

S. I. No. 85 of 2006

PART 18—OFFENCES

APPLICABILITY :

This part shall apply to offences, breaches, violations and non-compliance with the provisions of these Regulations and other specified Civil Aviation Offences.

1.—(1) In the enforcement of the provisions of this Part, the Authority shall have a discretion to either exercise the powers of suspension, revocation and/or imposition of fines stipulated in this Part or refer the matter for prosecution.

(2) In the exercise of the discretion referred to in subsection (1) of this section, the Authority shall take into consideration the seriousness of the contravention, the defaulter's compliance record, the need to prevent a re-occurrence, promote safety and ensure regularity of, and continued operations, amongst others.

(3) Where the Authority opts for a process other than prosecution, the process shall be deemed administrative and the following words shall not be used in the proceedings: "guilty", "convicted", "imprisonment", "accused", and other words as are usually employed in criminal proceedings.

2.—(1) Any party who disagrees with the Administrative Sanctions imposed by the Authority under the provisions of this Part may appeal for a review, within seven (7) days from the date of the imposition of the sanction.

(2) The appeal shall be in writing and addressed to the Director-General of the Authority.

(3) Upon receipt of the Appeal, the Director-General shall constitute an Appeal Panel made up of not more than five (5) members drawn from the Nigerian Civil Aviation Authority and Industry Stakeholders.

(4) The Administrative sanction imposed by the Authority shall subsist until set aside or varied by the Director-General upon the recommendation of the Appeal panel.

3. Every repetition of a contravention of the provisions of these Regulations by any person(s) shall be treated as fresh offences with penalties to run consecutively in each case.

4.—(1) Every service provider shall respond to the Consumer Letter of Complaint duly issued by the Authority. The word "Consumer" shall include Passenger and Users of aviation services.

(2) Any service provider that violates the provision of subsection (1) of this section shall be liable to a fine of ₦50,000 per complaint and for everyday the breach continues. In addition, a Consumer Advisory may be issued against the defaulting service provider and its operation suspended for as long as the breach subsists.

5.—(1) It shall be an offence under these Regulations for any aircraft operator to be engaged in anti-competitive and unfair business practices.

B 1208

(2) These “practices” refer to such practices or conduct which the Authority declares as anti competitive and unfair business practices and shall include but not limited to: collusion, price fixing, predatory pricing, deceptive and unethical advertisement such as the use of the term “Safety” for promotion by airlines.

(3) Any aircraft operator who engages in anti competitive and unfair business practices shall be liable to a fine of not less than ₹1,000,000.00 and shall have its operating authorisation suspended. Where the violation persists, the operator’s operating authorisation shall be revoked.

(4) It shall be an offence under these Regulations for any aircraft operator to place advertisements without first obtaining the Authority’s written approval.

(5) Any aircraft operator who violates the above provision shall be liable to a fine of not less than ₹250,000.00.

6.—(1) It shall be an offence for any person to fail to submit statutory and/or other forms prescribed by the Authority.

(2) These forms referred to in sub-section (1) of this section, shall include but not limited to :

- (i) ICAO Statistical returns forms ;
- (ii) NCAA Economic Audit Forms ;
- (iii) Aerodrome operator/operators and Air Navigation Service Provider’s Returns Forms ;
- (iv) Airlines flight departure form detailing time of departures and reasons for delay, if any ;
- (v) Aircraft Monthly Status report ;
- (vi) Certificate of Airworthiness Issue/Renewal Forms.

(3) Any Airline, Aerodrome operator/owner and Air Navigation Service Provider including Meteorological Service who contravenes the above provision shall be liable to a fine of ₹50,000.00 for everyday the breach subsists. Where the violation persists the Authority may suspend or revoke the defaulters operating authorisation.

7.—(1) All airlines, Aerodrome owners/operators, concessionaires and ancillary service providers shall take out and maintain adequate insurance cover commensurate with their operations against third party liabilities.

(2) Any person who violates the above provisions shall be liable upon conviction to a fine of not less than ₹500,000.00 and/or imprisonment for a term of not less than six months. The defaulters licence and operating authorisation shall be suspended in the first instance and where the defaulter persists, the licence and authorisation shall be revoked/withdrawn.

8.—(1) It shall be an offence under this Part for any Airline, Aerodrome and Air Navigation or other service provider to engage in discriminatory practices against passengers or other persons, in the provision of their services; on the basis of disability, gender, race or religion.

(2) Any person who violates the above provision shall be liable to a fine of not less than ₦500,000.00 and in the case of a passenger; the defaulter shall additionally be ordered to provide a return ticket to him or its cash value with a written apology. Provided that the above sanctions shall not deprive the passenger of the right to enforce his fundamental human rights enshrined in the constitution of the Federal Republic of Nigeria or any other Law.

