

SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

NO. 90 OF 2011

LEGAL NOTICE NO.117 OF 2011

CIVIL AVIATION AUTHORITY ACT, 2009
(Act No. 10 of 2009)

CIVIL AVIATION AUTHORITY (AIRCRAFT REGISTRATION AND MARKING)
REGULATIONS, 2011
(Under section 104)

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PART I PRELIMINARY

In exercise of the powers conferred by section 104 of the Civil Aviation Authority Act, 2009, the Minister of Public Works and Transport makes the following regulations-

Citation and commencement

1. These regulations may be cited as the Civil Aviation Authority (Aircraft Registration and Marking) Regulations, 2011, and shall come into force on the date of publication in the Gazette.

Interpretation

2. In these regulations, unless the context otherwise requires, words or expressions used in the Act have the same meaning as in these Regulations, and-

“aeroplane” means a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

“aircraft” means a machine that derives support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“airship” means a power-driven lighter-than-air aircraft;

“Authority” means the Civil Aviation Authority established under section 3 of the Civil Aviation Authority Act 2009;

“balloon” means a non-power-driven lighter-than air aircraft;

“commercial air transport” means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;

“Contracting State” means a State that is a signatory to the Convention on International Civil Aviation;

“fireproof material” means a material capable of withstanding heat as well or better than steel when the dimensions in both cases are appropriate for the specific purpose;

“glider” means a non-power-driven heavier than air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces, which remain fixed under given conditions of flight;

“gyroplane” means a heavier-than-air aircraft, deriving its lift in flight by the reactions of the air on one or more rotors which rotate freely on substantially vertical axis;

“lighter-than-air aircraft” means an aircraft supported chiefly by its buoyancy in the air;

“ornithopter” means a heavier-than-air aircraft supported in flight chiefly by reactions of the air on planes to which a flapping motion is imparted;

“rotorcraft” means a power-driven heavier-than-air aircraft supported in flight by the reactions of the air on one or more rotors;

“sea-plane” means an aeroplane equipped with floats or other devices enabling it to land and take off from the surface of water.

PART II AIRCRAFT REGISTRATION REQUIREMENTS

Aircraft to be registered

3. (1) No person shall operate an aircraft that is classified in the First Schedule, within or fly over Swaziland unless-

- (a) for an aircraft eligible for registration under the laws of Swaziland, the aircraft has been registered by its owner in accordance with these Regulations and the Authority has issued a certificate of aircraft registration for that aircraft which shall be carried onboard that aircraft for all operations; or
- (b) the aircraft has been type accepted by the Authority and a Type Acceptance Certificate has been issued in terms of Regulation 4 (1) of the Civil Aviation (Airworthiness) Regulations of 2011; or
- (c) where an aircraft has been previously type accepted, a valid Certificate of Airworthiness issued by the State of Registry shall be required; or
- (d) the aircraft is registered in-

- (i) a Contracting State to the Convention on International Civil Aviation; or
- (ii) some other State in relation to which there is in force an agreement between the Government of Swaziland and the Government of that State which makes provision for the flight over Swaziland of aircraft registered in that State.

(2) Subject to this Regulation, an aircraft shall not be registered or continue to be registered in Swaziland where-

- (a) the aircraft is registered outside of Swaziland;
- (b) an unqualified person is entitled as owner to any legal or beneficial interest in the aircraft or to any share in the aircraft;
- (c) it would be inexpedient in the public interest for the aircraft to be or to continue to be registered in Swaziland; or
- (d) the aircraft does not qualify to be issued with a certificate of airworthiness.

(3) No person shall operate or fly an aircraft unless, as required by the law of State in which the aircraft is registered, the aircraft is painted or affixed with the nationality and registration marks required by that law.

(4) An aircraft shall not bear any marks which purport to indicate that the aircraft is-

- (a) registered in a State in which it is not in fact registered; or
- (b) a State aircraft of a particular State if it is not in fact such an aircraft unless the appropriate authority of that State has sanctioned the bearing of such marks.

