

**STATUTORY INSTRUMENT.**

No. **01** of 2022.

***Civil Aviation Aircraft Certification and Maintenance (Offences) Regulation 2022.***



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## STATUTORY INSTRUMENT.

No. **01** of 2022.

### *Civil Aviation Aircraft Certification and Maintenance (Offences) Regulation 2022.*

Being a Regulation to provide for offences and penalties pursuant to Section 322 of the *Civil Aviation Act 2000* in relation to Civil Aviation Rule Parts 21, 39, 43 and 47, and for related purposes,

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the *Civil Aviation Act 2000*.

#### **PART I. - CERTIFICATION OF PRODUCTS AND PARTS (RULE PART 21).**

**1. REQUIRED DESIGN CHANGES (RULE PART 21.7).**

A holder of a Type Certificate for a product type who fails to comply with the requirements of Rule Part 21.7 is guilty of an offence.

Penalty: For a company, a fine of K3,000.00.

**2. DATA REQUIREMENTS (RULE PART 21.25).**

An applicant for the grant of a Type Acceptance Certificate who fails to comply with the requirements of Rule Part 21.25 is guilty of an offence.

Penalty: For a company, a fine of K3,000.00.

**3. SPECIAL FLIGHT PERMIT REQUIREMENTS (RULE PART 21.45).**

An applicant for the grant of a Special Flight Permit who fails to comply with the requirements of Rule Part 21.45 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**4. DURATION OF CERTIFICATE (RULE PART 21.49).**

A holder of an Airworthiness Certificate under Rule Part 21.49 who fails to surrender the certificate to the Director upon expiry of the Certificate is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

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**5. TRANSFER OF CERTIFICATE (RULE PART 21.51).**

A holder of a Papua New Guinea registered aircraft who fails to comply with the requirements of Rule Part 21.51 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**6. VALIDITY OF CERTIFICATE (RULE PART 21.67).**

A holder of an airworthiness certificate who fails to surrender the certificate to the Director upon invalidation of the certificate under Rule Part 21.67 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**7. TRANSFER OF CERTIFICATE (RULE PART 21.69).**

A holder of an airworthiness certificate who fails to transfer the certificate under Rule Part 21.69 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**8. USE OF AN AUTHORISED RELEASE CERTIFICATE FOR EXPORT (RULE PART 21.71).**

A person who uses an authorised release certificate in contravention of Rule Part 21.71 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**9. RESPONSIBILITIES OF AN EXPORTER (RULE PART 21.73).**

An exporter who fails to comply with the requirements of Rule Part 21.73 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**10. TECHNICAL DATA (RULE PART 21.93).**

A person who uses technical data that is not approved by the Director as required by Rule Part 21.93 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**11. FORM CA 337 – APPROVAL OF TECHNICAL DATA (RULE PART 21.95).**

Except as provided in Rule Part 21.95(b), (c) and (d), an applicant for the approval of technical data who fails to comply with the requirements of Rule Part 21.95 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

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**12. REPLACEMENT AND MODIFICATION MATERIALS, PARTS AND APPLIANCES (RULE PART 21.103).**

A person who install a replacement or modification material, part or appliance in contravention of Rule Part 21.103 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**13. REMOVAL, ALTERATION AND REPLACEMENT OF IDENTIFICATION INFORMATION (RULE PART 21.111).**

Except as provided in Rule 21.111(b), a person who remove, alter or replace any identification information without the approval of the Director as required under Rule Part 21.111 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**14. REMOVAL AND REINSTALLATION OF DATA PLATE (RULE PART 21.113).**

Except as provided in Rule 21.113(b), a person who remove, or reinstall a data plate containing identification information without the approval of the Director as required under Rule Part 21.113 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**15. IDENTIFICATION OF CRITICAL PARTS (RULE PART 21.115).**

A person who fails to comply with the requirements of Rule Part 21.15 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**16. IDENTIFICATION OF REPLACEMENT AND MODIFICATION MATERIALS, PARTS AND APPLIANCES (RULE PART 21.117).**

A person who fails to comply with the requirements of Rule Part 21.117 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**PART II. - AIRWORTHINESS DIRECTIVE (RULE PART 39).**

**17. COMPLIANCE (RULE PART 39.11).**

An operator of a Papua New Guinea registered aircraft who operates the aircraft without complying with the requirements of Rule Part 39.11 is guilty of an offence.

