

RULEMAKING PROCEDURES MANUAL



GAMBIA CIVIL AVIATION AUTHORITY

GCAA Order No. 6

BY THE ORDER OF THE GAMBIA CIVIL AVIATION AUTHORITY

MANUAL #: C

Issued by:  
DIRECTOR GENERAL



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1. FOREWORD

This Order No. 6 is one of the set Orders forming the Authority's internal standard policy and procedures documentation set. These Orders are produced to provide the information, policy and procedures needed to perform the tasks as required by the CAA Act and Civil Aviation Regulations (GCARs).

This Order No. 6 has been prepared for the use and guidance of all Aviation Safety Inspectors in the performance of their duties.

I require all staff to use this Order and their respective specialty Order (i.e. 2, 3, 4, 5 etc.) in the performance of their duties. It is however, emphasized that all matters pertaining to an Inspector's duties and responsibilities cannot be covered in this Order. Therefore, Inspectors are expected to use good judgment in matters where specific guidance has not been given.

These Orders are dynamic documents, as a result of changes in legislation, within the aviation industry, experience and new technology, there may be the need for amendments. I therefore, encourage the contribution of comments and recommendations for revision/amendment action to this publication for the improvement of its content.

The undersigned Director General is accountable for approving the contents and amendments of this Order.

Abdoulie Ebrima Jammeh
DIRECTOR GENERAL



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2. INTRODUCTION

As an autonomous and apex statutory body, the Gambia Civil Aviation Authority is charged with the responsibility of monitoring, regulating, setting safety and economic standards for air navigation in The Gambia and ensuring compliance with the Standards and Recommended Practices of the ICAO Annexes by all Operators and Personnel.

ICAO encourages all contracting states to establish a Flight Standard Inspectorate to meet the requirements set forth in the convention on international Civil Aviation. The organizational structure of the inspectorate within the GCAA hereinafter referred to as Flight Safety Standards (FSS) has the following primary responsibilities:

- certification,
- licensing
- surveillance
- inspection,
- investigation,
- enforcement, and
- counseling of personnel, operators and service providers.

Amendments to this Order shall be issued from time to time as the need arises, so that all concerned will be adequately informed of acceptable policies and procedures applicable to the various duties and tasks to be performed.

By using this Order as a guide, there should be reasonable degree of uniformity and standardization within the FSS. If there is any need for a staff member to deviate substantially from the prescribed requirements of any instruction, the FSS Director must as soon as possible be notified. Full details of the matter with reasons why deviation became necessary, must be given. However, if possible, notification for obvious reasons should be made before any deviation is effected

3. CANCELLATION

This Order cancels and supersedes the following Orders and Directives:

1. None



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6. LIST OF EFFECTIVE PAGES

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7. DISTRIBUTION LIST

Name of Current Holder	Manual #
Director General	A
Flight Safety Standards Director	B
Technical Library	C
Aviation Safety Inspectors	Electronic



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8. ACRONYMS

- A-NPA - Advanced Notice of Proposed Amendment
- Authority - Gambia Civil Aviation Authority
- CC/EFOD - Compliance Checklist / Electronic Filing of Differences
- CRD - Comments Response Document
- DG - Director General, Gambia Civil Aviation Authority
- GCAA - Gambia Civil Aviation Authority
- ICAO - International Civil Aviation Authority
- NCMC - National Continuous Monitoring Coordinator
- NPA - Notice of Proposed Amendment
- PANS - Procedure for Air Navigation Services
- RIA - Regulatory Impact Assessment
- RRC - Regulations Review Committee
- RWG - Rulemaking Working Group
- SARPS - Standards and Recommended Practices
- TOR - Terms of Reference



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CHAPTER 1 – OVERVIEW OF THE RULEMAKING PROCESS

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CHAPTER 1 – OVERVIEW OF THE RULEMAKING PROCESS

SECTION 1 – GENERAL

1.1 PURPOSE

1.1.1 The purpose of this Chapter is to provide GCAA staff involved in regulations development with the required understanding of the regulatory framework and rulemaking processes as well as an understanding of their responsibilities in performing these activities.

1.2 INTRODUCTION

1.2.1 The GCAA is responsible for issuing the necessary regulations and decisions for the orderly oversight of civil aviation activities in The Gambia. In addition, the GCAA is responsible for developing and promulgating appropriate, clear and concise aviation safety standards.

1.2.2 In fulfilling its obligations and responsibilities, the GCAA is also responsible for promoting full and effective consultation and communication with all interested parties on aviation issues, and should, in performing its functions and exercising its powers, consult with government, commercial, industrial, consumer and other relevant bodies and organizations.

1.3 OVERVIEW OF THE RULEMAKING PROCESS

1.3.1 Rulemaking process is organized in two major process the **rule making programming** and the **processing of rulemaking tasks**.

1.3.2 The GCAA shall establish biennially a Rulemaking Programme after consultation with the industry.

1.3.3 The Rulemaking Programme details the expected production of rules for the subsequent year and it is published.

1.3.4 The processing of rulemaking tasks follows several main phases: **initiation, drafting, consultation, reviewing and adoption, and publication**.

1.3.5 Rulemaking projects shall be initiated in accordance with the priorities set out annually in the Annual Rulemaking Programme.



- 1.3.6 With regard to **initiation** it is important that clear parameters are set for each specific rulemaking task identified in the annual rulemaking programme and accorded a priority as a function of the **preliminary regulatory impact assessment** and the GCAA resources available. The GCAA shall draw up Terms of Reference (TOR) for each rulemaking project.
- 1.3.7 Therefore, considerable importance is attached to the terms of reference including fixed timetables for the rulemaking process, the content of the deliverable in question, and composition of a rulemaking group.
- 1.3.8 This manual shall provide rulemaking groups with guidance on their working methods in the form of standard operating procedures.
- 1.3.9 The **drafting** phase is deemed to start after the drafting mechanism has been chosen and, in those cases where a rulemaking group is set up, when working methods have been agreed and work proper can start. New rules or amendments to existing ones shall be drafted in accordance with the TORs.
- 1.3.10 Upon completion of the drafting of the proposed rule, the Regulations Review Committee shall verify that the rule satisfies the objectives of the TORs established for the rulemaking project and shall issue a Notice of Proposed Amendment (NPA), which shall be published on the GCAA website.
- 1.3.11 The NPA mechanism described in this Manual provides for completely open consultation on proposed rules for a period of one month. The Committee is provided with the flexibility necessary to adapt this provision.
- 1.3.12 With respect to the review of comments received, means are provided for a review of comments. In some case, experts who have not directly participated in the drafting of the rule in question can be involved in the review of comments. This has been included as an additional means of reducing the chance of valid comments not receiving the attention they deserve due to 'interests' of those drafting the rules conflicting with those of consultees.
- 1.3.13 In the interests of transparency, the GCAA is obliged to publish a formal response to the consultation process in a GCAA official publication in accordance with a clear, but flexible, timetable. This flexibility takes into account situations where an NPA elicits several hundred comments.
- 1.3.14 The GCAA follows a special procedure with respect to rules to be applied by the industry where the latter raise major objections to the proposed rule. In such



cases the Committee is tasked with providing the GCAA a forum through which to consult on the issues.

1.3.15 There shall be a minimum one-month minimum period between publication of the consultation summary and adoption and publication of any decision, which period is intended to allow sufficient time for responses to the GCAA consultation response document prior to the finalisation of any rule.

1.4 DEFINITIONS

1.4.1 The following definitions:

(1) **Annexes to the Chicago Convention.** The documents issued by the International Civil Aviation Organization (ICAO) containing the Standards and Recommended Practices applicable to civil aviation.

(2) **Chicago Convention.** (“Convention”) The Convention on International Civil Aviation concluded in Chicago, U.S.A. in 1944, in effect, 1947. The Articles of the Chicago Convention govern the actions of the contracting States in matters of international civil aviation safety directly and through the Annexes to the Convention, which set forth ICAO Standards and Recommended Practices.

(3) **Civil Aviation.** The operation of any civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations.

1.5 ACRONYMS

1.5.1 The following definitions:

- (1) A-NPA - Advanced Notice of Proposed Amendment
- (2) Authority- Gambia Civil Aviation Authority
- (3) CC/EFOD- Compliance Checklist / Electronic Filing of Differences
- (4) CRD - Comments Response Document
- (5) DG - Director General, Gambia Civil Aviation Authority
- (6) GCAA - Gambia Civil Aviation Authority
- (7) ICAO - International Civil Aviation Organization
- (8) NCMC - National Continuous Monitoring Coordinator



- (9) NPA - Notice of Proposed Amendment
- (10) PANS - Procedure for Air Navigation Services
- (11) RIA - Regulatory Impact Assessment
- (12) RRC - Regulations Review Committee
- (13) RWG - Rulemaking Working Group
- (14) SARPS - Standards and Recommended Practices



CHAPTER 2 – ROLES, FUNCTIONS AND RESPONSIBILITIES

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CHAPTER 2 – ROLES, FUNCTIONS AND RESPONSIBILITIES

SECTION 1 – GENERAL

1.1 Purpose

1.1.1 The purpose of this Chapter is to establish the roles, functions and responsibilities of the staff involved in the rulemaking tasks.

1.2 Introduction

1.2.1 The GCAA is responsible for issuing the necessary regulations and decisions for the implementation of the Gambia Civil Aviation Act. In addition, the GCAA is responsible for developing and promulgating appropriate, clear and concise aviation safety standards.

1.2.2 In fulfilling its obligations and responsibilities, the GCAA is also responsible for promoting full and effective consultation and communication with all interested parties on aviation issues, and should, in performing its functions and exercising its powers, consult with government, commercial, industrial, consumer and other relevant bodies and organizations.



SECTION 2 – FUNCTIONS AND RESPONSIBILITIES

2.1 General

- 2.1.1 As head of the GCAA, the Director General is responsible for setting the overall policy and direction of the Authority and resolving any rulemaking issues raised by the Committee.
- 2.1.2 The DG shall establish a Regulations Review Committee (RRC).
- 2.1.3 The committee shall be a standing committee headed by a Chair who inter alia shall act as a coordinator responsible for distribution and collating inputs from relevant departments and stakeholders as relates to ICAO proposed and adopted amendments.
- 2.1.4 The Regulations Review Committee shall have representative from all directorates whose functions are relevant to ICAO Annexes, the NCMC, representatives from industry, advisory bodies, unions and any other representative(s) deemed necessary by the DG.

2.2 Director General

- 2.2.1 The DG shall be responsible for:
- (1) Establishing and monitoring the Regulations Review Committee.
 - (2) Approving the annual rulemaking programme and budget;
 - (3) Approving the terms of reference for each rulemaking project;
 - (4) Approving the rulemaking working groups proposed by the RRC;
 - (5) Approving the amendment to regulations;
 - (6) Approving the CC and EFOD;



SECTION 3 – REGULATIONS REVIEW COMMITTEE

3.1 General

3.1.1 The Regulations Review Committee is formally constituted by the Director General.

3.2 Functions and Responsibilities

3.2.1 The RRC is a high level strategic group, with the following tasks:

- (1) providing advice on the overall priorities of the rulemaking programme;
- (2) providing advice on horizontal or controversial issues, including on concept papers;
- (3) providing advice on the Authority's rulemaking processes and structures;
- (4) providing advice on the understanding of provisions of the primary legislation;
- (5) providing input on the implementation of rules, to assess the need for further rulemaking activities;
- (6) providing input on the coherence between existing rules and proposed rules;
- (7) providing advice on any specific technical aspects, on request of the DG.

3.2.2 The committee shall be responsible for:

- (1) Interactions with ICAO and all Civil Aviation Organizations and stakeholders with regards to amendments to the civil aviation regulations of the State;
- (2) Coordination of civil aviation international issues largely relating to amendment of ICAO annexes and PANS;
- (3) Monitoring of amendments to SARPs;
- (4) Ensuring implementation of these procedures by all concerned departments, sections and industry;
- (5) Identifying and Notifying differences to ICAO SARPs and PANS.