(5) The Authority shall be responsible for the registration of aircraft in Swaziland and shall maintain a register on its premises and shall record in it the particulars specified in regulation 6.

Eligibility for registration

4. (1) An aircraft is eligible for registration if it is-

- (a) owned by a citizen of Swaziland, an individual citizen of a foreign State who is lawfully admitted for residency in Swaziland, a corporation lawfully incorporated and doing business under the laws of Swaziland or a government entity of Swaziland; and

(b) not registered under the laws of any foreign country.

(2) The following persons are qualified to be the owners of a legal or beneficial interest in an aircraft registered in Swaziland or a share in that aircraft-

(a) the Government of Swaziland;

(b) citizens of Swaziland or persons bona fide resident in Swaziland

(c) such other persons as the Authority may approve;

(d) bodies corporate-

(i) established under the laws of Swaziland; or

(ii) established under and subject to the laws of such country as the Authority may approve.

(3) If an unqualified person residing or having a place of business in Swaziland is entitled as owner to a legal or beneficial interest in an aircraft or a share in an aircraft, the Authority upon being satisfied that the aircraft may otherwise be properly registered, may register the aircraft in Swaziland and that person may not cause or permit the aircraft while it is registered in pursuance of this sub-regulation to be used for the purpose of commercial air transport operations or aerial work.

(4) If an aircraft is leased or is the subject of a lease, charter or higher purchase agreement to a person qualified under sub-regulation (2), the Authority may, whether or not an unqualified person is entitled as owner to a legal or beneficial interest in the aircraft, register the aircraft in the names of the parties to the charter or hire-purchase agreement after being satisfied that the aircraft may otherwise remain so registered during the continuation of the lease, charter or hire purchase agreement.

Application for registration of aircraft

5. (1) A person who wishes to register an aircraft in Swaziland shall submit an application for aircraft registration to the Authority on a form prescribed by the Authority and the application shall-

(a) certify the citizenship of the applicant;

(b) show evidence of ownership; and

(c) be signed in ink.

(2) The application for aircraft registration shall be submitted with the prescribed fee to the Authority.

(3) An application for the registration of an aircraft in Swaziland may be made by or on behalf of the owner and shall include the following-

- (a) that the applicant is legally entitled to the aircraft;
- (b) a written notice submitted to the Authority identifying the person making the application on behalf of the owner;
- (c) in the case of a body corporate, a written notice identifying an officer of the body corporate (and the address) who may be served with documents, including the registration certificate issued by the Authority;
- (d) for imported aircraft with previous registration of a foreign country, a statement issued by the authority responsible for registration of aircraft in that country stating when the registration was cancelled.

(4) The application shall contain the following additional information-

- (a) a description of the aircraft that identifies it by reference to its manufacturer, its type and model as designated by its manufacturer, and the serial number given to it by its manufacturer;
- (b) if the aircraft has previously been registered in Swaziland or anywhere else, particulars of the registration, including any registration mark given to the aircraft as a result of the registration;
- (c) particulars of the registration mark, if it has been reserved for the aircraft;
- (d) the name and address of each person who holds a property interest in the aircraft and a description of the person's property interest;
- (e) the name and address of the registered owner if different from sub-regulation (d);
- (f) the physical station where the aircraft will be usually stationed;
- (g) the name and signature of the applicant; and
- (h) the date of the application.

Registration of aircraft

6. Upon receiving an application for the registration of an aircraft and being satisfied that the aircraft may properly be so registered, the Authority shall register the aircraft, and shall include in the register and on the certificate the following particulars-

- (a) the number of the certificate;
- (b) the nationality mark of the aircraft and the registration mark assigned to it by the Authority;
- (c) the name of the manufacturer and the designation of the aircraft by the manufacturer;
- (d) the serial number of the aircraft;
- (e) the name and address of every person who is entitled as owner to a legal interest in the aircraft or a share in the aircraft, or in the case of a lease agreement or financial arrangement, the names and addresses of lessee and lessor or as the case may be, the financier; and
- (f) conditions with regard to which it is registered.