Penalty: For a company, a fine of K10,000.00.

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**PART III. - GENERAL MAINTENANCE RULES (RULE PART 43).**

*Division 1. - Maintenance.*

**18. PERSONS TO PERFORM MAINTENANCE (RULE PART 43.51).**

(1) A person who performs maintenance on an aircraft without being properly qualified, licensed and authorised to do so is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

(2) A holder of a maintenance organisation certificate who grants an authorisation to a person who is not qualified, and appropriately licensed to perform maintenance on an aircraft is guilty of an offence.

Penalty: For a company, a fine of K10,000.00.

**19. PERFORMANCE OF MAINTENANCE (RULE PART 43.53).**

A person performing maintenance on an aircraft who fails to follow the requirements of Rule Part 43.53 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**20. RECORDING OF OVERHAUL (RULE PART 43.55).**

A person performing an overhaul of an aircraft who fails to comply with the requirements of Rule Part 43.55 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**21. RADIO STATION TESTS AND INSPECTIONS (RULE PART 43.59).**

A person performing an inspection on an aircraft radio station who fails to comply with the requirements of Rule Part 43.59 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**22. ALTIMETER SYSTEM TESTS AND INSPECTION (RULE PART 43.61).**

A person performing an inspection on an aircraft altimeter system who fails to comply with the requirements of Rule Part 43.61 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.



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**23. TRANSPONDER TESTS AND INSPECTION (RULE PART 43.63).**

A person performing an inspection on an aircraft transponder who fails to comply with the requirements of Rule Part 43.63 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**24. EMERGENCY LOCATOR TRANSMITTER TESTS AND INSPECTION (RULE PART 43.65).**

A person performing an inspection on an aircraft emergency locator transmitter who fails to comply with the requirements of Rule Part 43.65 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**25. NON-DESTRUCTIVE TESTING (RULE PART 43.66).**

A person, performing maintenance on an aircraft or aircraft component that requires non-destructive testing, who fails to comply with the requirements of Rule Part 43.66 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**26. WELDING (RULE PART 43.67).**

A person, performing maintenance on an aircraft or aircraft component that requires welding, who fails to comply with the requirements of Rule Part 43.66 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**27. MAINTENANCE RECORDS (RULE PART 43.68).**

A person performing maintenance on an aircraft or aircraft component who fails to keep records or comply with the requirements of Rule Part 43.68 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

*Division 2. - Release to Service.*

**28. PERSONS TO CERTIFY RELEASE-TO-SERVICE (RULE PART 43.101).**

A person certifying an aircraft or aircraft component for release-to-service after maintenance, in contravention of the requirements of Rule Part 43.101, is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

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**29. REQUIREMENTS FOR CERTIFYING RELEASE-TO-SERVICE (RULE PART 43.103).**

A person certifying an aircraft or aircraft component for release-to-service after maintenance, in contravention of the requirements of Rule Part 43.103, is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**30. CERTIFYING RELEASE-TO-SERVICE AFTER MAINTENANCE (RULE PART 43.105).**

A person certifying an aircraft or aircraft component for release-to-service after maintenance, in contravention of the requirements of Rule Part 43.105, is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**31. INOPERATIVE EQUIPMENT (RULE PART 43.107).**

A person who fails to comply with the requirements of Rule Part 43.107 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**32. DEFECTS (RULE PART 43.109).**

A person who fails to comply with the requirements of Rule Part 43.109 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**33. DUPLICATE INSPECTION OF CONTROL SYSTEMS (RULE PART 43.113).**

A person who fails to comply with the requirements of Rule Part 43.113 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**34. ENGINE PERFORMANCE CHECKS (RULE PART 43.115).**

A person who fails to comply with the requirements of Rule Part 43.115 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

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**35. TECHNICAL LOG COMPLETION (RULE PART 43.119).**