3.3 Membership and Participation

- 3.3.1 The Members of the RRC shall be persons nominated by DG and bodies/groups they will represent. The person nominated shall be qualified expert able to advise authoritatively on the subject.
- 3.3.2 RRC Members may indicate an alternate when they are unable to attend a meeting. This alternate can only attend in the absence of the Member and can only exercise his/her rights and duties for the meeting in question.
- 3.3.3 RRC Members may be accompanied by an additional expert, if so justified by the agenda of the meeting. In this case, they shall inform the Chair in advance.
- 3.3.4 The Chair may invite regional or international organization, as well as third countries with which the Authority has concluded working arrangements to nominate an observer to the RRC. The Chair may also decide to invite additional experts to join the RRC as observers when specific issues need to be discussed.
- 3.3.5 The Authority will maintain an updated RRC contact list.

3.4 Meetings

- 3.4.1 The RRC shall meet, at least, twice a year, in the second and fourth quarters of each year, at dates to be defined by the Chair.
- 3.4.2 Further meetings of the RRC may be convened by the Chair, either at his initiative, or following the request of at least half of the Members. These additional meetings should focus on specific issues.
- 3.4.3 RRC Members should:
- (1) attend all meetings from beginning to end on a regular basis, in order to ensure harmony and efficiency;
 - (2) assist in efficient planning of the meeting, inform the Chair before the meeting of non-availability for a group meeting.

3.5 Regulations Review Committee, Chair

- 3.5.1 The RRC shall have a chair who shall be appointed by the DG.



3.5.2 The tasks of the Chair include:

- (1) Chairing RRC meetings;
- (2) Preparing the agenda and documentation for the meetings;
- (3) Adopting the minutes of the meetings;
- (4) Serving as the Authority's contact point on subjects dealt with by RRC Members between meetings;
- (5) Ensuring appropriate co-ordination with the work of the State aviation safety coordination platform.

3.5.3 The RRC, Chair reports to the DG. Soon after each meeting, the Chair should provide the DG with minutes of the meeting.

3.6 Regulations Review Committee, Secretary

3.6.1 The Secretary supports the work of RRC, providing the necessary administrative and logistical support for meetings and to the Chair. This support shall include the following:

- (1) Distributing of preparatory documents, agenda, working papers and minutes for meetings;
- (2) Updating of list of RRC Members;
- (3) Making available meeting rooms;
- (4) Distributing position-papers, communications etc.;
- (5) Assisting the group with information on procedural questions;
- (6) Drafting the agenda and preparatory documents as necessary;
- (7) Drafting the minutes;
- (8) Collecting and drafting working papers/position papers if necessary.



SECTION 4 - RULEMAKING WORKING GROUPS

4.1 General

- 4.1.1 The role of rulemaking working groups (RWG) is advisory by nature. They shall assist in the drafting of, and review of comments on, rules to be issued by the Authority, while the DG shall make the final decision.
- 4.1.2 Rulemaking working groups teams are created after the DG has decided to begin a regulatory project to develop the regulatory actions and supporting materials.
- 4.1.3 Members of rulemaking groups are appointed by the Chair of the RRC in accordance with the provisions of this manual. Membership shall be limited while taking into account the need to include the necessary expertise to execute the tasks specified in the Terms of Reference. Membership may be changed in case members cannot fulfil their role or additional expertise is needed to execute the tasks of the group.

4.2 Functions and Responsibilities

- 4.2.1 The RWG Team Members shall be responsible for:
- (1) Drafting the rules/regulations;
 - (2) Evaluating the comments of NPA;
 - (3) Preparing the CC;
 - (4) Identifying and drafting the EFOD and significant differences.
- 4.2.2 RWG Team Members should:
- (1) Attend all group meetings from beginning to end on a regular basis, in order to ensure harmony and efficiency;
 - (2) Participate in discussion whenever relative views and/or information could be given and contribute proposals for the text of new/amended rules as appropriate;
 - (3) Assist in efficient planning of the meeting, inform the Chair and secretary before the meeting of non-availability for a group meeting.



4.3 Reporting

4.3.1 The RWG report to the RRC Chair. Soon after each meeting, the Team Leader/secretary should provide the RRC Chair with a progress report on the tasks of the group.

4.4 Composition of Rulemaking Group

4.4.1 This process is followed when the Authority makes use of a group for the drafting of the NPA.

4.4.2 The process starts with the sending of the invitation to the department managers to propose qualified candidates to new groups at the same moment as the call for comments on the related draft Terms of Reference.

4.4.3 The various contributions from the department manager are evaluated and a first choice is made amongst the candidates on the basis of:

- (1) The relevance of their qualifications to the rulemaking task in question;
- (2) a balanced representation between Authority's department experts; whilst keeping in mind the requirement that the Rulemaking group size should normally not exceed six persons.

4.4.4 The group composition is then verified and approved by DG.

4.4.5 Once approved, it is communicated to the Department Managers for their information and dispatched for publication in the Authority Official Publication.

4.4.6 The RRC notifies the new experts of their appointment as RWG members.

4.4.7 The final step is the filing of all records in accordance with the archiving policy.

4.4.8 The described process is also applicable to the establishing of subgroups.

4.5 Change in Group Composition

4.5.1 This process is applied when an established group composition needs to be modified for the following reasons:



- (1) when a member is not fulfilling his/her duties (e.g.: retirement, illness, etc.);
 - (2) when the implementation of the task shows the need for additional or different expertise.
- 4.5.2 The process is initiated on request of the Team Leader of an established group, whenever additional or different expertise is needed requesting the RRC to consider a group composition change accompanied with the justification for such a change.
- 4.5.3 The RRC evaluates the quality of the justification. If the request is confirmed, it coordinates with the Team Leader of the group an appropriate and acceptable new composition keeping in mind the requirement that the RWG size. The new group composition is verified by the Team Leader and endorsed by the RRC.
- 4.5.4 The new group composition is then approved by DG.
- 4.5.5 Once approved, it is communicated to the RRC, Team Leader, Department managers for their information and published in the Authority Official Publication.
- 4.5.6 The RRC notifies the new experts of their appointment as group members.
- 4.5.7 If the Chair request for group composition modification is rejected by the DG, the process ends without any change in the group composition.
- 4.5.8 The final step is the filing of all records in accordance with the archiving policy.

4.6 Rulemaking Working Group Team Leader

- 4.6.1 A Team Leader shall be elected by the members of the group on the basis of his/her personal skills for this role, his/her availability and his/her experience of the Authority system and of the domain relevant to the Terms of Reference of the rulemaking group. Any difficulty in choosing the Team Leader of a rulemaking working group must be reported to the RRC.
- 4.6.2 The Team Leader is responsible for the efficiency of the group and the fulfilment of its Terms of Reference, as well as for the following tasks:
- (1) Organising and scheduling of group meetings;
 - (2) Proposing the agendas of the group;



- (3) Organising the discussions, and notably for ensuring that all representatives may express their opinions;
- (4) Adopting the reports of the group's meetings;
- (5) Establishing the synthesis of all the opinions expressed in the rulemaking group, using if necessary the principles of consensus;
- (6) Reporting to the RRC Chair any difficulties met in the fulfilment of the tasks of the group and eventually proposing changes to the Terms of Reference and necessary changes in the composition of the group;
- (7) Proposing the creation of subgroups according to paragraph 4.4 f of this chapter; and
- (8) As regards subgroups, the subgroup Team Leader reports to the Team Leader of the main RWG.

4.7 Rulemaking Working Group Secretary

- 4.7.1 The secretary of the group will be appointed by the RRC/Team Leader.
- 4.7.2 The secretary of a group shall be responsible for the practical organisation of the work, including:
 - (1) Preparing the reports of each meeting of the group;
 - (2) Distributing reports, minutes, agendas and any other relevant material to the group members; and
 - (3) File retention as necessary to maintain efficiency in the group's work.

4.8 Rule of Procedure for Rulemaking Working Groups

- 4.8.1 Based on the timetable set for the task in hand, the group will determine a suitable meeting schedule, and forward this schedule to the RRC.
- 4.8.2 The Authority will provide the necessary administrative and logistical support necessary for the fulfilment of its tasks. Meetings shall be held at the Authority's head office, except in exceptional circumstances, subject to agreement with the RRC. The working language of all meetings shall be English, unless specific alternative arrangements are made for acting differently.
- 4.8.3 The group will perform its work by means of correspondence and/or meetings.



4.8.4 The work of the group shall be in accordance with its Terms of Reference. Without prejudice to the provisions of this manual, such Terms of Reference may be amended as appropriate in the light of progress with the task.

4.8.5 Decisions in the group shall be taken by consensus, as follows:

(1) Consensus is agreement by all that a specific course of action is acceptable. Consensus can be unanimous or near-unanimous. Consensus does not mean “majority rule”:

(a) Full consensus means that agreement among members is unanimous. All members of the group agree fully in context and principle and all members fully support the specific course of action.

(b) General consensus means that, although there may be disagreement among the members of the group, the group has heard, recognised, acknowledged and reconciled the concerns or objections to the general acceptability of the group. Although not every member fully agrees in context and principle, all members support the overall position of the group and agree not to object to the proposed recommendation.

(2) It is important to reach consensus in every phase of the joint regulatory process because disagreement in later phases of the process is counter productive to its objectives and extremely costly to it.

(3) When consensus cannot be achieved, each member has the right and responsibility to have its objections considered. The following guidance is provided for those situations where consensus cannot be obtained:

(a) The dissenting member(s) must present written objections to the group in a format that can be understood clearly by all members. To ensure communication and understanding, the group’s position, relative to the objections, must be documented with reasons why the group chose to retain its position. The documentation of objections and positions offers additional opportunity for meaningful communication among all group members in the hope of attaining consensus. By this means, disagreements can, through compromise, be resolved. If consensus still cannot be attained, the group has the documentation required to refer the disagreement to the RRC. In such case, the decision of the RRC shall be considered as providing a consensus for the continuation of work.

(b) Sometimes reaching a consensus is a matter of ensuring that all avenues of the problem have been explored and investigated. At times it is advantageous to bring in a group facilitator to help with the process.

(c) If all above attempts to reach consensus fail and major opposition to the group’s position still exists, the proponents of the existing opposition must document their position, summarise their understanding of the group’s



position and state why they believe their opposing position is superior. The group must document its position, summarise the opposition's position and state why the group believes its position is superior and why the opposing position should not be accepted. This documentation must be part of the group's report.

- 4.8.6 As regards decisions of the subgroup, these shall be subject to approval by the main group.
- 4.8.7 When drafting a Notice of Proposed Amendment (NPA) the group shall develop a draft of the Regulatory Impact Assessment (RIA), proposing alternatives, and present it to the RRC for possibly selecting one of the alternatives. The group will then proceed with the establishment of the detailed RIA to be included in the NPA. When reviewing comments, the group shall adapt the RIA accordingly.
- 4.8.8 If the group is not able to complete its tasks within the given timeframe, it may make suggestions on how to resolve the problem.

4.9 Meetings

- 4.9.1 The number of meetings shall be kept to a minimum. In most cases, a maximum of six meetings per task should be envisaged, including four meetings to draft the NPA and two meetings for the Comment Response Document (CRD). The following example provides a typical meeting schedule:
 - (1) The objective of the first meeting is to kick-off the work. The Team Leader presents the rulemaking process, the Terms of Reference (ToR) with the objectives of the task, the legal framework, the tasks of the group members, and initiates the discussion on the rulemaking task including safety risk and mitigating measures.
 - (2) The objective of the second and the third meeting is to jointly develop key mitigating measures and to finalise regulatory options.
 - (3) The fourth meeting should be used to review the draft RIA prepared by the one of the members of the RWG based on the inputs received. In addition the draft NPA produced by one of the members of the RWG, based on the results of the RIA and the ideas put forward by the group should be reviewed. In exceptional circumstances, depending on the controversy or complexity of the task, more or fewer meetings may be considered here. This should be decided by the Team Leader and the RCC Chair, in consultation with the group. The task of finalising the NPA, taking into account the comments of the group, lies



with the Team Leader, as well as the preparation for publication of the NPA for public consultation.