Certificate of registration

7. (1) The Authority shall issue to the person or persons in whose name or names the aircraft is registered a certificate of registration, which shall include the particulars specified in regulation 6 and the date on which the certificate was issued.

(2) Subject to regulation 4, if at any time after an aircraft has been registered in Swaziland, an unqualified person becomes entitled as an owner to a legal or beneficial interest in the aircraft or a share in the aircraft or the ownership of that aircraft is transferred to a person not qualified under regulation 4, the registration of the aircraft shall become void and the certificate of registration shall forthwith be returned by the registered owner to the Authority for cancellation.

Change of registration or ownership particulars

8. (1) A person registered as the owner of an aircraft registered in Swaziland shall notify the Authority of-

- (a) any change in the particulars which were furnished to the Authority upon application being made for the registration of the aircraft;
- (b) the destruction of the aircraft or its permanent withdrawal from use;

- (c) in the case of an aircraft registered under regulation 4(4), the termination of the lease, charter or higher purchase agreement.

(2) A person who becomes the owner of an aircraft registered in Swaziland shall inform the Authority in writing.

(3) The Authority may, where it appears necessary or appropriate or for the purposes of updating the register in accordance with sub-regulations (1) and (2), correct or amend the particulars entered in the register.

(4) For purposes of this regulation, reference to the registered owner of the aircraft includes, in the case of a deceased person, the legal representative, and in the case of a body corporate which has been dissolved, its successor.

Deregistration

9. (1) The Authority may de-register or cancel the registration of an aircraft under the following circumstances-

- (a) upon application by the registered owner for purposes of registering the aircraft in another State or for any other purpose; or
- (b) upon the destruction of the aircraft or its permanent withdrawal from use.

(2) The Authority may de-register or cancel the registration of an aircraft in accordance with this regulation and require the registered owner to-

- (a) return to the Authority the certificate of aircraft registration;
- (b) settle any liens or encumbrances attached to the aircraft;
- (c) remove all nationality and registration marks assigned to the aircraft; and
- (d) comply with any other conditions as the Authority may specify.

PART III

NATIONALITY AND REGISTRATION MARKS

Marking and manner of affixation

10. (1) No person shall operate an aircraft registered in Swaziland unless the aircraft displays nationality and registration marks in accordance with the requirements of these regulations.

(2) The marks used to identify the nationality of Swaziland shall conform to the requirements outlined in regulation 11 followed by a series of numbers or letters assigned by the Authority.

(3) Unless otherwise authorised by the Authority, no person shall place on an aircraft a design, mark or symbol that modifies or confuses the nationality and registration marks.

(4) The marks used shall not be so similar to international marks as to be confused with the International Five Letter Code of Signals or Distress Codes.

(5) Permanent marking of aircraft nationality and registration shall-

- (a) be painted on the aircraft or affixed by other means ensuring a similar degree of permanence;
- (b) have no ornamentation;
- (c) contrast in colour with the background;
- (d) be legible; and
- (e) be kept clean and visible at all times.

(6) The side marks for lighter-than-air aircraft shall be so located as to be visible both from the sides and from the ground.

Display of marks

11. (1) An owner of an aircraft registered in Swaziland shall display on that aircraft the nationality mark “3DC” followed by the registration of the aircraft consisting of three Roman Capitals letters assigned by the Authority with a hyphen placed between the nationality mark and the registration mark.

(2) If, because of the aircraft configuration, it is not possible to mark the aircraft in accordance with these regulations, the owner may apply to the Authority for a different procedure.