A person who fails to comply with the requirements of Rule Part 43.119 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

*Division 3. – Aircraft Airworthiness Review.*

**36. PERSONS TO PERFORM REVIEW (RULE PART 43.151).**

A person who performs an aircraft airworthiness inspection without an inspection authority required under Rule Part 43.151 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**37. REVIEW REQUIREMENTS (RULE PART 43.153).**

Except as provided in Rule Part 43.153(b), a person conducting an aircraft airworthiness review who fails to comply with the requirements of Rule Part 43.153(a) is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**38. CERTIFYING REVIEW (RULE PART 43.55).**

Subject to Rule Part 43.155(b), a person who performs and certify an aircraft airworthiness without complying with the requirements of Rule Part 43.155(a) is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

*Division 3. - Certifying Conformity Following Major Modification or Major Repair.*

**39. PERSONS TO CERTIFY CONFORMITY (RULE PART 43.203).**

A person who certify that an aircraft or component conforms to acceptable technical data following major modifications or repairs without complying with the requirements of Rule Part 43.203 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

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**40. CERTIFYING REQUIREMENTS (RULE PART 43.205).**

A person certifying conformity of an aircraft or aircraft component, in contravention of the requirements of Rule Part 43.205, is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**41. CERTIFICATION (RULE PART 43.207).**

A person who fails to comply with the requirements of Rule Part 43.207, is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**PART IV. - AIRCRAFT REGISTRATION AND MARKING (RULE PART 47).**

*Division 1. - Aircraft Registration and Certificate of Registration.*

**42. REQUIREMENT FOR REGISTRATION AND CERTIFICATE (RULE PART 47.51).**

A person who fails to comply with the requirements of Rule Part 47.51 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**43. CHANGE OF POSSESSION OF AIRCRAFT (RULE PART 47.57).**

A person who fails to comply with the requirements of Rule Part 47.57 is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K5,000.00.

**44. OPERATION OF AIRCRAFT AFTER EXPIRY OF CERTIFICATE (RULE PART 47.59).**

Subject to Rule Part 47.59(a), a person who operates an aircraft without a certificate of registration is guilty of an offence.

Penalty: For an individual, a fine of K5,000.00, and for a company, a fine of K10,000.00.

**45. CURRENCY OF INFORMATION IN CERTIFICATE (RULE PART 47.61).**

A person who fails to comply with the requirements of Rule Part 47.61 is guilty of an offence.

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Penalty: For a company, a fine of K5,000.00.

**46. REPLACEMENT OF CERTIFICATE (RULE PART 47.63).**

A person who fails to comply with the requirements of Rule Part 47.63 is guilty of an offence.

Penalty: For a company, a fine of K5,000.00.

**47. DURATION OF CERTIFICATE (RULE PART 47.65).**

A person who fails to comply with the requirements of Rule Part 47.65 is guilty of an offence.

Penalty: For a company, a fine of K3,000.00.

**48. DESTRUCTION, LOSS, THEFT, WITHDRAWAL FROM USE OR FOREIGN REGISTRATION OF AIRCRAFT (RULE PART 47.67)**

A person who fails to comply with the requirements of Rule Part 47.67 is guilty of an offence.

Penalty: For a company, a fine of K3,000.00.

*Division 2. - Aircraft Marking.*

**49. REQUIREMENT FOR AIRCRAFT MARKING (RULE PART 47.101).**

A person who fails to comply with the requirements of Rule Part 47.101 is guilty of an offence.

Penalty: For a company, a fine of K3,000.00.

**50. NATIONALITY AND REGISTRATION MARK (RULE PART 47.103)**

A person who fails to comply with the requirements of Rule Part 47.103 is guilty of an offence.

Penalty: For an individual, a fine of K2,000.00, and for a company, a fine of K3,000.00.

**51. OBSTRUCTING IDENTIFICATION (RULE PART 47.123).**

A person who acts in contravention of the requirements of Rule Part 47.123 is guilty of an offence.

Penalty: For a company, a fine of K3,000.00.