- 4.9.2 The fifth and sixth meetings should be used, as necessary, to review the draft CRD prepared by one of the members of the RWG based on a preliminary review of the comments received and to review the final deliverable prepared by the Team Leader. These meetings could be replaced by a written consultation, in cases where the final deliverable follows closely, after the review of comments, the proposals of the NPA.



SECTION 5 – OTHERS

5.1 NATIONAL CONTINUOUS MONITORING COORDINATOR

5.1.1 The National Continuous Monitoring Coordinator (NCCMC) shall be responsible for:

- (1) The coordination of OLF platform activities namely the upload of compliance checklists (CC), and Electronic Filing of Differences (EFOD) and answer PQ.
- (2) Ensures data updated in USOAP CMA OLF platform;
- (3) Coordination with Regulations Review Committee PQ, Findings, Annex amendments and CAPs related to regulations.

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CHAPTER 3 – RULEMAKING PROCEDURE

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CHAPTER 3 – RULEMAKING PROCEDURE

SECTION 1 – INTRODUCTION

1.1 Purpose

1.1.1 This procedure outlines the major steps of the processing of a rulemaking task contained in the Rulemaking Programme.

1.2 General

1.2.1 The Rules development starts from the publication of the Rulemaking programme and finishes with the DG adoption of the rule. Issues dealing with the Civil Aviation Act are submitted to the Ministry for further processing, while the rules and regulations are directly published and applicable. This procedure is applied for each rulemaking project contained in the Rulemaking Programme.

1.2.2 The Rules development follows different steps:

- (1) Initiation of the rule by defining the Terms of References;
- (2) Drafting of the rule;
- (3) Consultation of the NPA,
- (4) Analysis of comments and
- (5) Final review for adoption and publication of the Rule.

1.2.3 The major milestones of the Rules Development are: ·

- (1) The publication of the Terms of Reference (TOR) of the rulemaking task;
- (2) The publication of the Notice of Proposed Amendment (NPA), which contains the draft rule and the Regulatory Impact Assessment (RIA);
- (3) The public consultation of the NPA; and
- (4) The Comment Response Document (CRD), which includes the comments received during the public consultation together with the CAA's responses;
- (5) The publication of the Rule.



SECTION 2 – DETERMINATION AND APPROVAL OF THE ANNUAL RULEMAKING PROGRAMME

2.1 Introduction

- 2.1.1 The Rulemaking Programme details the expected production of rules for the subsequent year and is included as an Annex to the Annual Work Programme.
- 2.1.2 During preparation of the Annual Rulemaking Programme, the Authority takes into account the current implementation of the Annual Rulemaking Programme, legal obligations, CAA SSP, ICAO programme, the current resources available, the assessment in the Preliminary Regulatory Impact Assessment, and various adopted Authority's budgetary and staff planning documents for the reference period.
- 2.1.3 The process starts with the receipt of a proposal for rulemaking by any person or organisation. This is individually acknowledged by RRC. An initial assessment takes place by the RRC to evaluate the quality of the justification for the development of a new rule or an amendment thereto.
- 2.1.4 If the proposal is accepted, the Authority will evaluate the urgency for rulemaking. In case of an urgent issue, the proposal will lead to a "Programme modification", whereas non-urgent proposals will be considered in the context of the Programme development and used as an input to the "development of the Rulemaking Inventory".
- 2.1.5 If it is decided not to accept the proposal, the Authority will provide the author of the proposal with a justification for its decision not to act. This will then be the final step of the process.

2.2 Continuous Reception of Proposals for Annual Rulemaking Programme

- 2.2.1 **Proposal for a change in regulation:** A proposal for a change in Civil Aviation Regulations can be made to the Director General by any department, division or unit, a Stakeholder, the Regulations Review Committee, an individual or entity not related to the Organisation.
- 2.2.2 **Reasons for a proposal for a change in regulation:** A proposal for introduction, amendment or withdrawal of a regulation will be initiated for inter alia any of the following reasons:



- (1) An amendment to an ICAO Annex or document;
- (2) An amendment to National Regulations that affects Aviation Safety;
- (3) New technology or scientific data;
- (4) Required reviews;
- (5) Statutory mandates;
- (6) Lawsuits;
- (7) Petitions;
- (8) Recommendations from other external agencies;
- (9) Other operational and environmental demands;
- (10) When it is no longer relevant, applicable or effective

2.3 Submission of Proposal

2.3.1 A proposal to amend, adopt or repeal a regulation should be submitted using the following methods:

- (1) By internet: Using the Authority's website at www.gcaa.aero and follow online instructions;
- (2) Email: Email proposal to the Director General at dg@gcaa.aero .
- (3) Mail: Send to the Director General, Gambia Civil Aviation Authority, Banjul International Airport, Yundum, PMB 285, The Gambia);
- (4) Hand Delivery or courier: The Director General, Gambia Civil Aviation Authority, Banjul International Airport, Yundum, The Gambia);
- (5) Fax: Fax proposal to The Director General at (+2204472190).

2.4 Content of the proposal

2.4.1 The following information should be included in the proposal:

- (1) Name, mailing address, telephone number, or e-mail address of the proposer. Other contact information such as a fax number is optional;
- (2) An explanation of the proposer's action and its purpose;
- (3) The language being proposed for the new regulation or amended regulation, or the language to be removed from a current regulation;



- (4) An explanation of why the proposed action would be in the public interest;
- (5) Information and arguments that support the proposed action, including relevant technical and scientific data available to the proposer;
- (6) Any specific facts or circumstances that support or demonstrate the need for the action being proposed.

2.4.2 The following information may be required:

- (1) The costs and benefits of the proposed action to society in general, and identifiable groups within the society in particular;
- (2) The regulatory burden of the proposed action on small businesses, small organizations, small governmental jurisdictions;
- (3) The recordkeeping and reporting burdens of the proposed action and whom the burdens would affect;
- (4) The effect of the proposed action on the quality of the natural and social environments.

2.5 Preliminary Review

2.5.1 The DG shall send received proposals for amendments to the Regulations Review Committee.

2.5.2 The Committee shall review the proposal to determine if it is justified. The Committee may request inputs from other international or regional organizations (e.g. WACAF, BAGASOO, etc) when deemed necessary. The review will take account of the following:

- (1) The urgency of the safety or security concerns raised;
- (2) The priority of other issues the Authority must deal with; and
- (3) The resources available to address these issues.

2.5.3 If a NPCR has been previously issued by the Authority on the subject matter, the proposers request for a regulation change will be treated as his or her comments on the subject and not as a separate action. This also applies if a rulemaking project has begun on the same subject.

2.5.4 Thereafter, the Committee will prepare and forward to the DG a report stating its determination or proposed action.



2.6 Acceptance of Proposal/Public Meeting

- 2.6.1 If the Authority determines that implementation of the proposal is justified, the Director General will request the Regulation Review Committee to prepare a Notice of Proposed Change in Regulation incorporating a draft of the proposed amendment for subsequent publication.
- 2.6.2 A proposer may request a public meeting. The Authority may hold a public meeting when more than written comments are needed to make a fully informed decision. A proposer requesting public comment shall submit his or her written request that the Authority holds a public meeting not later than 30 days after issuance of the notice of proposed regulation change. If the Authority agrees to convene a meeting, it shall publish a notice of the meeting in advance.

2.7 Dismissal of Proposal

- 2.7.1 If the Authority identifies that the issues raised by the proposer may have merit, but do not address an immediate safety concern or cannot be addressed because of other priorities and resource constraints, the proposal may be dismissed. The comments and arguments for a rule change will be placed in a database, which will be examined at an appropriate time in future.

2.8 Master Inventory List

- 2.8.1 The programming cycle for each year starts with the compilation of the draft Rulemaking Inventory. All proposals are recorded in a Master Inventory (MTL – Master Tasks List), which is an internal Excel table centralizing all rulemaking tasks carried out by the Authority throughout the years.

2.9 Development of the Rulemaking Inventory

- 2.9.1 The process starts with the compilation of all proposals to be considered for rulemaking submitted through formal processes or brought to the attention of Authority staff during the execution of their work.
- 2.9.2 From the Master Inventory List the draft Rulemaking Inventory (RI) for year N is drawn. This document incorporates all possible items, collected by the Authority through various sources that could be progressed through rulemaking, including



items from previous years. The draft Rulemaking Inventory is evaluated inside the RRC to assess the quality of the justifications.

- 2.9.3 This document is circulated within the RRC and other Directorates to validate data, to propose new items or to modify the items' scope and description.
- 2.9.4 After the internal consultation, a revised Rulemaking Inventory (version 01) is prepared and work is initiated on the drafting of the preliminary Regulatory Impact Assessment on tasks to be initiated or completed in the year N.
- 2.9.5 The next step is the endorsement of version 01 of the Rulemaking Inventory by the DG. At this stage, the RRC initiate work on the drafting of the Preliminary Regulatory Impact Assessment that shall support the tasks envisaged in the year N Rulemaking Programme.
- 2.9.6 The final step is the filing of all records that lead to version 01 of the Rulemaking Inventory.

2.10 Draft and Internal Consult on Annual Rulemaking Programme

- 2.10.1 The process starts with the identification of tasks to be included in the year N Rulemaking Programme by RRC. A consolidated version of the draft year N Rulemaking Programme is then developed by RRC taking into consideration the RI containing all tasks already started or initiated in year N and leading to a rule during the subsequent years.
- 2.10.2 The consolidated version of the draft year N Rulemaking Programme is prepared and circulated to the Authority's concerned directorates for their consideration.
- 2.10.3 The Authority's directorates review and provide inputs on task scope and priorities. Bilateral meetings can take place between the RRC and the Authority's concerned directorates to further clarify issues raised during the internal consultation.
- 2.10.4 The draft year N Rulemaking Programme are updated taking into account the discussions with the Authority's directorates and version 01 is produced.
- 2.10.5 The next step is the endorsement of version 01 of year N Rulemaking Programme by the DG.



2.10.6 The final step is the filing of all records that lead to version 01 of the year N Rulemaking Programme.

2.11 Adopt and Publish the Annual Rulemaking Programme

2.11.1 The process starts with the preparation of the transmission file for the approval of the Annual Rulemaking Programme by the DG.

2.11.2 Once approved, the year N Rulemaking Programme is published in the Authority's Official Publication.

2.11.3 At this stage, a list of items to be addressed by non-rulemaking means (studies, research, etc.) is established. These items will be progressed in accordance with the established procedures.

2.11.4 Additionally, the Authority notifies all authors of a proposal about the decision on the follow-up given to their proposal.

2.11.5 The final step is the filing of all records that lead to the year N Rulemaking Programme.

2.12 Modify Annual Rulemaking Programme

2.12.1 The process starts either by the registration of an external request from an interested party to address an urgent/unforeseen issue by rulemaking or a situation/event identified by the CAA that needs urgent rulemaking action.

2.12.2 As a first step, the RRC evaluates the quality of the justification for an urgent rulemaking action. If necessary, the RRC asks the Operational Directorates for advice to ensure consistency in approach to comparable problems and co-ordination issues.

2.12.3 If the urgency of the request is confirmed, the RRC evaluates the impact on the current programme priorities taking into account available resources and provides a justification for the modification of the respective Annual Rulemaking Programme. The Annual Rulemaking Programme is verified by the RRC and approved by the DG.

2.12.4 Once approved, it is published in the Authority's Official Publication.



2.12.5 If the urgency of the request is not confirmed but the need for rulemaking identified, it will be considered in the context of the Annual Rulemaking Programme development and used as an input to the Rulemaking Inventory.

2.12.6 In case of a request made by an interested external party, the Authority has to inform the author of the request on its decision to act. Additionally, if the request is rejected, the Authority provides the author of the request with a justification for its decision on not to act.

2.12.7 The final step is the filing of all records in accordance with the archiving policy.



SECTION 3 – INITIATION OF THE RULE BY DEFINING THE TERMS OF REFERENCES

3.1 Introduction

3.1.1 Rulemaking projects shall be initiated in accordance with the priorities set out annually in the Annual Rulemaking Programme.