Location of marks

12. (1) No person shall operate a heavier-than-air aircraft unless the aircraft is marked as follows-

- (a) aircraft with fixed wing-
 - (i) the marks shall be located on the lower surface of the port wing of the aircraft unless they extend across the lower surfaces of both of the wings of the aircraft and shall as far as possible, be located equidistant from the leading and trailing edges of the wing or wings with the top of the

letters, and number comprising marks, towards the leading edge of the wing or wings;

- (ii) for an aircraft having more than one set of wings, the mark shall be placed on the lower wing or the lower set of wings, as the case requires;
- (iii) the marks shall also appear either on the fuselage or equivalent structure of the aircraft or on the vertical tail surface of the aircraft and shall be on each side of the fuselage or equivalent structure between the wings and the tail surfaces;
- (iv) the marks on the vertical tail surfaces shall be on each side of the vertical tail surface for aircraft with a single vertical surface and shall be on each of the out board sides of the outer vertical surfaces of the tail structure for an aircraft with multi-vertical surface structure;

(b) rotor-craft-the marks shall be located horizontally on both the port and starboard sides-

- (i) on the fuselage; or
- (ii) on the engine cowling; or
- (iii) on the tank or tanks; or
- (iv) on the tail boom; or
- (v) on any other external surface approved by the Authority.

(2) No person shall operate a lighter-than-air aircraft unless the aircraft is marked as follows-

- (a) spherical balloon-the marks shall appear in two places diametrically opposite and shall be located near the maximum horizontal circumference of the balloon;
- (b) non-spherical balloon-the marks shall appear on each side and shall be located near the maximum cross section of the balloon immediately above either the rigging band or the points of attachment of the basket suspension cable;
- (c) airship-the marks shall appear on each side of the hull of the airship and also on the upper surface on the line of symmetry and

they shall be located lengthwise near the maximum cross section of the airship;

- (d) all lighter-than-air-aircraft-the side marks on all lighter-than-air aircraft shall be visible both from the sides and from the ground.

Measurement of marks

13. (1) No person shall operate an aircraft unless the aircraft is marked with the number and letters comprising one or more marks on the same aircraft of equal height.

(2) The width of each letter and number (except the letter I and the number “1”) and the length of each hyphen must be two-thirds the height of a letter or number.

(3) The letters, numbers and hyphens shall be-

- (a) formed by solid lines with thickness of one-sixth of the height of the marks; and
- (b) of colour that is clear contrast to the colour of the background to the marks.

(4) Each letter or number shall be separated from a letter, a number or hyphen, which precedes or follows it, by a space not less than one quarter of the width of a character (except the letter I and the number “1”).

(5) In the case of lighter-than-air aircraft the length of the marks shall be at least 50 centimetres.

(6) The marks on a balloon shall be vertical.

(7) In case of fixed wing heavier-than-air aircraft-

- (a) the wing marks shall be at least 50 centimetres in height;
- (b) the marks on the fuselage (or equivalent structure) shall be at least 30 centimeters in height without visually interfering with the outlines of the fuselage (or equivalent structure); and
- (c) the marks on the vertical tail surface shall be at least 30cm in height with a clearance of 5cm from leading and trailing edge of the tail surface.

(8) In the case of rotorcraft-

- (a) the marks shall be at least 30cm in height;

- (b) if the surface area of that part of the rotorcraft on which the marks are to be located is insufficient to enable compliance with paragraph (a), as high as possible; or
- (c) in either case the mark shall leave a clearance of 5cm from the edge of that part of the rotorcraft on which the marks are located and shall not interfere with the outlines of the rotorcraft.

(9) The marks shall be vertical or slopping at the same angle being an angle of not more than 30 degrees to the vertical axis.

Types of characters for nationality and registration marks

14. No person shall operate an aircraft unless the aircraft is marked with capital letters in Roman characters without ornamentation, numbers shall be Arabic numbers without ornamentation and hyphens shall be considered as characters.

Deviations for size and location of marks

15. (1) Where either one of the surfaces authorised for displaying required marks is large enough for display of marks meeting these size requirements for these regulations and the other is not, the registered owner shall place full-size marks on the larger surface.

(2) Where neither surface is large enough for full-size marks, the Authority may approve marks as large as practicable for display on the larger of the two surfaces.

Removal of marks

16. When an aircraft that is registered in Swaziland is sold, the holder of the certificate of registration shall upon deregistration remove, before its delivery to the purchaser, all nationality and registration marks of Swaziland, unless the purchaser is a citizen of Swaziland or other legal entity as prescribed in regulation 4(1).