9.—(1) Every Airline and their agents shall comply with the conditions on the approved flight clearance for non scheduled international air services.

(2) Any Airline that violates any of the terms of the flight clearance shall be guilty of an offence and liable to a fine of not less than ₦250,000.00. The Authority may also refuse to approve future requests for flight clearance.

10.—(1) Any Airline that cancels or unduly delays flights for reasons other than air traffic control delays, adverse weather conditions and aircraft technical problems shall be liable to a fine of not less than ₦100,000.00.

(2) Where an airline cancels or delays its flight for any reason other than as stated in sub-section(1) above, it shall in addition to the fine prescribed in sub-section (1) Compensate the passengers as follows :

(i) *Delayed Boarding.*—inform the passengers within a reasonable time of the reasons for the delay.

(ii) *Flight Cancellation :*

If there is an alternative airline heading to the passenger's destination offer to endorse the passenger's ticket to the other,

If there is no alternative airline or if the passenger rejects the offer of the endorsement, the airline shall in the case of international operations provide decent hotel accommodation and boarding.

Local transportation to and from the airport for the passenger until it is ready to convey the passenger to his destination.

11.—(1) Any Airline that denies a passenger holding a confirmed ticket boarding as a result of overbooking shall immediately endorse the passenger's ticket to another airline or make immediate reimbursement to the passenger.

(2) Any Airline that contravenes the provisions of sub-section (1) above shall pay a fine equivalent to the cost of one passenger ticket.

12.—(1) Any passenger who becomes unruly in the course of flight operations shall be guilty of an offence and liable upon conviction to imprisonment for a term of not less than two months or a fine of not less than ₦50,000 or both such fine and imprisonment.

(2) The word "unruly" as used in this section refers to but is not limited to, the following acts :

(i) Smoking on board an aircraft in a non smoking flight ;

(ii) Use of mobile phones and/or other communication/electronic gadgets on board an aircraft without the approval of the aircraft commander ;

B 1210

- (iii) Fighting or other disorderly conduct on board an aircraft ;
- (iv) Any conduct/act constituting a nuisance to other passengers ;
- (v) Disobedience of lawful instructions issued by the aircraft commander, flight crew and/or cabin attendants ;
- (vi) Any conduct that endangers or is likely to endanger or is likely to endanger the safety of flight operators.
- (vii) Tampering with smoke detectors and other aircraft equipment.

13. Any Airline whose staff is found upon investigation, to have behaved in a discourteous manner to a passenger shall pay a fine of ₦50,000.00. Where the default was committed in the course of foreign/international operations, the fine shall not be less than ₦100,000.00.

14. Any travel agent or airline that delays the process of ticket refund beyond 30 days from the date of request shall be liable to refund the full value for ticket and an additional 5% of the ticket's value.

15.—(1) Every Nigerian registered airline and all airlines that operate in Nigeria shall keep such Books of accounts of its transactions, operations and other activities as are sufficient to determine the correct amount of 5% sales charge due under the Civil Aviation Act 2006.

(2) Any airline who fails to keep proper records and account as stipulated in subsection (1) above, shall be liable to a fine of one hundred thousand naira (₦100,000.00) for every month in which the failure continues.

16.—(1) Every Airline shall render to the Authority returns in such manner as the Authority may from time to time prescribe on or before the 14th day of the month following that in which a Sales/Operations are made.

(2) Any Airline that fails to render or renders incomplete returns shall be liable to a fine of ₦100,000.00 for every month in which the failure continues.

17.—(1) Every Airline shall collect and remit to the Authority 5% ticket, cargo, charter and/or contract sales charge within 30 days of receipt of the Authority's invoice or demand note.

(2) Any Airline that fails to collect the 5% Sales charge on any transaction that attracts such charge is liable to a penalty of 150% of the amount not collected, plus interest at 5% above the Central Bank of Nigeria rediscount rate.

(3) Any Airline that fails to remit the 5% Sales Charge within the time specified above shall be liable to pay the sum remittable and a sum equal to 5% of the remittable sum shall be added and the provisions of these Bye-laws relating to collection and recovery of unremitted 5% Sales charge shall apply. Where the contravention persists the Authority shall suspend or revoke the Airlines operating authorisation/permit.

18.—(1) Any person who constructs and/or operates an Aerodrome without a valid license issued by the Authority shall be guilty of an offence and liable to a fine of not less than ₦1m and/or imprisonment for a term of not less than one year. The Authority shall also shut down the illegal Aerodrome. The Government of the Federal

Republic of Nigeria may confiscate the illegal Aerodrome together with all appurtenances thereon.

(2) Any Aerodrome owner or operator who fails to renew his Aerodrome license within the time stipulated in the Regulations shall be liable to a fine of ₦100,000.00 for everyday in which the violation continues.