3.1.2 The RRC shall draw up Terms of Reference (TOR) for each rulemaking project. The TORs, which shall be published on the Authority's website, shall include the following:

- (1) a clear definition of the project and its scope;
- (2) the process to be followed for the development of the project, including use of any of the special procedures, if applicable, the estimated length of the consultation taking into account the assessment of the complexity and controversy of the project;
- (3) the necessity to conduct a RIA;
- (4) a timetable for the completion of the project;
- (5) the type of the deliverable; and
- (6) a concept paper, if developed in the case of a complex or controversial project.
- (7) details on the composition of the group, its working methods and reporting requirements.

3.1.3 The DG shall decide the working method, which includes but it is not limited to a drafting group (RWG) or external resources, for the execution of each rulemaking project, taking into account the complexity and controversy of the project at hand and the need to draw upon the expertise of persons involved in the implementation of the new or amended rule. The DG shall inform the RRC about his or her decision.

3.1.4 When a rulemaking group is set up, the DG shall determine its final composition, which shall draw upon the technical expertise available among in-house expertise and, where necessary, interested parties, as well as external resources.

3.1.5 The CAA shall provide rulemaking groups with administrative and logistical support necessary to perform their tasks, including the provision of standard



working procedures. Rulemaking groups shall follow the working procedures adopted by the DG, and in particular the following:

- (1) elect a chair;
- (2) reach consensus and resolve conflicts; and
- (3) prepare the minutes.

3.2 Development of Terms of Reference

3.2.1 The process starts with the drafting of the Terms of Reference (TOR) for each task in accordance with the rulemaking priorities defined in the Annual Rulemaking Programme.

3.2.2 Once the draft TOR is endorsed by DG, it is circulated internally in the Authority for consultation.

3.2.3 The comments from internal consultation (if received) are compiled. The draft TOR is updated taking into account the inputs received from the various consultations and is sent for verification and approval by the DG.

3.2.4 Once approved, the final TOR is circulated to the Departments for their information. The TOR is also sent for Official Publication.

3.2.5 The final step is the filing of the final version of the TOR in accordance with the archiving policy.

3.2.6 The steps of the described process relevant to final TORs are also to be applied to subgroup TORs, taking into consideration the following remarks: Subgroup TORs are prepared by the main group, working on the rulemaking task. These TORs are submitted to RRC by the team leader, who is the focal point for the task. Subgroup TORs shall contain a paragraph, which explicitly points out the relation between subgroup and main group. Upon approval subgroup TORs are only communicated to departments and are not published in the Official Publication of the Authority.

3.3 Amendments of Terms of Reference

3.3.1 The process starts with the amendment of the Terms of Reference (TOR) in light of progress of the rulemaking task. The draft TOR is circulated within the CAA for comments.



- 3.3.2 The draft TOR is updated taking into account the inputs received from the consultation and is put for verification and approval by hierarchy.
- 3.3.3 Once approved, it is circulated to the Advisory Bodies for their information and for publication in the Authority's Official Publication.
- 3.3.4 The final step is the filing of the final version of the TOR in accordance with the archiving policy.



SECTION 4 - THE DRAFTING OF THE RULE

4.1 Introduction

4.1.1 New rules or amendments to existing ones shall be drafted in accordance with the TORs. The RRC may amend the TORs as appropriate in the light of the progress of a given rulemaking project.

4.2 Drafting the NPA

4.2.1 This process starts with the drafting of the Notice of Proposed Amendment (NPA) by the RWG in accordance with the corresponding Terms of Reference and shall taking into account:

- (1) Gambian laws;
- (2) ICAO Standards and Recommended Practices;
- (3) Harmonisation objectives with other authorities and international organisations in accordance with applicable arrangements with third parties;
- (4) Relevant findings and recommendations of air accident investigations;
- (5) Existing industry standards;
- (6) Timely implementation of the proposed rules;
- (7) Compatibility with existing rules and interfaces with other ongoing rulemaking projects;
- (8) State of the art and best practices in aviation safety and environmental requirements;
- (9) Scientific and technological developments; and
- (10) The regulatory impact of the rules being drafted, if applicable, as specified in the TORs.

4.2.2 The full Regulatory Impact Assessment is developed in parallel to the drafting of the rule as an integral part of the NPA.

4.2.3 The RRC shall monitor the progress of the rulemaking task to ensure the respect of the timescale set in the corresponding Terms of Reference. He or she shall liaise with the focal point of the third country aviation authorities / organisations



in case of tasks of common interest. Tasks of common interest are generally classified into two categories:

- (1) Items for joint action: these are issues that are included in the two organisations' work programmes and their timescales are compatible; work is shared as much as possible to reduce costs.
- (2) Items for information exchange: the intention is to improve awareness of a subject by either party and to avoid regulatory developments that could create incompatibilities.

4.2.4 The RRC shall evaluate whether the corresponding Terms of Reference and/or the group composition (when a group is convened) needs to be amended in light of the progress with the rulemaking task.

4.2.5 The RRC shall evaluate whether the NPA contains provisions to be applied by the CAA. In such a case, RRC shall request to transmit copies thereof to the third country aviation authorities / organisations.

4.2.6 Upon the completion of the draft NPA, it is transmitted to the respective RRC for endorsement, including the following information:

- (1) An explanatory note describing:
 - (a) the development process, including the type and the estimated length of the consultation period, which may differ from the one indicated in the TORs, as well as a planned date for the publication of the related comment-response document (CRD) and the final rule;
 - (b) a summary of the proposed changes and full details of significant, contentious or interface issues identified during the drafting process; and
 - (c) details of the situation with respect to Member States, ICAO SARPs and harmonisation with other aviation authorities or international organisations;
- (2) The proposed draft rule;
- (3) A RIA, if applicable, as specified in the TORs;
- (4) Proposed actions to support implementation.

4.2.7 The RRC shall verify that the rule satisfies the objectives of the TORs established for the rulemaking project and shall issue a notice of proposed amendment (NPA), which shall be published on the Authority's website.



- 4.2.8 Once endorsed, the draft NPA is transmitted to RWG to launch the consultation process. At this stage, the RWG shall verify whether the normal consultation period applies or whether there is a need for a shorter/longer consultation period because of the potential impact and complexity of the rule envisaged.
- 4.2.9 The various contributions from the interdepartmental consultation are collected and the draft NPA amended as appropriate by the RWG.
- 4.2.10 The amended NPA is sent for verification and approval by RRC, who shall verify that the rule satisfies the Terms of Reference established for the rulemaking task.
- 4.2.11 Once approved, the Notice of Proposed Amendment (NPA) is published in the Authority's Official Publication (web site, newsletter, etc.) with an indication of the start/end date of publication, together with the following information:
- (1) The regulation involved;
 - (2) The proposed rule;
 - (3) The Authority's legal authority for issuing the proposal;
 - (4) An explanatory note describing the development process;
 - (5) Full details of significant or contentious or interface issues identified during the drafting process;
 - (6) Details of the situation with respect to ICAO Standards and Recommended Practices and relative to harmonisation with other Authorities or International Organisations; and
 - (7) A full Regulatory Impact Assessment;
 - (8) How interested persons may respond (for example, by filing written comments or making oral presentations at a public meeting);
 - (9) Persons to contact if there are issued requiring clarification;
 - (10) The date, time, and place of any public meetings the Authority will hold to discuss the proposal.
- 4.2.12 The Authority has to notify the Directorates when the NPA contains provisions they have to implement.
- 4.2.13 In case the drafting of the NPA is carried out by a RWG, the Team leader shall ensure that the following items are retained in the Authority's NPA file:
- (1) Minutes of group meetings;



- (2) Documents submitted to the group and discussed under specific item; and
- (3) Correspondence files

4.2.14 RWG shall file the following records:

- (1) The submission initiating the NPA;
- (2) Terms of Reference of the rulemaking task in question;
- (3) The published NPA including justification and Regulatory Impact Assessment;
- (4) The Comment Response Document(s);

4.2.15 The final step is the continuous monitoring of the consultation for the registration of comments received and checks for requests by interested parties to extend the public consultation period.

4.3 Regulatory Impact Assessment

4.3.1 A RIA shall be part of the drafting of the rules, with the objective to ensure that their content is based on evidence and sound analysis, and to assess the need for a performance-based approach.

4.3.2 The RIA shall be conducted based on the principle of proportionate analysis: in-depth analysis to be performed for rulemaking projects with expected high impact, and light analysis for rulemaking projects with expected lower impact.



SECTION 5 – CONSULTATION PHASE

5.1 Introduction

- 5.1.1 Any person or organisation with an interest in or being affected by the draft proposed rule may submit their comment on the published NPA.
- 5.1.2 Consultees shall be informed that all comments on the NPA shall be treated in accordance with the rules on access to documents.
- 5.1.3 In those cases where the NPA contains provisions to be applied by other directorates, they shall be notified.
- 5.1.4 The public consultation period may vary from a minimum of 1 month to a maximum of 3 months.
- 5.1.5 During the public consultation period, the DG may at the request of industry (operators, AMOs, etc.) or interested parties extend, in exceptional and duly justified cases, the public consultation period specified in the NPA. Such changes to the length of the public consultation period shall be published on the Authority's website.
- 5.1.6 Comments shall be forwarded on to the DG and shall contain the following:
- (1) Identification of the commentator;
 - (2) NPA reference number; and
 - (3) Position of the commentator with regard to the proposal (including justification for the position taken).

5.2 Change in Consultation Period Prior to Publication

- 5.2.1 This process starts with the RWG or RRC verifying the need for a change of the normal consultation period. The RWG or RRC shall take account of the potential impact, the complexity of the rule envisaged and any controversial issues.
- 5.2.2 The RRC collects the contributions for consideration.
- 5.2.3 The justification and the consultation letter are sent for verification and approval by hierarchy.



5.2.4 The final step is the filing of all records in accordance with the archiving policy.

5.3 Extension of Consultation Period during Consultation

5.3.1 This process starts with a request by an interested party to extend the public consultation period of an ongoing consultation. The request is submitted to the RWG in charge of the NPA to evaluate the quality of the justification. In its evaluation the RWG shall take account of the complexity of the rule published, the implications of the rule on regulated parties, any controversial issues and the period of publication. If the request is confirmed, the RWG requests an extension of the ongoing public consultation period.

5.3.2 The request for extension of the public consultation is sent for verification and approval by hierarchy.

5.3.3 Once approved, the Authority publishes in the its Official Publication the new timetable for public consultation for the NPA in question.

5.3.4 The final step is the filing of all records in accordance with the archiving policy.



SECTION 6 – COMMENTS AND REVIEW PERIOD

6.1 Introduction

- 6.1.1 Following receipt of comments from concerned stakeholders, the RWG with the support of the relevant departments and RRC shall undertake a review of the comments received and produce a Comment Response Document (CRD).
- 6.1.2 This document shall reproduce the comments received on the individual issues and the respective responses provided and amendments to the proposed regulation. It may contain a list of all persons and/or organizations that have provided comments.
- 6.1.3 The CRD may contain a list of all persons and/or Organisations that have provided comments. It will be available for 30 days after consultation has closed.
- 6.1.4 With the objective to improve the quality of the Authority's rules and to ensure fair and appropriate treatment of all the comments received, the CAA shall ensure that all comments are reviewed by appropriately qualified experts.
- 6.1.5 In the case of rulemaking projects with impact expected or systematic rulemaking projects addressing miscellaneous issues of controversial nature, the review of comments may be carried out by qualified experts not directly involved in the drafting of the proposed rule together with RWG tasked with the drafting of the rule in question.
- 6.1.6 Further consultation with consultees may be undertaken as necessary for the sole purpose of ensuring a better understanding of the comments received.
- 6.1.7 3. The RWG shall review the comments received and shall publish the outcome of the consultation. The CRD shall include the following:
- (1) A list of all parties who commented on the rule in question; and
 - (2) A summary of the comments received and the Agency's responses thereto.
- 6.1.8 If, based on the number or complexity of the comments received, the Authority is unable to publish the CRD within the timescale indicated in the NPA, amendments to the timescale shall be published.