Identification plate required

17. The operator shall affix to each aircraft registered under the laws of Swaziland and identification plate-

- (a) containing the aircraft type, model serial number, nationality and registration marks;
- (b) made of fireproof metal or other fireproof material of suitable physical properties; and
- (c) secured to the aircraft in a prominent position near the main entrance or, in the case of a free balloon, affixed conspicuously to the exterior of the payload.

PART IV

GENERAL

Inspection of certificate of registration

18. A person who holds a certificate of registration required by these regulations shall present it for inspection upon a request from the Authority or any other person authorised by the Authority.

Change of name

19. (1) A holder of a certificate or other document issued under these regulations may apply to change the name on the certificate or that document.

(2) The holder shall include with the request-

- (a) the current certificate or any other document; and
- (b) a court order or other legal document verifying the name change.

(3) The Authority may change the certificate or any other document and issue a replacement of the certificate or document.

(4) The authority shall return to the holder the original documents specified in sub-regulation 2(b) and retain copies and return the replaced certificate or document with the appropriate endorsement.

Change of address

20. (1) A holder of a certificate issued under these regulations shall notify the Authority of the change in the physical and mailing address and shall do so, in the case of-

- (a) the physical address, at least fourteen days in advance; and
- (b) the mailing address, upon the change.

(2) A person who fails to notify the Authority of the change in the physical address within the time frame specified in sub-regulation (1) shall not exercise the privileges of the certificate or authorisation.

Replacement of documents

21. A person may apply to the Authority in the prescribed form for replacement of documents issued under these regulations if the documents are lost or destroyed.

Certificate suspension and revocation

22. (1) The Authority may, where it considers it to be in the public interest, suspend provisionally, pending further investigation, any document issued, granted or having effect under these regulations.

(2) The Authority may, upon the completion of an investigation and where it considers it to be in the public interest, revoke, suspend or vary any document issued or granted under these regulations.

(3) The Authority may, where it considers it to be in the public interest, prevent any person or aircraft from flying.

(4) A holder or any person having the possession or custody of any documents which have been revoked, suspended or varied under these regulations shall surrender them to the Authority within 14 days from the date of revocation, suspension or variation.

(5) The breach of any condition subject to which any document has been granted or issued under these regulations shall render the document invalid during the continuance of the breach.

Use and retention of certificates and records

23. (1) No person shall-

- (a) use any certificate, approval, permission, exemption or other document issued or required by or under these regulations which has been forged, altered, revoked or suspended or to which the person is not entitled;
- (b) forge or alter any certificate, approval, permission, exemption or other document issued or required by or under these regulations;
- (c) lend any certificate, approval, permission, exemption or other document issued or required by or under these regulations to any other person; or
- (d) make any false representation for the purpose of procuring for that person or any other person the grant, issue, renewal or variation of any such certificate, approval, permission or exemption or other document.

(2) During the period for which it is required under these regulations to be preserved, no person shall mutilate, alter, render illegible or destroy any records or any entry made in the

records, required by or under these regulations to be maintained or knowingly make or procure or assist in the making of, any false entry in any such record or willfully omit to make a material entry in the record.

(3) All records required to be maintained by or under these regulations shall be recorded in a permanent and indelible material.

(4) No person shall purport to issue any certificate or exemption for the purpose of these regulations unless that person is authorised to do so under these regulations.

(5) No person shall issue any certificate of the kind referred to in sub-regulation (4) unless that person is satisfied that all statements in the certificate are correct and that the applicant is qualified to hold that certificate.

(6) A person who commits any act prohibited under these regulations may have a licence, certificate, rating, qualification or authorisation revoked or suspended.

Reports of violation

24. (1) A person who knows of a violation of the Act or any other regulation or order issued under the Act shall report it to the Authority.

(2) The Authority will determine the nature and type of any additional investigation or enforcement action that need be taken.

Enforcement of directions

25. A person who fails to comply with any direction given by the Authority or by any authorised person under any provision of these regulations shall be deemed for the purposes of these regulations to have contravened that provision.