(3) Any person who uses an aerodrome for other purpose different from the criteria certificate issued or for any purpose in contravention of any subsisting law shall be guilty of an offence and liable upon conviction to a fine of not less than one million naira and/or imprisonment for a term of not less than one year.

19. Any person who constructs and erects any structure from the height of 100ft and above anywhere in the country without Aviation Height Clearance Certificate issued by the Authority shall be liable to a fine of not less than ₦250,000.00. The Authority may also pull down the structure at the cost of the offender.

20. Any owner or operator of an Aerodrome who amends, upgrades the facilities and personnel at an existing aerodrome or transfers, sell or lease or otherwise alienate ownership of an existing Aerodrome without the written approval of the Authority shall be liable to a fine of not less than ₦2,000,000. The Authority may, where the amendment, alteration, upgrading, transfer, sale, lease or alienation is in variance with operating standards or any existing Laws or Regulations, shut down the Aerodrome.

21. Any operator of an Aerodrome or Air Navigation service Provider who reduces the published level of service without written approval by the Authority shall be liable to a fine of ₦2,000,000.00.

22. Any person who hoards and/or fails, neglects or refuses to pass on information or report regarding an incident and/or accident at an aerodrome to the Authority shall be guilty of an offence and liable upon conviction to a fine of not less than ₦50,000.00 for every day the violation continues.

23.—(1) Any owner or operator of an Aerodrome who fails to comply with safety and security directives issued by the Authority shall be liable to a fine of not less than ₦2,500,000.00.

(2) These safety and security Directives shall include but not limited to :

- (a) Bird Strikes
- (b) Clear Ways,
- (c) Visual Aids
- (d) Non-visual aids,
- (e) Pot holes on run-ways
- (f) Anthills
- (g) Access Roads
- (h) Aviation Security
- (i) Transportation of dangerous goods
- (j) Ground Handling,

B 1212

(k) Apron Management

(l) Vehicular movement on the airside

(m) Control of Touts and unauthorized persons.

24. Any Aerodrome owner or operator who operates without a fire and Rescue services as contained in their license shall be liable to a fine of ×2,000,000 and downgraded accordingly. Where the offence persists the Aerodrome shall be Shut down.

25.—(1) Every Aerodrome owner or operator shall conform with its approved Environmental protection programme.

(2) Any owner or operator who fails to conform with the approved Environmental protection programme shall be guilty of an offence and liable to a fine of not less than ×100,000.00 for everyday the violation continues and shall pay adequate compensation for environmental degradation to the affected persons in the environment.

26. Any owner or operator of an Aerodrome who fails to comply with its approved programme for removal of disabled aircraft shall be liable to a fine of not less than ×100,000 for everyday that the violation continues.

27.—(1) Any owner or operator of an Aerodrome who fails to install an approved wind direction indicator at the aerodrome shall be liable to a fine of not less than ×200,000.00.

(2) Any owner or operator who fails to provide adequate weather information for flight operations as determined by the Authority shall be liable to a fine of not less than ×2,000,000.00.

(3) Any person, who provides meteorological services below the Authority's approved standards, shall be liable to a fine of not less than ×100,000.00 and/or imprisonment for a term of three years. Where the offender is a corporate body, the fine shall be ×5,000,000 and where it is determined that the unsatisfactory meteorological service was due to unavailable or faulty equipment, inadequate training of personnel or other fault of the Corporate body, the Principal officers shall be liable to imprisonment for a term of three (3) years.

28. Any owner or operator of an Aerodrome who fails to comply with the provisions of the emergency procedures/plan as approved by the Authority shall be liable to a fine of not less than ×1 million. Where the offender is a corporate body, the principal officers shall upon conviction be liable to imprisonment for a term of one year.

29.—(1) Every Aerodrome owner or operator shall develop a safety Management System for each aerodrome and shall implement same after approval by the Authority.

(2) Any Aerodrome operator who fails to comply with the provisions of its approved Aerodrome safety management systems shall be guilty of an offence and shall upon conviction be liable to a fine of not less than ×1 million.

30. Any operator who fails to carry out maintenance of Aeronautical facilities in accordance with standards as Approved by the Authority shall be liable to a fine not less than ×1million. Where the offender is a corporate body and the violation persists, the operator's license shall be revoked.

31. Where Aeronautical information maps and charts disseminated by an Aeronautical Information Service (AIS) provider to the stakeholders in the industry are not in accordance with the approved procedures, the AIS provider shall be liable to a fine of x500,000.00. Where the faulty Aeronautical information System occurred due to the negligence of an official of the AIS provider, such official shall be liable to a fine of x100,000.00 and/or imprisonment for a term of not less than one year.

