon flight manual.

(7) The operator or pilot-in-command shall establish mass and balance documentation as prescribed in Document NAM-CATS-OPS 136.

#### **Smoking in free balloons**

**136.08.8** (1) No person shall smoke in any Namibian registered free balloon.

(2) No person shall smoke in a foreign registered free balloon, which is operated to or from any operating site located in Namibia, while the free balloon is in Namibian airspace.

#### **Fuel policy**

**136.08.9** (1) The operator of a free balloon shall establish a fuel policy for the purpose of flight planning and in-flight preplanning to ensure that every flight carries sufficient fuel for the planned operation and reserve fuel to cover deviations from the planned operation.

(2) The operator shall ensure that the fuel planning of a flight is only based on -

(a) procedures, tables or graphs which are contained in or derived from the operations manual referred to regulation 136.06.3, the flight manual referred to in regulation 136.06.5, or current free balloon specific data whichever is more restrictive; and

(b) the operating conditions under which the flight is to be conducted, including-

realistic free balloon fuel consumption data:

- (i) anticipated masses;
- (ii) expected meteorological conditions; and
- (iii) air traffic service procedures and restrictions.

(3) The operator shall ensure that the calculation of usable fuel required by such free balloon for a flight includes -

(a) inflation fuel;

- 
- (b) trip fuel;
  - (c) reserve fuel consisting of -
    - (i) contingency fuel as prescribed in Document NAM-CATS-OPS 136;
    - (ii) final reserve fuel;
    - (iii) additional fuel, if required by the type of operation; and
    - (vi) extra fuel, if required by the pilot-in-command.

### **Fuel supply**

**136.08.10** (1) The pilot-in-command of a free balloon shall not commence a flight unless he or she is satisfied that the free balloon carries at least the planned amount of fuel to complete the flight safely, taking into account the following:

- (a) meteorological conditions forecast.
  - (b) any other conditions that may delay the landing of the free balloon or increase fuel consumption; and
- the factors detailed in regulation 136.08.9.

(2) If the usable fuel on board the free balloon is less than the final reserve fuel the pilot-in-command shall declare an emergency.

(3) The amount of fuel to be carried for each flight, shall be calculated according to the method as prescribed in Document NAM-CATS-OPS 136.

(4) The operator shall establish a procedure to ensure that in-flight fuel checks and fuel management are carried out.

### **Passenger briefing**

**136.08.11** (1) The operator or pilot-in-command, as the case may be, of a free balloon, shall ensure that -

- (a) passengers are verbally briefed about safety matters, parts or all of which may be given by an audio-visual presentation;
- (b) passengers are provided with a safety briefing card on which picture type instructions indicate
  - (i) the operation of emergency equipment that exists and is likely to be used by passengers; and
  - (ii) landing positions, location of emergency equipment, items not to be carried on board and any other specific information relating to the safe conduct of passengers during flight.

(c) in an emergency during flight, passengers are instructed in such emergency action as may be appropriate to the circumstances.

(2) The operator or pilot-in-command shall ensure that, before take-off -

- 
- (a) passengers are briefed, to the extent applicable, on -
- (i) the prohibition of smoking;
  - (ii) the stowage of carry-on baggage, if applicable;
  - (iii) The location and contents of the safety briefing card;
  - (iv) when and how oxygen equipment is to be used, if the carriage of oxygen is required;
  - (v) the location and use of life jackets, if applicable;
  - (vi) the method of exiting the basket; and
  - (vii) when seat belts or harnesses, if any, are to be fastened, and
  - (viii) when to adopt the landing positions
- (b) passengers receive, to the extent applicable demonstrations of -
- (i) the use of safety belts or safety harnesses, if applicable, including the manner in which safety belts or safety harnesses, if any, are to be fastened or unfastened;
  - (ii) the location and use of oxygen equipment if any; and
  - (iii) the location and use of life jackets if applicable.
  - iv) the landing positions
- (3) The operator or the pilot-in-command shall ensure that, after take-off, passengers are reminded about -
- (a) the prohibition of smoking; and
  - (b) the use of safety belts or safety harnesses, if any, are fitted on the free balloon.
- (4) The operator or pilot-in-command shall ensure that, before landing, passengers are reminded about -
- (a) the prohibition of smoking;
  - (b) the use of safety belts or safety harnesses, if any;
  - (c) the stowage of carry-on baggage, if any; and
  - d) the landing positions
- (5) The operator or pilot-in-command shall ensure that, after landing passengers are reminded about -
- (a) the prohibition of smoking; and
  - (b) the use of safety belts or safety harnesses, if any;

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(c) when to disembark the aircraft.