Aeronautical user fees

26. (1) The Authority may notify the fees to be charged in connection with the issue, validation, renewal, extension or variation of any certificate, licence or other document, including the issue of a copy of a licence, certificate or other document, or the undergoing of any examination, test, inspection or investigation or the grant of any permission or approval, required by or for the purpose of these regulations or any orders, notices, or proclamations made under these regulations.

(2) Upon an application being made in connection with which any fee is chargeable in accordance with sub-regulation (1), the applicant shall be required, before the application is entertained, to pay the fee so chargeable.

(3) If, after payment has been made, the application is withdrawn by the applicant or otherwise ceases to have effect or is refused, the Authority shall not refund the payment made.

Application of regulations to Government and visiting forces

27. (1) These regulations shall apply to aircraft, not being military aircraft, belonging to or exclusively employed in the service of the Government, and for the purposes of such application, the Department or other authority responsible for the management of the aircraft shall be deemed to be the operator of the aircraft and in the case of an aircraft belonging to the Government, to be the owner of the interest of the Government in the aircraft.

(2) Except as otherwise expressly provided, the naval, military and air force authorities and member of any visiting force and property held or used for the purpose of such a force shall be exempt from the provisions of these regulations to the same extent as if the visiting force formed part of the military force of Swaziland.

PART V

OFFENCES

Contravention of regulations

28. A person who contravenes a provision of these regulations may have a licence, certificate, approval, authorisation, exemption or other document revoked or suspended.

Offences and penalties

29. (1) If any provision of these regulations, orders, notices or proclamations is contravened in relation to an aircraft, the operator of that aircraft and the pilot in command, if the operator or the pilot in command is not the person who contravened that provision shall, without prejudice to the liability of any other person under these regulations for that contravention, be deemed to have contravened that provision unless the operator or the pilot in command proves that the contravention occurred without their consent or connivance and that they exercised all due diligence to prevent the contravention.

(2) A person who contravenes any provision specified as an “A” provision in the Second Schedule to these regulations commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand Emalangenani for each offence or to imprisonment for a period not exceeding one year or to both.

(3) A person who contravenes any provision specified as a “B” provision in the Second Schedule to these regulations commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand Emalangenani for each offence or to imprisonment for a term not exceeding three years or to both.

(4) A person who contravenes any provision of these regulations not being a provision referred to in the Second Schedule to these regulations commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand Emalangenani and in the case of a second or subsequent offence for a similar offence to a fine not exceeding two hundred thousand Emalangenani or imprisonment for a period not exceeding four years or to both.

Extra-territorial application of regulations

30. Except where the context otherwise requires, the provisions of these regulations-
- (a) in so far as they apply, whether by express reference or otherwise, to aircraft registered in Swaziland, shall apply to such aircraft wherever they may be;
 - (b) in so far as they apply, whether by express reference or otherwise, to other aircraft, shall apply to such aircraft when they are within Swaziland;
 - (c) in so far as they prohibit, require, regulate, whether by express reference or otherwise, the doing of anything by any person in, or by any of the crew of, any aircraft registered in Swaziland, shall apply to such persons and crew, wherever they may be; and
 - (d) in so far as they prohibit, require, regulate, whether by express reference or otherwise, the doing of anything in relation to any aircraft registered in Swaziland by other persons shall, where such persons are citizens of Swaziland, apply to them wherever they may be.