- 6.1.9 If the comments received during the consultation period indicate major objections to the proposed rule, or if the outcome of the review of the comments is that the revised text differs significantly from that presented at the beginning of the consultation process, the DG shall consider further consultation with the stakeholders.
- 6.1.10 If the comments received from industry indicate major objections to the proposed rule, the DG shall consult advisory group(s) to discuss the rule further. In those cases where additional consultation results in further disagreement regarding the rule, the RWG shall include in the CRD the results of this.

6.2 Review of Comments

- 6.2.1 The review of comments follows the end of the public consultation. To ensure publication of the CRD within the 3-months timeframe, the review process is continuously monitored.
- 6.2.2 The RWG reviews all comments, provides a response and adapts the proposed rule as appropriate. The RWG has to evaluate if the comments received indicate major objections to the proposed rule.
- 6.2.3 Upon the completion of the draft CRD, The RWG will transmit it to the respective RRC for endorsement.
- 6.2.4 Once validated, it is transmitted to RWG to launch the consultation process.
- 6.2.5 The various contributions from the consultation are collected and the draft CRD is amended as appropriate by the RWG.
- 6.2.6 The RWG shall evaluate whether the revised text differs significantly from the draft rule (NPA) circulated at the start of the consultation process. If so, the RWG shall request for a further consultation round of the revised rule. Upon verification and approval by hierarchy, the RWG shall include a note in the explanatory part of the CRD, stating that the initial NPA will result in the publication of a new one. The reasons behind the CAA's decision should be also given. A new number will be later on assigned to the new NPA, but at this stage, reference to the title should be included in the CRD. This is especially important if changes of the title are envisaged. The RWG shall then publish the CRD in the Authority's Official Publication and proceed with the drafting of the new NPA.



- 6.2.7 If no further consultation is required, the RWG will simply request publication of the CRD.
- 6.2.8 The request for publication of the CRD is sent for verification and approval by hierarchy.
- 6.2.9 Once approved, the CRD is published in the Authority's Official Publication with an indication of the start/end date of publication and the reaction form.
- 6.2.10 The final step is the filing of the Comment Response Document and all comments received in accordance with the archiving policy.

6.3 Major Objections from Industry

- 6.3.1 This process starts when the Authority receives comments with major objections from stakeholders. In such a case, the RWG shall evaluate whether stakeholders have major objections to the proposed rule. If so, the RWG shall request consultation of RRC and other Directorates.
- 6.3.2 RWG launches the consultation of RRC and other Directorates to have their opinion. This can take the form of a written consultation or a discussion taking place at a meeting.
- 6.3.3 RWG collects the various contributions from RRC and other Directorates.
- 6.3.4 The RWG shall verify whether the RRC and other Directorates' consultation results in continuing disagreement regarding the rule. If so, the RWG shall indicate in the CRD the results of the RRC and other Directorates consultation and the impact and consequences of the decision on the issue at hand.
- 6.3.5 RWG files all records in accordance with the archiving policy.
- 6.3.6 If no major objections are raised by industry, the process ends without any action.



SECTION 7 – ADOPTION AND PUBLICATION

7.1 Introduction

- 7.1.1 The DG shall issue his or her decision in respect of the rule in question together with the CRD.
- 7.1.2 Rules issued by the DG shall be published on the Authority’s website together with an explanatory memorandum and, in the case of opinions, a revised RIA if the final text differs significantly from that presented at the beginning of the consultation.

7.2 ADOPTION AND PUBLICATION OF RULES

- 7.2.1 This process starts with receipt of the draft rule from the RWG requesting its publication.
- 7.2.2 After 2 months following the publication of the Comment Response Document and once the rule is approved by the DG, it is published in the Authority’s Official Publication.
- 7.2.3 The final step is the filing of the final rule in accordance with the archiving policy.

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CHAPTER 4 – SPECIAL RULEMAKING PROCEDURE

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CHAPTER 4 – SPECIAL RULEMAKING PROCEDURE

SECTION 1 – INTRODUCTION

1.1 Purpose

1.1.1 This chapter provides direction and guidance special rulemaking procedures which lie outside of the normal rulemaking procedure described in other parts of this Manual

1.2 Advance Notice of Proposed Amendment (A-NPA)

1.2.1 In those cases where the programming, initiation or drafting of a rule has revealed a need for a broader discussion of new concepts or for further information/data prior to the drafting of an NPA, the DG may initiate an A-NPA public consultation phase prior to the consultation described in other sections of this Manual. The issuing of an A-NPA should be justified by the existence of, and the need to study possible solutions for, an appropriately substantiated case or to seek the view of stakeholders on new developments or concepts, which require either the preparation of future rulemaking activities or are part of the development of a complex rulemaking project.

1.2.2 The A-NPA shall be published for the purpose of public consultation on the GCAA's website. The DG shall determine the length of the public consultation period. A review of comments shall be performed and published to record in all cases the results of the consultation and when appropriate to state the GCAA's intentions following the A-NPA phase. The A- NPA shall contain an explanatory note (including a justification for following the A-NPA process) and:

- (1) An outline of the new rule or amendment to an existing one; or
- (2) Various options for a new rule or amendment to an existing one and soliciting comments on the different options presented therein.

1.2.3 The A-NPA procedure shall not replace the NPA procedure. An A-NPA is not necessarily followed by an NPA.



1.3 Direct Publication

- 1.3.1 By way of derogation, for rulemaking projects with expected negligible impact, or for rulemaking projects addressing urgent safety issues which require immediate reaction or addressing issues which have been already widely consulted through the A-NPA procedure or other consultation processes, the DG may decide to issue his or her decision in respect of the rule in question without the need for an NPA public consultation.
- 1.3.2 The issuing of the decision shall be preceded by a consultation of its draft version with other Directorates and advisory bodies.

1.4 Accelerated Procedure

- 1.4.1 By way of derogation for rulemaking projects with expected negligible impact, or rulemaking projects addressing issues of non-controversial nature or affecting a limited group of stakeholders, the DG may decide that:
- (1) A RIA is not required. A rationale for the rulemaking project shall complement the NPA or the proposed new or amended existing rule;
 - (2) An NPA does not need to be developed and consulted. In this case, only a proposed new or amended existing rule needs to be developed and consulted;
 - (3) It is sufficient to consult the NPA or the proposed new or amended existing rule with the affected stakeholders only. This focused consultation may take the form of workshops, technical experts' meetings, ad hoc consultation of the CAA's advisory bodies, or surveys.
- 1.4.2 The issuing of the decision shall be preceded by a consultation of its draft version with the advisory bodies.

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CHAPTER 5 – REGULATORY IMPACT ASSESSMENT

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CHAPTER 5 – REGULATORY IMPACT ASSESSMENT

SECTION 1 – GENERAL

1.1 Purpose

1.1.1 The purpose of this Chapter is to provide GCAA staff involved in regulations development with the required understanding of the regulatory framework and rule making processes as well as an understanding of their responsibilities in performing these activities.

1.2 Introduction

1.2.1 The Rulemaking Procedure foresees, inter alia, the establishment of Regulatory Impact Assessments (RIAs) to support the decision making process. It then requires the DG to establish, after due consultations, the necessary internal procedures for the implementation of the Rulemaking Procedure, including the content of such RIAs.

1.2.2 The present document specifies the scope and content of the RIAs to be provided by the Authority to support its rulemaking decisions.

1.3 Preliminary Regulatory Impact Assessment

1.3.1 A preliminary RIA is an evaluation of the pros and cons of undertaking a rulemaking action. It shall support any rules envisaged in the Rulemaking Programme of the Authority.

1.3.2 Such evaluation shall be sufficient to demonstrate that serious consideration has been given to a range of possible options with the intention of identifying a proportionate and targeted approach. In addition to the “do nothing” option, all other options shall be considered, in particular non-regulatory options such as:

- (1) Relying on innovation; or
- (2) Commissioning research; or
- (3) Issuing advice or information; or
- (4) Developing a code of practice (which might at a later stage form the basis of regulatory action if necessary); or



- (5) Developing economic/procedural incentives to encourage particular approaches; or
- (6) Asking the industry to regulate itself.

1.3.3 The effects of each option need to be identified in sufficient detail to allow a reasoned recommendation to be made on the appropriateness of regulatory action.

1.4 Regulatory Impact Assessment

The Regulatory Impact Assessment is a tool to support decision-making. The aim of the RIA is to determine the best option to achieve the objective of a rulemaking activity while minimizing potential negative impacts. It consists of a series of five logical steps that structure the analysis: problem identification, objective definition, option development, impact analysis, and option comparison. By providing transparent and evidence-based analysis of the advantages and disadvantages of the rule options with regard to defined objectives, decision-makers and stakeholders are given a solid reference framework for discussion and, informed and evidence-based decisions. RIA development is therefore a process that is integrated with the rule development process of the Agency. Stakeholder consultation and collection of expertise through rulemaking groups can run throughout the whole process.

The depth and scope of the impact assessment is determined by the expected size of the impact of the new policy. This is the so-called principle of proportional analysis. Generally speaking, all new proposals that apply to a new policy area or introduce a new approach that affects a high number of people need to be preceded by a fully detailed impact analysis. More limited policy changes in an area, which is already regulated, require only a limited impact assessment. Table 1 below gives an overview of the three types of RIA applied by the Authority.



RIA Types	Characteristics	When to use it
No RIA, only discussion in the Explanatory Note	Possible effects are only discussed in the Explanatory Note.	Only negligible impacts expected, recurrent rulemaking, updating of rules, no options available for the Agency (C Items).
RIA light1	Only qualified discussion on the impacts. All RIA elements used and discussed.	Limited impacts, possibly sufficient information from other sources (e.g. FAA Economic Evaluations); limited stakeholder concerns (B6 and less).
Full RIA2	Quantified where possible, with questionnaires if necessary. All elements of the RIA discussed, quantified or not, comparison of options using an appropriate methodology3	Significant impacts expected, significant stakeholder concerns, new rules (A items and certain B items).

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CHAPTER 6 – ICAO STATE LETTER PROCEDURE

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CHAPTER 6 – ICAO STATE LETTER PROCEDURE

SECTION 1 – INTRODUCTION

1.1 Purpose

1.1.1 This chapter describes the procedure adopted by the Authority for processing of ICAO State letters and handling of periodic reviews of the latest updates to ICAO SARPS.

1.2 General

1.2.1 Under this arrangement, the DG will be responsible for interactions with ICAO and other civil aviation organizations and shall designate the Technical Librarian as the focal point responsible for receipt, monitoring and distribution of ICAO state letters.

1.2.2 The focal point designated to monitor ICAO state letters shall monitor net website (<https://portal.icao.int>).

1.2.3 The Regulations Review Committee is responsible for coordinating CAA's technical response to the ICAO State letter dealing with proposal to amend an Annex and adoption of amendment to an Annex.

1.3 ICAO State Letters Procedure

1.3.1 **Receipt of ICAO State Letters:** State Letters are received via the ICAO electronic distribution system (<https://portal.icao.int>). Upon receipt of an ICAO state letter the focal point shall:

- (1) Forward the ICAO state letter to the DG;
- (2) Establish a follow-up file for each letter containing at least the following:
 - (a) Cover sheet;
 - (b) Copy of the ICAO state letter;
 - (c) Assignment sheet indicating the type of the letter, the reference of the state letter and the date, deadline for reply if any, deadline for the statement of disapproval, if any, deadline for notification of differences, if any, list of GCAA Directorates.

Note: The above process may be an electronic process.