### **Emergency Equipment**

**136.08.12** (1) The operator or pilot-in-command of a free balloon, as the case may be, shall ensure that emergency equipment, carried or installed in the free balloon in order to meet the requirements prescribed in this Part is in such condition that it will satisfactorily perform its design function.

(2) The pilot-in-command of the free balloon shall ensure that the emergency equipment concerned is always accessible for immediate use by the crew members.

### **Carriage of children and aged or infirm or handicapped passengers**

**136.08.13** (1) The operator of a free balloon shall establish procedures for the carriage of children and aged or infirm or handicapped passengers to ensure that such passengers when carried are properly secured with appropriate restraint devices and necessary measures are taken to ensure their safety.

(2) The procedures referred to in subregulation (1) shall be specified in the approved operations manual.

### **Carry-on baggage**

**136.08.14** (1) The operator of a free balloon shall establish adequate procedures to ensure that only such baggage is carried onto the free balloon and taken into the passenger compartment as can be adequately and securely stowed.

(2) The minimum requirements for the procedures referred to in subregulation (1) shall be as prescribed in Document NAM-CATS-OPS 136.

### **Flights over water**

**136.08.15** Except as otherwise authorised by the Executive Director, no operator or pilot-in-command of free balloon shall operate a free balloon for a flight that involves one or more of the following:

(a) flying over water where it is reasonably possible that the balloon might be forced to land onto water;

(b) taking off or landing at a site where the take-off or approach path is so disposed over water that in the event of a mishap there would be a likelihood of ditching; or

(c) when the wind is more than five knots offshore at the launch site, take-off from a site located within three nautical miles of water measured at the ordinary high-water mark.

## **SUBPART 9**

### **BALLOON MAINTENANCE SUPPORT ARRANGEMENTS**

#### **General**

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**136.09.1** (1) This Subpart prescribes the free balloons maintenance requirements for compliance with the air operator certificate requirements prescribed in Subpart 2.

(2) The operator of a free balloon shall not operate the free balloon unless such free balloon is maintained and released to service by an approved aircraft maintenance organization, an appropriately rated aircraft maintenance engineer, or an authorised person, approved by the Executive Director.

#### **Operator's maintenance system**

**136.09.2** (1) An applicant for the issue of an air operator certificate, or an amendment or renewal thereof, shall submit an operator's maintenance system to the Executive Director for approval.

(2) The operator's maintenance system shall include -

(a) the maintenance control manual referred to in regulation 136.09.6;

(b) the operator's free balloon maintenance programme referred to in regulation 136.09.5;

(c) the free balloon's technical log referred to in regulation 136.09.7; and

(d) the technical specifications of the maintenance arrangements referred to in regulation 136.09.4(2), if applicable.

(3) The Executive Director shall approve the maintenance system if the applicant complies with the requirements prescribed in this Subpart.

#### **Maintenance responsibility**

**136.09.3** (1) The operator of a free balloon shall ensure the airworthiness of the free balloon and the serviceability of both its operational and emergency equipment by -

(a) the accomplishment of pre-flight inspections;

(b) the rectification, to an approved standard if available, of any defect and damage affecting safe operation, for the free balloon type;

(c) the accomplishment of all maintenance in accordance with the aircraft maintenance manual and the approved operator's free balloon maintenance programme referred to in regulation 136.09.5;

(d) the analysis of the effectiveness of such programme;

(e) the accomplishment of any aviation directive, airworthiness directive and any other continued airworthiness requirement issued or prescribed in terms of the Regulations; and

(f) the accomplishment of modifications in accordance with the provisions of Part 43.

(2) The operator shall ensure that the certificate of airworthiness for each free balloon operated, remains valid in respect of -

(a) the requirements prescribed in subregulation (1); and

(b) any expiry date, or other maintenance condition, specified on such certificate of airworthiness.

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(3) The requirements prescribed in subregulation (1) shall be performed in accordance Part 21, 43, and 66.

#### **Maintenance management**

**136.09.4** (1) In order to perform the requirements prescribed in regulation 136.09.3(1)(b) to (f) inclusive, the operator shall, unless the holder of an aircraft maintenance organisation, contract maintenance to an approved aircraft maintenance organisation, an appropriately rated aircraft engineer, or an authorised person approved by the Executive Director.

(2) The operator shall submit a copy of the arrangements referred to in subregulation (1), to the Executive Director for approval.

#### **Operator's maintenance programme**

**136.09.5** (1) The operator of a free balloon shall establish a free balloon maintenance programme according to which the free balloon shall be maintained.

(2) The free balloon maintenance programme shall include -

(a) details of the frequency of all maintenance required to be carried out; and

(b) a reliability programme.

(3) The free balloon maintenance programme, and any subsequent amendment thereto, shall be submitted to the Executive Director for approval.