PART VI**TRANSITIONAL PROVISION*****Transition and savings***

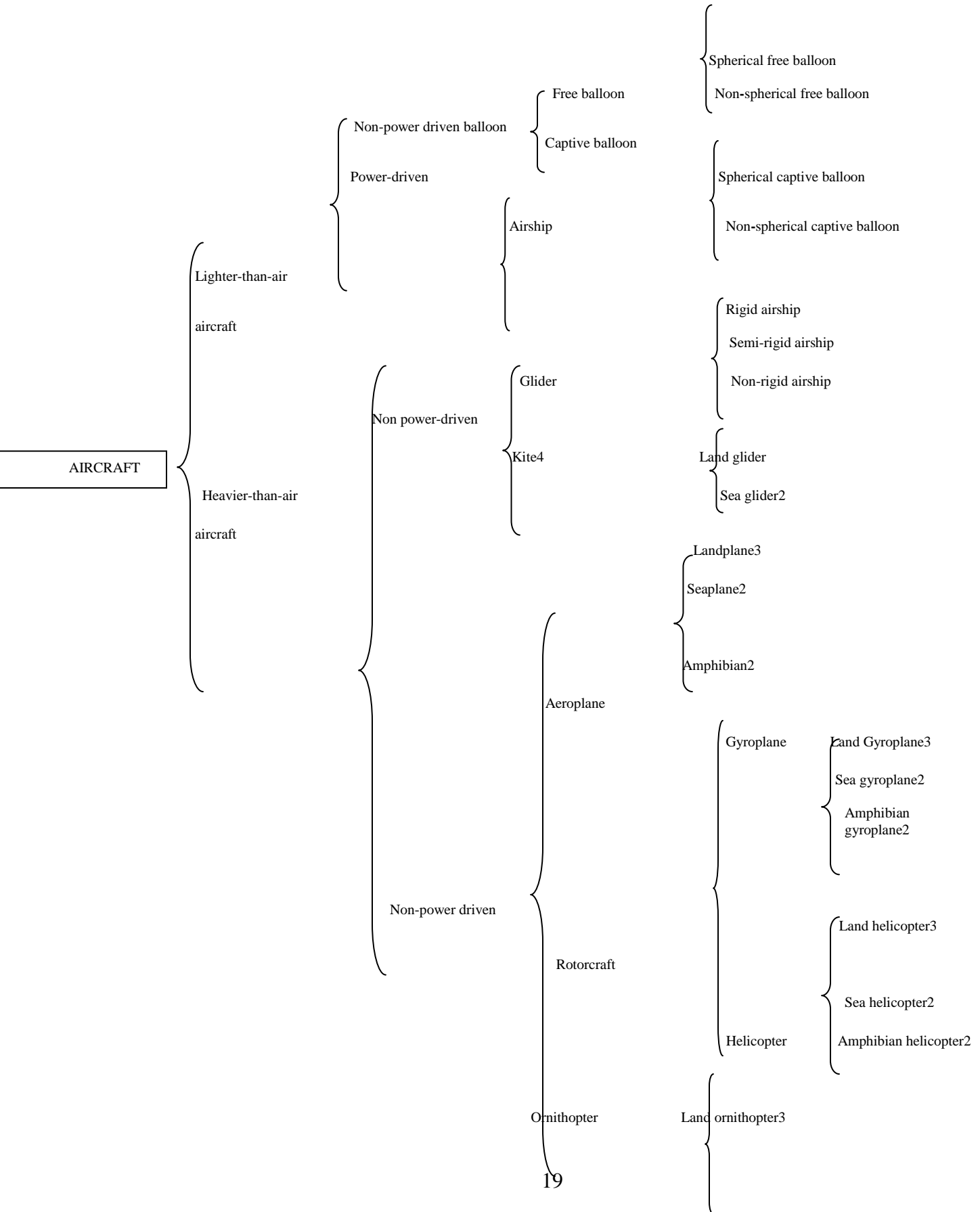
31. A valid licence, certificate, permit or authorisation granted by the Authority before the commencement of these regulations shall remain operational until it expires or is revoked, annulled or replaced.

FIRST SCHEDULE

Regulation 3 (1)

CLASSIFICATION OF AIRCRAFT

Table 1: Classification of aircraft



Sea ornithopter2

Amphibian ornithopter2

1. Generally designated “kite balloon”.
- 2.”Float” or “boat” may be added as appropriate
3. Includes aircraft with ski-type landing gear (substitute “ski” for “land”)
4. For the purpose of completeness only.

SECOND SCHEDULE (Regulation 29)

PENALTIES

<i>Reg No.</i>	<i>Title</i>	<i>Part</i>
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17	Identification plate required	A
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Minister of Public Works and Transport