1.3.2 **Processing of ICAO State letters:** The process of ICAO state letters by the focal point will depend on the content as follows:

- (1) **Informative letter:** This letter will be only dispatched to the concerned departments and staff for information. The ICAO State letter follow-up file established by the focal point shall be updated with an indication of dispatching date and to whom. The process will end at this step.
- (2) **Letters requiring response (Apart from Amendment Letters):** Upon collation of inputs from concerned departments, the focal points shall put up a reply to ICAO for the DG's signature on the relevant action taken by the State in respect of the received letter. If the subject covers more than one area or domain, the concerned departments in charge of the main area shall be responsible for coordination with other concerned departments to obtain their views and comments. The concerned department and stakeholders shall in turn appoint their focal points for easy coordination.
- (3) **Invitation letter to an ICAO event:** Upon receipt of this letter the DG will designate participants to the ICAO event in accordance with ICAO state letter notification procedure. The ICAO state letter follow-up file shall be updated accordingly. The process will end at this step.
- (4) **Amendment letter:** Two cases are covered under this subject: ICAO proposed amendments and ICAO adopted amendment. Upon receipt of proposed amendment letter from ICAO the focal point will forward such proposed amendment letter to the Chairman, Regulations Review Committee who shall forward the proposed amendments to the relevant departments and stakeholders.



SECTION 2 – PROCESSING ICAO PROPOSED AMENDMENTS

2.1 Preliminary Review:

2.1.1 The Chairman, Regulations Review Committee shall initiate a preliminary review of ICAO proposed amendments for SARPs and PANS in order to assess their impact on regulatory documents and to identify concerned stakeholders before the proposed amendment are circulated to them as appropriate for comments. The Chairman shall send a copy of the proposed amendment to the relevant departments for study and comments taking into account the ICAO deadline for reply. The RRC shall in consultation with the relevant departments, identify concerned stakeholders to which copies will be sent and shall determine whether any explanations or guidance on GCAA position taken during or decisions arrived at during ICAO meetings, shall be circulated to all relevant stakeholders when the ICAO proposed amendments are sent to them for comments.

2.2 Consultation with Stakeholders:

2.2.1 The Regulations Review Committee shall send proposed amendment for stakeholders comment within a specified timeline, taking into account ICAO deadline for reply.

2.3 Final Review

2.3.1 Following receipt of comments from concerned stakeholders, the Regulations Review Committee with the support of the relevant departments shall undertake a final review of the proposals and establish a final draft of its position on the ICAO proposed amendments to SARPs, PANS and associated attachments. Upon request the relevant department heads shall assign subject matter experts who shall work with the Committee in producing the draft final position and analysed stakeholder's comments. This draft shall reproduce the comments received on the individual issues and shall be submitted to the head of relevant department(s) for validation. Once validated, the Regulations Review Committee shall make proposals for the action of the Director General.

2.4 Comments Received during Final Review.

2.4.1 Comments received from Stakeholders during the final review period shall be taken into consideration by the Regulations Review Committee in the final review.



2.5 Comments Received after Final Review.

2.5.1 Comments received after the final review periods may not be considered at this stage. However, the Regulations Review Committee shall analyse the reply and propose a course of action to the Director General, if there is a significant impact of ICAO proposed amendments on the activities of a particular stakeholder or group of stakeholders and foreseen difficulties for the implementation. The final position of the Regulations Review Committee shall be reviewed to take into consideration the stakeholders' inputs and additional comments shall be added in the ICAO State letter follow-up file.

2.6 GCAA Position on ICAO Proposed Amendment.

2.6.1 Within one week from the final review, the Regulations Review Committee shall prepare the following:

- (1) Reference to the origin and purpose of the proposed amendment;
- (2) Summary of the main agreement or disagreement with ICAO proposed amendment and filing of ICAO response form; only for annexes. A typical ICAO response form is shown in Appendix A. There is no response form for PANS;
- (3) Attachment of the proposed changes to the ICAO text using editorial practice showing deleted text with a line through it and new text highlighted with grey shading.

2.7 Approval and Transmission to ICAO

2.7.1 The draft reply which reflects States' position on ICAO proposed amendment will be submitted to the Director General for approval. Once approved, the focal point in charge of receipt, monitoring and distribution of ICAO State Letters shall forward an electronic and hard copies of this reply to ICAO at least one-week prior to the deadline.

2.8 Filing

2.8.1 There shall be established an ICAO amendment file to contain all letters received from ICAO for proposed amendment and all materials produced during all the stages of review of the amendment proposal including the ICAO state letter on the amendment.



SECTION 3 – PROCESSING ICAO ADOPTED AMENDMENT

3.1 Preliminary Review

3.1.1 The Regulations Review Committee, with the support of relevant department(s) shall carry out a preliminary review of ICAO adopted amendments for SARPs and PANS based on the content of the ICAO amendment file to identify final amendments introduced into the initial ICAO proposals. The Committee shall establish a summary of the main changes with respect to GCAA's initial position. The ICAO adopted amendment and this summary shall be circulated to stakeholders as appropriate for comment. These activities shall be performed within one month from the time of receiving ICAO state letter. The regulations review committee shall in consultation with the relevant departments, identify concerned stakeholders to which copies will be sent and shall determine whether any explanations or guidance on GCAA position taken during ICAO meetings, shall be circulated to all relevant stakeholders when the ICAO amendments are sent to them for comments.

3.2 Consultation with Stakeholders

3.2.1 The Regulations Review Committee shall also send adopted amendment for their comments within a specified timeline, taking into account ICAO deadline for reply.

3.3 Final Review

3.3.1 Following receipt of comments from concerned stakeholders, the Regulations Review Committee with the support of the relevant departments shall undertake a final review of the proposals and establish a final draft of its position on the ICAO adopted amendments to SARPs, PANS and associated attachments. This draft shall reproduce the comments received on the individual issues and shall propose the course of action for each ICAO provision. The final review document shall indicate whether the ICAO adopted amendments are accepted with differences or not. In all cases ICAO form of notification of compliance with or without differences shall be filed. A sample of this form is shown in Appendix B. If the whole ICAO adopted amendment is not acceptable, the ICAO notification of disapproval form shall be filled and enclosed to the final review document. A sample ICAO Notification of Disapproval Form is shown in Appendix C. The final review document shall be submitted to the head of the concerned departments for appropriate validation action. Once validated, the Regulations Review Committee shall present to the Director General the final review document.



3.4 Comments Received during Final Review

- 3.4.1 Comments received from Stakeholders during the final review period (Two weeks after the consultation period) shall be taken into consideration by the Regulations Review Committee in the final review.

3.5 Comments Received after Final Review

- 3.5.1 Comments received after the final review periods may not be considered. However, the Regulations Review Committee shall analyse the reply. If there is a significant impact of ICAO adopted amendments on the activities of a particular stakeholder or group of stakeholders and foreseen difficulties for the implementation, the Regulations Review Committee shall inform the Director General, who will decide on the course of action to be taken. These difficulties and the decision taken shall be reflected in the final review document.

3.6 GCAA Position on ICAO Adopted Amendments.

- 3.6.1 Within one week from the final review, the Regulations Review Committee shall prepare a draft reply which shall enclose a final review document and ICAO disapproval form, if any. The reply shall cover the following:

- (1) Reference to the origin and purpose of the adopted amendment;
- (2) Summary of the main issues in the final review document; and
- (3) ICAO disapproval form, if any.

3.7 Approval and Transmission to ICAO

- 3.7.1 The draft reply which reflects State's position on ICAO adopted amendment will be submitted to the Director General for approval. Once approved, the focal point in charge of receipt, monitoring and distribution of ICAO State Letters shall forward an electronic and hard copy of this reply to ICAO at least one-week prior to the deadline given in the ICAO State letter.

3.8 Filing

- 3.8.1 The ICAO amendment file shall be updated with the final review document and with all the materials and letters produced during all the previous steps. The file is a main source of information for the CARs amendment procedure.

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APPENDIX A – ICAO RESPONSE FORM



**APPENDIX B – ICAO NOTIFICATION OF COMPLIANCE WITH OR WITHOUT
DIFFERENCES FORM**



APPENDIX C – ICAO NOTIFICATION OF DISAPPROVAL FORM



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CHAPTER 7 – NOTIFICATION OF DIFFERENCES AND PUBLICATION OF SIGNIFICANT DIFFERENCES

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CHAPTER 7 – NOTIFICATION OF DIFFERENCES AND PUBLICATION OF SIGNIFICANT DIFFERENCES

SECTION 1 – BACKGROUND

1.1 PURPOSE

1.1.1 This chapter provides direction and guidance on the determination and notification of differences and publication of significant differences.

1.2 OBLIGATIONS AND REQUIREMENTS RELATED TO DIFFERENCES

1.2.1 GENERAL

- (1) Article 1 of the Convention on International Civil Aviation (Chicago Convention) underlines that States have complete and exclusive sovereignty over their airspace above its territory.
- (2) In accordance with Article 37 of the Chicago Convention, States undertakes to collaborate in securing the highest practicable degree of uniformity in all matters in which such uniformity facilitates and improves air navigation.
- (3) To this end, the International Civil Aviation Organization (ICAO) adopts and amends from time to time, as may be necessary, international standards and recommended practices (SARPs) and procedures dealing with matters concerned with safety, regularity and efficiency of air navigation.
- (4) SARPs are adopted by the Council in accordance with Articles 37, 54 and 90 of the Chicago Convention and are designated, for convenience, as Annexes to the Convention.
- (5) The Gambia as a signatory to the Convention is therefore obliged to comply with the SARPS contained in the Annexes.

1.3 ARTICLE 38 OF THE CONVENTION ON THE INTERNATIONAL CIVIL AVIATION

1.3.1 While the implementation of Standards is considered, by definition, as necessary, the Chicago Convention also recognizes, through Article 38, that there are



instances when this is impracticable or it is necessary to adopt regulations or practices differing from those established by Standards.

1.3.2 Article 38 of the Chicago Convention states:

“Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the ICAO of the differences between its own practice and that established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days for the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other states of the difference which exists between one or more features of an international standard and the corresponding national practice of that state.”

1.3.2.1 In accordance with Article 38, a contracting State must notify ICAO any time it does not comply with a Standard in all respects; does not bring its regulations or practices into full accord with any Standard; or adopts regulations or practices differing in any particular respect from the Standard.

1.3.3 The Resolutions of Adoption of Annexes 2, 3 and 5, approved by the Council at the twenty-second meeting of its Third Session, not only provided that States should notify the Organization of any differences between any of its own practices and those established by the Standards contained in the Annexes, but further defined “differences” as covering “non-compliance in any respect” with a Standard.

1.3.4 The following provides a non-exhaustive list of scenarios that present circumstances requiring the notification of a difference:

(1) **A situation in which the State does not bring its practices into full accord with the Standard.** For example, when a Contracting State has incorporated a Standard into its national regulations, but has only partially implemented or applied it in practice.

(2) **A situation in which the State’s regulation (or lack thereof) differs from the Standard.** For example, when a State applies a Standard in practice, but has not incorporated it into its national regulations.



(3) **A situation in which the State does not comply with a Standard in all respects.** For example, when a State has not incorporated a Standard into its national regulations and not implemented or applied it in practice.

1.3.5 There can be circumstances when a State has temporary or short-term differences (e.g., exemptions/exceptions). In such cases, States need to be encouraged to notify differences and provide such information through other means, such as a Notice To airmen (NOTAM) or Aeronautical Information Circular (AIC) in accordance with Annex 15. Article 38 expressly requires that States immediately notify ICAO of differences, without exception. Therefore, whatever other actions States may take in regard to temporary or short-term differences, they would not serve to relieve States of their obligations under Article 38.

1.3.6 It should be noted that the notification of differences does not relieve a State of its obligations as per the Chicago Convention.

1.4 ASSEMBLY RESOLUTION

1.4.1 While Article 38 sets out obligations for the notification of differences against Standards, it is recognized that knowledge of differences from Recommended Practices may also be important for the safety, regularity and efficiency of air navigation. The ICAO Assembly has resolved that the Council should urge Member States to notify the Organization of any differences that exist between their national regulations and practices and the provisions of SARPs, as well as the date or dates by which they will comply with the SARPs (Assembly Resolution A38-11).

1.4.2 REQUIREMENTS OF ANNEX 15

1.4.3 Annex 15 – Aeronautical Information Services, Standard 4.1.2 states:

(1) Aeronautical Information Publications (AIP) shall include in Part 1 — General (GEN):

(a) a list of significant differences between the national regulations and practices of the State and the related ICAO SARPs and Procedures, given in a form that would enable a user to differentiate readily between the requirements of the State and the related ICAO provisions;

(b) the choice made by a State in each significant case where an alternative course of action is provided for in ICAO SARPs and Procedures.