#### **Operator's maintenance control manual**

**136.09.6** (1) The operator of a free balloon shall compile a maintenance control manual which shall -

(a) comply with the requirements prescribed in this Subpart and Subpart 2, and

(b) contain the information as prescribed in Document NAM-CATS-OPS 136.

(2) If the operator is an aircraft maintenance organisation approved in terms of part 145, the maintenance control manual may be incorporated in the manual of procedure referred to in regulation 145.02.1

(3) The maintenance control manual, and any subsequent amendment thereto, shall be submitted to the Executive Director for approval.

#### **Operator's free balloon technical log**

**136.09.7** (1) The operator of a free balloon shall establish a free balloon technical log system containing the following information for each free balloon:

(a) particulars of each flight necessary to ensure continued flight safety;

(b) the current certificate of release to service;

(c) the current maintenance statement giving the free balloon maintenance status of which maintenance required in terms of Part 43, is next due;

- 
- (d) all outstanding deferred defects which affect the operation of the free balloon; and
  - (e) any necessary guidance instructions on maintenance support arrangements.
- (2) The free balloon technical log, and any subsequent amendment thereto, shall be submitted to the Executive Director for approval.
- (3) Entries and use of the technical log shall comply with regulation 136.06.7.

### **Maintenance records**

**136.09.8** (1) The operator of a free balloon shall ensure that the free balloon technical log referred to in regulation 136.09.7, is retained for a period of 5 years after the date of the last entry.

(2) The operator shall ensure that a system has been established to keep the following records for the following period:

(a) all detailed maintenance records in respect of the free balloon, and any free balloon component fitted thereto, for 24 months after such free balloon, or free balloon component, has been released to service;

(b) the total time and flight cycles, as appropriate, of the free balloon and all life-limited free balloon components, for 12 months after the free balloon has been permanently withdrawn from service;

(c) the current free balloon inspection status to prove compliance with the free balloon maintenance programme referred to in regulation 136.09.5, until the free balloon or free balloon component inspection has been superseded by another inspection of equivalent work scope and detail;

(d) the current status of airworthiness directives applicable to the free balloon and free balloon components, for 12 months after the free balloon has been permanently withdrawn from service; and

(e) details of current modifications and repair to the free balloon, or any free balloon component vital to flight safety, for 12 months after the free balloon has been permanently withdrawn from service.

(3) The operator shall ensure that, if the free balloon is permanently transferred to another operator, the records referred to in sub regulations (1) and (2) are also transferred to such operator.

### **Continued validity of air operator certificate in respect of maintenance system**

**136.09.9** The operator of a free balloon shall comply with the requirements prescribed in Subpart 2, to ensure the continued validity of the air operator certificate in respect of the maintenance system.

### **Quality Assurance System**

**136.09.10** (1) For maintenance purposes, the operator's quality assurance system, as required by regulation 136.03.5, must additionally include at least the following functions:

(a) monitoring that the activities of regulation 136.09.3 are being performed in accordance with the accepted procedures;

- 
- (b) monitoring that all contracted maintenance is carried out in accordance with the contract; and
  - (c) monitoring the continued compliance with the requirements of this Subpart.
- (2) Where the operator is approved in accordance with Part 145, the quality assurance system may be combined with that required by Part 145.

## **SUBPART 10**

### **INSURANCE REQUIREMENTS FOR BALLOON OPERATORS**

#### **Requirement for free balloons to be insured**

- 136.10.1.** (1) An operator of a free balloon shall be insured in accordance with this Subpart as regards to aviation specific liability in respect of passengers, baggage, third parties and the extent of the acts covered by the insurance.
- (2) The operator of a free balloon shall ensure that insurance cover exists for each and every flight, regardless of whether the free balloon operated is owned by him or her or through any form of leasing as contemplated in regulations 136.02.13 to 16.
- (3) The operator shall, when applying for an air operator certificate under regulation 136.02.2 or for renewal of a certificate, provide the Executive Director with documentary proof that each free balloon to be used in the operation is insured as required under this Subpart.
- (4) Where the Executive Director, an inspector or an authorized officer or person has reason to believe that a free balloon is intended or likely to be flown in such circumstances that the requirements of this regulation will be contravened, he or she shall -
- (a) give to the person appearing to him or her to be in command of the free balloon a direction that he or she shall not permit the free balloon to take off until further notice; and
  - (b) take such steps as are necessary to detain the free balloon until the requirements of this regulation are complied with.
- (5) The operator or any person in charge of a free balloon used for commercial air transport shall, on request by the Executive Director, an inspector, an authorised officer or person authorised by the Executive Director, produce proof of insurance in respect of the free balloon to the Executive Director, inspector or officer.

## **Part 187**

### **“Fees relating to Part 136 (all fees to be revised)”**

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