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**PART V. - MISCELLANEOUS.**

**52. APPLICATION OF OTHER ACTS.**

For the purposes of prosecution under this Regulation, the following provisions of the *Criminal Code Act 1974* shall apply:

- (a) Section 7 of that Act relating to offences committed in prosecution of common purposes; and
- (b) Section 8 of that Act relating to offences committed in prosecution of common purposes; and
- (c) Section 9 of that Act relating to mode of execution immaterial; and
- (d) the provisions of Subsection 10(1) only, of that Act relating to accessories after the fact.

**53. PRESERVATION OF RIGHTS AND LIABILITIES UNDER OTHER LAWS, ETC.**

Except where the contrary intention appear, nothing in this Regulation takes away from any persons any defence, right or liability, whether civil or criminal that -

- (a) is or has been available, acquired or incurred; or
- (b) will or may be available, acquired or incurred,

to or by him under any other law, but nothing in this section shall be deemed to show a contrary intention within the meaning of the *Interpretation Act* (Chapter 2) or to affect Section 16 of the Criminal Code, or any other similar law.

**54. STANDARD OF PROOF.**

The standard of proof to be applied in proceedings under this regulation shall be that applied in civil proceedings, namely, proof on the balance of probabilities.

**55. INFRINGEMENT FINES.**

The fines prescribed under this Regulation, shall be payable to the Authority.

**56. ON-THE-SPOT INFRINGEMENT FINES.**

(1) Where it appears to a member of the Authority or a prescribed officer that a person has committed a prescribed offence against this Regulation, the member of the Authority or prescribed officer may serve on the person a notice in the prescribed form to the effect that if he does not desire to have the matter determined by a court he may pay to an officer specified in the notice, within the time specified in the notice, the amount of the penalty prescribed for the offence if dealt with under this section.

- (2) A notice under Subsection (1) may be served -
  - (a) personally; or
  - (b) by post; or
  - (c) by electronic means; or
  - (d) by leaving it on or in the premises of the person.

(3) It is sufficient for the notice to be addressed in a letter format, containing the charge and the facts on which an offence has been committed and the appropriate fine.

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(4) A person alleged to have committed an offence to which Subsection (1) applies has the right to decline to be dealt with under this section.

(5) For the purposes of Subsection (3), a person who fails to pay, within the time specified in the notice or such further time as is allowed in any particular case, the penalty to which a notice under Subsection (1) relates shall be deemed to have declined to be dealt with under this section.

(6) Where the amount of the prescribed penalty for an alleged offence is paid in accordance with this section, no person is liable to any further proceedings for the offence.

(7) Payment, in accordance with this section, of a penalty in respect of an alleged offence -

(a) shall not be regarded as an admission of liability for the purposes of this Regulation; and

(b) does not affect or prejudice, any criminal proceedings, other than proceedings for the alleged offence or any civil claim, action or proceeding arising out of the same occurrence.

(8) A penalty prescribed for the purposes of this section for a prescribed offence shall not exceed the maximum amount of penalty that could be imposed for the offence by a court.

(9) Subject to Subsection (5) and (6), this section is supplementary to, and not in derogation of, any other provision of the Act, this Regulation or any other law in relation to proceedings that may be taken in respect of prescribed offences.

(10) Notwithstanding the Constitutional provisions relating to the imposition of a fine without a Court hearing, it is in the National interest for the benefit of public safety for an 'On The Spot' infringement fine to be imposed as a form of penalty according to the offender's desire.

#### **57. POWERS OF ARREST.**

(1) Notwithstanding any other law but subject to the provisions of the *Arrest Act* (Chapter 339), this section applies to and in relation to an arrest for an offence made by or under this Regulation.

(2) A policeman, an authorised officer or agent of the Authority may, without warrant, arrest a person whom they believe on reasonable grounds:

(a) is committing; or

(b) has committed an offence,

under this Regulation.

(3) For the purposes of this section a "policeman" means a member of the Police Force and includes Reserve Constabulary.

*Civil Aviation Aircraft Certification and Maintenance (Offences)*

MADE this Tuesday, 12<sup>th</sup> day of April, 2022.

  
GOVERNOR-GENERAL.