(2) The purpose of the publication of significant differences in the AIP is, primarily, to provide flight crews, and other stakeholders, with information which is essential to international operations, and which is not readily available.

1.5 PURPOSE AND BENEFITS OF NOTIFYING DIFFERENCES

- 1.5.1 The primary purpose of notifying differences is to promote safety, efficiency and regularity in air navigation by ensuring that all stakeholders, concerned with international civil aviation are aware of all national rules and practices in so far as they differ from those prescribed in SARPs. Therefore, lack of information on differences creates uncertainty and poses a potential hazard to the safety, regularity and efficiency of air navigation.
- 1.5.2 Dissemination of differences enhances transparency of safety information, and, consequently, facilitates States' decisions to accept or not accept other States' aircraft and operators, specifically within the context of the management of safety. Incorrect notification of differences may also potentially lead to misunderstandings and could result in undesirable operational situations, or in other potential negative consequences in terms of recognition of certificates and licences, ramp inspections, and ultimately traffic rights.
- 1.5.3 The notification of differences is therefore an important and useful factor that contributes to ensuring the safe and orderly growth of international civil aviation.



SECTION 2. DETERMINATION OF DIFFERENCES

2.1 Annex Components to which the Notification of Differences Process Apply

2.1.1 The forward to the Annexes describes the components that are considered as material comprising Annex proper. The application of the difference process to these are as follows:

- (1) **Standard.** Any specification for physical characteristics, configuration, materiel, performance, personnel or procedures, the uniform application of which is recognized as necessary for the safety or regularity of international air navigation and to which Contracting States will conform in accordance with the Convention; in the event of impossibility of compliance, notification to the Council is compulsory under Article 38.
- (2) **Recommended Practice:** Any specification for physical characteristics, configuration, materiel, performance, personnel or procedures, the uniform application of which is recognized as desirable in the interest of safety, regularity or efficiency of international air navigation, and to which Contracting States will endeavour to conform in accordance with the Convention; in the event of impossibility of compliance notification to the Council is encouraged under Assembly Resolutions.
- (3) **Appendices.** Material grouped separately for convenience but forming part of the SARPs adopted by the Council. The notification of differences therefore applies to appendices. In order to file a difference against an appendix, States should file a difference against the SARP, if any that makes reference to the Appendix.
- (4) **Definitions.** These do not have independent status but are an essential part of each SARP in which the term is used, since a change in the meaning of the term would affect the specification. Therefore, differences against definitions should be notified. Once a difference against a definition has been notified, differences against the SARPs using that definition should be notified as well. Therefore, the attention of Contracting State is drawn to the possible far reaching consequences of deciding to adopt a definition differing in substance from an Annex definition.
- (5) **Tables and figures.** These add to or illustrate a SARP and which are referred to in an Annex, form part of the associated SARP and have the same status. The notification of differences therefore applies to such tables and figures. In order to file a difference against a table or figure, States should file a difference against the SARP that makes reference to the table or figure.



2.1.2 The notification of differences process does not apply to Forewords, Introductions, Notes and Attachments.

2.2 NOT APPLICABLE SARPS

2.2.1 While most SARPs are applicable to all States, some SARPs may only apply to some States. For instance, Annex 3 contains provisions which apply only to States which have accepted the responsibility for providing a world area forecast centre (WAFC) within the frame work of the world area forecast system. Likewise, Annex 8 contains provisions which apply to the State of Design of a particular aircraft type. In such cases, States do not have to notify differences against that SARP which is not applicable to them.

2.3 GENERAL GUIDELINES REGARDING THE DETERMINATION OF DIFFERENCES

2.3.1 When determining whether a difference against a SARP exists, the State should assess to what extent the conditions in Articles 38 are met. To this end, the following should be considered:

- (1) Compliance with SARPs may be regarded, in general, as having two main characteristics. The first comprises the administrative arrangements necessary to bring the ICAO requirements into force nationally; the second consists of the practical arrangements necessary, such as the provision of facilities, personnel, equipment, guidance, enforcement mechanisms etc.
- (2) Therefore, Standard implementation, in general, can only be considered satisfactory when suitable administrative and practical arrangements exist. For instance, when an administrative arrangement, bringing the regulation into force, is in place but not applied in practice, or when no suitable administrative arrangement exists even though some practical implementing activities take place, the State should notify a difference to the corresponding Standard until compliance is achieved.
- (3) Implementation of Recommended Practices is recognized as desirable in the interest of safety, regularity or efficiency. If a State chooses to implement a particular Recommended Practice, it should have a requirement with sufficient administrative force. For instance, Annex 10, Volume I, recommended practice 2.1.4.2 states:
 - (a) "Recommendation. A State that approves GNSS-based operations should ensure that GNSS data relevant to those operations are recorded".



(4) If a State decides to implement this Recommended Practice, it should issue a national requirement in order to ensure that GNSS-based operations data are recorded.

2.3.2 Therefore, if a State has determined that it has implemented the SARP through sufficiently robust administrative arrangements (such as regulations, or other documents carrying sufficient administrative force), and that those arrangements are enforced and implemented, the State does not need to notify ICAO of any differences since it “complies in all respects” with the ICAO requirement and has brought its “regulations and practices” into full accord with it.

2.3.3 The ICAO Council, on 13 April 1948 adopted a resolution inviting the attention of Contracting States to the desirability of using in their own national regulations, as far as practicable, the precise language of those Standards that are of a regulatory character. In this regard, it should be noted that close adherence of a national regulation to the wording of SARPs be supported by effective enforcement mechanisms and rigorous implementation monitoring.

2.3.4 The determination of differences should be performed by the State regulatory authorities and in keeping with the State commitment, as a Contracting State, to comply with the Convention.

2.4 CATEGORIES AND DESCRIPTIONS OF DIFFERENCES

2.4.1 CATEGORIES OF DIFFERENCES: As notifications of differences may correspond to different scenarios, the following categories of differences are provided as a guide in determining whether a difference in the context of Article 38 exists:

(1) **A Contracting State’s requirement is more exacting or exceeds SARP.** This category applies when the national regulation and practices are more demanding than the corresponding SARP or impose an obligation within the scope of the Annex which is not covered by a the SARP. This is of particular importance where a Contracting State requires a higher standard which affects the operation of aircraft of other Contracting States in and above its territory;

Example:

Annex reference	Provision	Text of the difference	Comments, including the reason for the difference



Annex 2, 3.3.1.3	A flight plan shall be submitted before departure to an air traffic services reporting office or, during flight, transmitted to the appropriate air traffic services unit or air-ground control radio station, unless arrangements have been made for submission of repetitive flight plans.	For flights crossing international borders, the flight plan should be submitted at least 30 minutes prior to departure	This additional requirement is necessary for the air traffic flow management system and procedures used (in the State notifying the difference)
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(2) **A Contracting State’s requirement is different in character or other means of compliance.** This category applies when national regulation and practices are different in character from the corresponding SARP, or when the national regulation and practices differ in principle, type or system from the corresponding SARP, without necessarily imposing an additional obligation. The expression “different in character or other means of compliance” in b) would be applied to a national regulation and practice which achieves, by other means, the same objective as that of the corresponding ICAO SARPs and so cannot be classified under a) or c); and

Example:

Annex reference	Provision	Text of the difference	Comments, including the reason for the difference
Annex 3, 6.5.3	Area forecasts for low-level flights prepared in support of the issuance of AIRMET information shall be issued every 6 hours for a period of validity of 6 hours and transmitted to meteorological watch offices and/or aerodrome meteorological offices concerned not later than one hour prior to the beginning of their validity period.	The area forecasts are issued every 3 hours instead of 6 hours, from 0700 to 2200 local time, and once at 0100 with a validity of 6 hours (until 0700)	The frequency and issuance periods are considered to offer a better benefit/cost ratio.

(3) **A Contracting State’s requirement is less protective or partially implemented/not implemented.** This category applies when the national



regulation and practices are less protective than the corresponding SARP; when no national regulation has been promulgated to address the corresponding SARP, in whole or in part; or when the Contracting State has failed to bring its practices into full accord with the corresponding SARP.

Example:

Annex reference	Provision	Text of the difference	Comments, including the reason for the difference
Annex 11, 2.31.1	Each prohibited area, restricted area, or danger area established by a State shall, upon initial establishment, be given an identification and full details shall be promulgated.	Even though this standard is implemented in practice, it has not been incorporated into national regulations	Incorporation is planned for the 2016 air traffic services code of regulations update.

2.4.2 DESCRIPTION OF DIFFERENCES: Differences in substance should be described clearly and concisely, and should allow the reader to easily grasp the scope of the differences. In general, the description should not be a copy of the national requirement, leaving it up to the reader to identify the differences against the ICAO requirement, but rather a description of the variances.



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SECTION 3. NOTIFICATION OF DIFFERENCES

3.1 When to Notify Differences

- 3.1.1 ICAO informs Contracting States and international organizations, by State letter, of the adoption of the amendment and requests for notification of any disapproval, and differences, before given dates.
- 3.1.2 In accordance with Article 90 of the Chicago Convention the amendment will become effective three months after the issuance of the State Letter, except for any part thereof for which a majority of the Contracting States have registered their disapproval with the Council.
- 3.1.3 Amendments, or such parts thereof as have become effective, will become applicable on a given date set by the Council. States are expected to comply with and implement all parts of the amendment that are applicable to them.
- 3.1.4 States are advised, by ICAO electronic bulletin, as soon as amendments have become effective. States are encouraged, however, not to wait until then to start preparing for implementation of the amendment, and notification of differences.
- 3.1.5 The Council defines the date by which Contracting States are requested to notify ICAO of the differences between its national regulations or practices (Resolution of Adoption).
- 3.1.6 States are requested to provide updates of the differences previously notified after each amendment, as appropriate, until the difference no longer exists.

3.2 Means of Notification

- 3.2.1 Differences shall be notified through the Electronic Filing of Differences (EFOD) system at www.icao.int/usoap.
- 3.2.2 The EFOD system, is a web-based tool that allows Contracting States to notify differences Information and facilitates the sharing of information between States through ICAO. Once completed, the EFOD system gives States personnel convenient access to a repository of compliance and difference information, which have been previously entered. The system also provides additional information and functionality such as latest ICAO provisions for which a re-filing of differences is required, remarks which can help State staff in managing



compliance with individual SARPs and in passing on knowledge to incoming staff, statistical data which provides a “big picture” overview of the situation in the State, and differences information from other States.

3.3 Notification of Significant Differences in the AIP

- 3.3.1 The primary purpose of reporting differences is to promote safety and efficiency in air navigation by ensuring that governmental and other agencies, including operators, concerned with international civil aviation are made aware of all national rules and practices in so far as they differ from those prescribed in the ICAO Annexes, Procedures for Air Navigation Services and Regional Supplementary Procedures. If identified in AIP, significant differences would not only provide a clear picture of the operational significance of the differences to users of that document, but facilitate the process of isolating and eliminating those that do not have an important bearing on the safety of air navigation or are inconsistent with the objectives of the ICAO provisions.
- 3.3.2 In accordance with the provisions of Annex 15, the GCAA shall publish in the AIP any significant differences between its national regulations and practices and the related ICAO provisions. All such differences shall be included in GEN 1.7 of the AIP. This is to ensure that an AIP will provide up-to-date information on the status of implementation of SARPs, particularly those concerned with aircraft operations and the provision of facilities and services. Any deviation from SARPs that needs to be taken into account in aircraft operations, as indicated below, constitutes a “significant difference”.
- 3.3.3 All significant differences notified to ICAO shall also be included in the AIP in a form that will enable a user to differentiate easily between the national rules and practices of the GCAA and the related ICAO provisions. They comprise differences from:
- (1) any of the International Standards;
 - (2) Recommended Practices that are important for the safety of air navigation or, in the case of facilitation, for the speedy handling and clearance through customs, immigration, etc. of aircraft and the loads they carry;
 - (3) Procedures for Air Navigation Services (PANS) that are important for the safety of air navigation; and
 - (4) Regional Supplementary Procedures (SUPPS) that are important for the safety of air navigation.



