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GENERAL NOTICE

DEPARTMENT OF TRANSPORT

No. 992

15 October 2010

PROPOSED ISSUE OF REGULATION 12.04.7 OF THE CIVIL AVIATION REGULATIONS, 2010

The Chairperson of the Civil Aviation Regulations Committee (CARCOM) hereby publishes for comment the proposed issue of Parts of the Civil Aviation Regulations, 2010, as set out in the schedule hereto. Any comments or representations on the proposed amendments shall be lodged in writing with the Chairperson of CARCOM, for attention: Monica Sonjani or Herman Wildenboer, Private Bag X 73 Halfway House, 1685, fax: (011) 545-1201, or e-mail at sonjanim@caa.co.za or wildenboerh@caa.co.za, before or on 15 November 2010.

PROPOSAL FOR THE ISSUE OF REGULATION 12.04.7 OF THE CIVIL AVIATION REGULATIONS, 2010

A. PROPOSER

ATNS
Private Bag X 15
Kempton Park
1620

B. MOTIVATION

This is a consequential proposal to the Government Gazette No.33548 dated 10 September 2010. The regulations as proposed will allow authorities to apply sanctions where violations or wilful intent to jeopardize safety have occurred and support the global move towards a Just Culture. This will also allow for the use of safety information such as recordings for administrative functions such as training, lessons learnt, threat and error management etc. and is in support of Attachment E Principles of Exception. Safety Management System requires the dissemination of lessons learnt to prevent future occurrence.

PROPOSAL FOR THE ISSUING OF REGULATION 12.04.7

Principles of Exception

12.04.7 (1) Notwithstanding the provisions of 12.04.6, under the following circumstances the appropriate authority may authorise the use of the information for internal proceedings when:

- (a) there is evidence that the occurrence was caused by an act considered, after investigation in accordance with these regulations, to be conducted with intent to cause damage, or conducted with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or wilful misconduct;
- (b) the Appropriate Authority considers that circumstances reasonably indicate that the occurrence may have been caused by conduct with intent to cause damage, or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or wilful misconduct; or
- (c) a review by the Appropriate Authority determines that the release of the safety information is necessary for the proper administration of justice, and that its release outweighs the adverse domestic and international impact such release may have on the future availability of safety information.

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