32.—(1) Any owner or operator of an Aerodrome who authorizes operation of an Aircraft into the Aerodrome when the weather is below the state weather minima shall be liable to a fine of not less than x500,000.00 and/or imprisonment for six (6) months. Where the offence persists the operator's license shall be revoked.

(2) Any operator of an Aerodrome who fails to report to the Authority the operation of an Aircraft into his Aerodrome by an Airline when the weather is below the state weather Minima shall be liable to a fine of not less than x1,000,000.00.

33. Any person that provides any type of Air Traffic Service that is at variance with the standards approved by the authority shall be liable to a fine of not less than x1million and or imprisonment for a term of six (6) months or both. Where the offender is a corporate body the company shall be liable to a fine of x5million, while the principal officers shall be liable to an imprisonment for a term of one year and suspension or revocation of license.

34.—(1) All Navigational and landing aids within the country must be calibrated as at when due in accordance with the standards stipulated by the Authority.

(2) Any owner or operator or Navigational aids and landing aids that fails to calibrate the Navigational and landing aids as stipulated above shall be liable to a fine of not less than x500,000 and/or imprisonment for a term of not less than six months.

35. —(1) Any person who —

(a) hinders or obstructs an authorized officer, inspector or authorized person in the exercising of his or her powers or the performance of his or her duties ;

(b) when called upon by an authorized officer, inspector or authorized person to do so, refuses or fails to give his or her name and address, or gives a false name or address ;

(c) obstructs or impedes any person acting in the exercise or performance of any privileges, powers or duties conferred on such other person by or under these regulations ;

(d) makes or causes to be made, either orally or in writing :

(i) any fraudulent, misleading or false statement for the purpose of obtaining any licence, rating, certificate, permit, approval, authorization, exemption or other document in terms of these regulations ; any fraudulent, misleading or false entry in any logbook, record or report which is required to be kept, maintained, made or used to show compliance with any provision of these regulations ;

(e) falsifies, counterfeits, alters, defaces or mutilates, or adds anything to, any licence, rating, certificate, permit, approval, authorization, exemption or other document issue in terms of these regulations ;

B 1214

(f) does or causes, or permits to be done or caused, any act contrary to, or who fail to comply with, any provision of these regulations, or a direction given or a prohibition made or condition imposed in terms thereof ;

(g) exercises a privilege granted by, or uses, any licence, rating, certificate, permit, approval, authorization, exemption or other document issued under these regulations, of which he, she or it is not the holder ;

(h) unless otherwise authorized in these regulations, permits a licence, rating, certificate, permit, approval, authorization, exemption or other document issued, under these regulations, of which he, she or it is the holder, to be used, or a privilege granted thereby, to be exercised, by any other person ;

(i) operates or attempts to operate any aircraft in respect of which no valid certificate or registration or valid certificate of airworthiness have been issued.

(j) commits any act, whether by interface with any flight crew member, air traffic service personnel members or aircraft maintenance engineer, by tempering with any aircraft, or any part thereof or by disorderly conduct or otherwise which is likely to endanger the safety aircraft or its occupants ;

(k) without the permission of an aerodrome or heliport operator enters any place within the boundaries of a licensed aerodrome or heliport which has been closed to the public ; or

(l) gives false information pertaining to the investigation of any aviation accident or incident, shall be guilty of an offence.

(2) Any person who contravenes any of the provisions of subsection (1) of this section shall be liable to the following penalties :

(a) in the case of an individual a fine not less than ₦20,000.00 for a first offender, and not less than ₦50,000.00 on subsequent infringements ;

(b) or a term of imprisonment of not less than two months for a first offender and not less than six months for subsequent offences ; or both such fine and imprisonment ;

(c) in the case of a corporate body a fine not less than ₦500,000.00 for a first offender and subsequently, not less than ₦1,000,000.00 ;

(d) and/or imprisonment of the principal officers of the Company for a term of not less than six months.

36.—(1) Tenant Restricted Area operator shall not be allowed to carry out this operation unless tenant restricted area security programme has been submitted to the Authority for approval.

(2) The Tenant Restricted Area operator, his or its representative and servants shall comply with the provisions of the approved Tenant Restricted Area Security Programme

(3) Any violation of sub-section (2) above shall attract a fine not less than ₦250,000.00.

37. It shall be an offence under these Regulations for any security company that inspect/screens persons, baggage, and cargo on behalf of airport and aircraft operators to operate without certification from the Authority. Contravention shall attract a fine of not less than ₦200,000.00.

38. Any Person who violates any provision of these Regulations not already covered under the preceding sections of this Part shall be guilty of an offence and liable upon conviction to a fine of not less than Fifty thousand naira and/or imprisonment for a term of not less than 2 months, depending at all times on the degree of the violation or offence.

MADE at Lagos this 15th day of November, 2006.

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