- 3.3.4 It therefore follows that all the provisions in ICAO Annexes that are Standards are significant, and that any differences between the GCARs, Orders or Directives and the related ICAO Standards are differences which must be notified. This is an obligation which originates from Article 38 of the Convention. In the matter of Recommended Practices, PANS and SUPPS, only those differences that are important for the safety of air navigation or, in the case of facilitation, to the speedy handling and clearance through customs, immigration, etc. of aircraft and their loads are significant. Because of their nature, most of the Recommended Practices in ICAO Annexes contribute to the safety of air navigation.
- 3.3.5 Differences from the PANS-ABC (Doc 8400) would not constitute “significant” differences. However, Annex 15, Appendix 1, GEN 2.2 requires the inclusion, in the AIP, of a list of the abbreviations and their respective significations used by the GCAA in its AIP and in the distribution of aeronautical information. In this list any abbreviation or signification that differs from the corresponding ICAO abbreviation or signification must be suitably annotated. The remainder of Doc 8400 contains signals, designations and codes which are universally applied.
- 3.3.6 In general, notification of significant differences will be limited to cases where the GCARs, Orders or Directives differ from the ICAO SARPs and Procedures. When the GCARs, Orders or Directives are essentially the same as the ICAO provisions but are not identical, or are in compliance with the ICAO provisions but individual differences exist at particular sites, no difference should be reported since the details of the procedures and facilities existing are the subject of notification through the medium of the AIP. Broadly, the determination should be based on the following criteria, in terms of whether knowledge of the differences is necessary for the safety of international air navigation:
- (1) does the difference impose an obligation:
 - (a) within the scope of the Annex, PANS or SUPPS which is not covered by an ICAO provision; or
 - (b) different in character from that of the corresponding ICAO provision; or
 - (2) is the applicable the GCAR, Order or Directive more exacting or less protective than the corresponding ICAO provision.
- 3.3.7 When the GCARs, Orders or Directives are more stringent than the ICAO provisions, no “differences” should be notified, since the AIP shall reflect the actual situation. Similar action should be taken in respect of procedures which have not been disapproved by the GCAA but either have not yet been implemented or are being gradually implemented.
- 3.3.8 In the notification of a difference, it is necessary to make an explicit statement of intent to comply where such intent exists, or where such is not the intent, of the



difference or differences that will exist. This statement should be made with respect to the whole of the ICAO Annex or document concerned, i.e. including any associated amendments, and should be with regard to existing as well as new installations. Additionally, where the intention is to comply, an indication should be given in general terms if, for a certain period, there will be cases where facilities will not be provided in accordance with the provisions of an Annex but without giving details of such differences since this will be a matter for notification through the AIP. Where an alternative course of action is provided for in the SARPs, the choice made should be indicated.

3.3.9 The reporting of differences to Annexes such as Annex 11, which deals with the provision of air traffic services, can only be determined by the GCAA, although the recommendations of regional air navigation meetings will provide considerable assistance. In the case of Annex 11, differences will generally fall under two main headings:

(1) the non-adoption of procedures for air traffic services contained in the Annex;
and

(2) the non-provision of facilities for air traffic services;

3.3.10 although in this Annex the division between facilities and procedures is less distinct than in others. Differences under (1) are likely to be more numerous than those under (2).

3.3.11 In so far as (1), the non-provision of facilities is concerned, this is likely to become a question of whether or not the physical equipment specified in the Annex is provided. In practice, the most common cases of “non-provision” are likely to be in respect of the communication and recording equipment necessary to meet the specifications of Annex 11, Chapter 6.

In the case of Annex 3, there would be a notifiable difference if available meteorological information for departing aircraft and for arriving aircraft were observed, computed or presented in a manner that differs substantially from the provisions of the Annex (without the non-standard nature of the meteorological information being known to the pilot). (For example, according to 4.7.13 of Annex 3, any observed runway visual range value which does not fit the reporting scale in use should be “rounded down to the nearest lower step in the scale”; similarly, according to 4.11.4 and 4.11.5, QNH or QFE values should be “rounded down to the nearest lower whole hectopascal”). Any rounding up of such values to a higher value, or provision of units different from the hectopascal, would result in non-standard, and possibly misleading, data and should be notified. Such cases, however, are understood to be very rare. In most cases, an AIP should and generally does show which of the alternative formats, methods and means for providing meteorological information that are foreseen in Annex 3 have been



chosen and are applied by the State. (For example, an AIP should indicate which of the different kinds of flight documentation set out in Annex 3, Chapter 9, are available as well as the procedures and means used for providing them to operators or flight crew members).

3.3.12 In general, significant differences to Annex 14, Volume I, exist when:

- (1) Reference code letters (Chapter 1): a different method for classifying aerodromes is used. However, consequential minor differences, which may result from the national practice of classifying aerodromes, should not be notified;
- (2) Aerodrome data (Chapter 2): a different method for either determining or making available aerodrome data is employed;
- (3) Number and orientation of runways (Chapter 3): the criteria or method used for determining the number and orientation of runways differs significantly from that of the Annex;
- (4) Physical characteristics (Chapter 3):
 - (a) State practices are not as protective as the requirements in the Annex;
 - (b) State practices differ in principle from the requirements set forth in Annex 14, Volume I; (It should be noted that the figures contained in Chapter 3 for the dimensions and separation distances of various aerodrome facilities are nearly all minimum requirements and those for slopes, maximum values);
- (5) Obstacle restriction and removal (Chapter 4):
 - (a) State practices for providing obstacle limitation surfaces differ in principle from those of Annex 14, Volume I;
 - (b) the dimension and slopes of an obstacle limitation surface are not as protective as those in Annex 14, Volume I;
 - (c) State practice does not result in the restriction or removal of an object as would be required by the specifications of Annex 14, Volume I;
- (6) Visual aids (Chapters 5, 6 and 7):
 - (a) State practice does not result in the aid being provided in accordance with the criteria specified in Annex 14, Volume I;
 - (b) the characteristics (colour, intensity, flash rate, etc.) or pattern (length, width, light spacing, etc.) differ from those prescribed in Annex 14, Volume I;
- (7) Secondary power supply (Chapter 8):



- (a) the State does not provide secondary power supply for the conditions or aids specified;
 - (b) the maximum switch-over times are greater than those given in Table 8-1;
- (8) Services (Chapter 9):
- (a) State practice is not to provide at an aerodrome one of the services specified in Annex 14, Volume I;
 - (b) the provided service does not follow a practice advocated in Annex 14, Volume I.

3.3.13 An example of notification of differences is given below:

The statements contained in the present supplement for paragraphs still apply. The remaining paragraphs in the supplement should be eliminated. In addition, the following differences should be included in the supplement to Annex 14, Volume I:

Chapter 3, 3.1.1 — Usability may be reduced to 92 per cent (instead of 95 per cent) for code letters D or E.

Chapter 5, 5.2.2.4 — This administration does not use a zero preceding a single digit runway designation marking.

Chapter 5, 5.2.7 — Not provided. This administration has the matter of runway side stripe markings under consideration.

Chapter 8, 8.1.3 — Secondary power supply is available at precision approach runways. However, switch-over times are longer than those specified in Table 8-1.

3.3.14 AIP template for significant difference:

GEN 1.7 DIFFERENCES FROM ICAO STANDARDS, RECOMMENDED PRACTICES AND PROCEDURES

A list of significant differences between GCARs, Orders and Directives and related ICAO provisions, including:

- 1) Provision concerned (Annex number, title, edition number and paragraph)
- 2) The complete text of the difference.

All significant differences must be listed under this subsection. All the Annexes must be listed, in numerical order, even if there are no differences to a particular Annex, in which case the word “NIL” must be inserted following the Annex number, title and edition



number. National differences from, or the degree of non-application of, the Procedures for Air Navigation Services (PANS) and the Regional Supplementary Procedures (SUPPS) must be listed immediately following the Annex to which the PANS or SUPPS relate.

Each difference should be notified in the following form:

- a) Reference: Cite the paragraph or subparagraph of the Annex, PANS or SUPPS in respect of which the difference exists.
- b) Description of the difference: Describe the difference precisely and include any additional information necessary to make its effect clear.
- c) Remarks: Indicate the reason for the difference or, if the difference is likely to be eliminated in the future, indicate the date by which conformity with the ICAO provision may be expected.

Note.— For an explanation/clarification of what a significant difference is.



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SECTION 4. PROCESS AND PROCEDURES FOR MANAGEMENT OF DIFFERENCES

4.1 GENERAL

- 4.1.1 In order to keep the status of differences up-to-date, the GCAA must be properly organized and staffed with qualified personnel capable of accomplishing these tasks.
- 4.1.2 Determination of differences, their clear and concise description and notification require a good knowledge and understanding of:
- (1) the ICAO expectations, templates and tools regarding notification of differences.; and
 - (2) the GCARs and the corresponding SARPs.
- 4.1.3 Ideally, when GCARS are drafted, the RRC should keep in mind that differences will have to be determined and notified at some point, if applicable. The RRC will identify and formulate differences when the GCARs, Orders or Directives are being drafted, since the level of compliance with or departure from SARPs should be especially easy to identify at that time. Such an approach has proven to facilitate notification of differences.
- 4.1.4 As previously stated, the degree or alignment, or non-alignment, of GCARs with ICAO SARPs may significantly influence the complexity of the determination and formulation of differences. While notification of differences may be perceived as a tedious task, it represents only a fraction of the work and time needed for implementing SARPs (drafting of GCARs, Orders or Directives and associated material, information of regulated entities, enforcement of rules etc.).
- 4.1.5 Any difference from SARPs needs to be identified and notified. For the GCAA to fulfil this obligation, it is clear that an appropriately organized and effective procedure must be established and structured to effectively fulfil the tasks that it is expected to undertake

4.2 PROCESS FOR THE DETERMINATION AND NOTIFICATION OF DIFFERENCES

- 4.2.1 The identification of differences will take place in two different moments:
- (1) Treatment of State Letter after the adoptions of an ICAO Amendment.
 - (2) Development of new or revised regulations related to an existing Annex



- 4.2.2 The first one is responsibility of the RRC, chair and the respective focal point for each Annex as established and should be done in accordance with the procedure established on Chapter 6.
- 4.2.3 The second is done each time a RRC is changing a regulation for an existing Annex.
- 4.2.4 The GCAA has identified the Technical Librarian as the focal point for processing ICAO State letters including State letters related to amendments to Annexes, proposals for the amendment and notification of differences.
- 4.2.5 The Procedure for the treatment of ICAO State Letter is established in Chapter 6 of this manual.

4.3 NEW OR REVISED RULES

- 4.3.1 All RWG originating or revising rules are directed to compare the new/revised rule with the existing ICAO Annex's.
- 4.3.2 If no difference from an ICAO SARP is found, notification of compliance must be submitted to the RRC.
- 4.3.3 If It is found that no equivalent regulations exist in the GCARs, Orders or Directives, the GCAA shall adopt the new ICAO SARPs. If the new SARP is not adopted, such fact shall be documented as a difference.
- 4.3.4 Once it is determined that a difference exist between a new/revised GCAR, Order or Directive and a SARP, notification of that difference must be submitted to the RCC.
- 4.3.5 The notification must include, at a minimum:
 - (1) the number of the paragraph or subparagraph as amended which contains the SARP to which the difference relates;
 - (2) the reasons for the difference why the GCAR does not comply with the SARP, or considers it necessary to adopt different regulations or practices;
 - (3) a clear and concise description of the difference; and
 - (4) intentions for future compliance and any date by which the GCAA plans to confirm compliance with and remove its difference from the SARP for which the differences has been notified.



- 4.3.6 RRC will conduct a review of the package for accuracy, justification and completeness and will then forward the package to the DG for approval.
- 4.3.7 After the DG's approval the focal point should notify ICAO and the NCMC should update the OLF by uploading the CC and EFOD to validate the differences.

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