FSM CIVIL AVIATION (SECURITY) REGULATIONS 2015

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THE CIVIL AVIATION (SECURITY) REGULATIONS,

PART I - PRELIMINARY

1. Citation
These Regulations may be cited as the Civil Aviation (Security) Regulations, 2015.

2. Application of Regulations
(1) These Regulations apply to-

(a) all aerodromes in FSM;

(b) passengers in commercial aviation;

(c) persons at airports;

(d) persons working in the aviation industry;

(e) persons who occupy land or buildings forming part of an airport; and

(f) persons on land adjoining or adjacent to, or within the vicinity of airports or air navigation installations which do not form part of an airport.

(2) Notwithstanding the generality of subregulation (1), these Regulations apply to-

(a) operators or owners of airports;

(b) operators or owners of aircraft registered in FSM or aircraft registered in another state and operating in FSM;

(c) managers of air navigation installations;

(d) persons permitted to have access to security restricted areas at an airport;

(e) persons who offers goods for transport by air; and

(f) any person whose conduct amounts to an act of unlawful interference or endangers aviation safety.

(3) Nothing in these Regulations applies to or affects-

(a) a state aircraft; or

(b) military or police aviation operations in FSM.

3. Purpose of Regulations
The purpose of these Regulations is-

(a) to safeguard and enhance aviation security against acts of violence or unlawful interference by providing for the protection of-

(i) aircraft used for civil aviation, and persons and property on board such aircraft;

(ii) airports, and persons and property at airports;

(iii) air navigation installations which are not part of airports; and

(b) to regulate the conduct of persons at airports and persons on board aircraft for the purposes of aviation security.

4. Interpretation
In these Regulations, unless the context requires otherwise-

"Act" means [Insert title of principal Act];

"act of unlawful interference" means an act or attempted act to jeopardise the safety of civil aviation and air transport, including but not limited to-

(a) unlawful seizure of an aircraft in flight or on the ground;

(b) hostage taking on board an aircraft or at an airport;

(c) forcible intrusion on board an aircraft at an airport or on the premises of an aeronautical facility;

(d) introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes;

(e) unauthorised possession, at an airport, or unauthorised introduction on board an aircraft, of a weapon or hazardous device or material;

(f) destroying or damaging air navigation facilities or interfering with their operation, if any such act is likely to endanger the safety of aircraft in flight;

(g) violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft;

(h) destroying an aircraft in service or causing damage to the aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;

(i) communicating information which is known to be false, thereby endangering the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public at an airport or on the premises of a civil aviation facility;

(j) unlawfully and intentionally using any device, substance or weapon:

(i) to perform an act of violence against a person at an airport serving civil aviation which causes or is likely to cause serious injury or death;

(ii) to destroy or seriously damage the facilities of an airport serving civil aviation or an aircraft not in service located at the airport or disrupting the services of the airport,

if that act endangers or is likely to endanger safety at that airport;

"airport" means a defined area on land or water, including any buildings, installations and equipment, intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft; and includes an aerodrome;

"airport operator" includes an individual, organisation or enterprise, however designated, for the time being responsible for the administration and operation of an airport;

"airport security permit" means a permit issued under regulation 25(3);

"airside" means the movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is controlled;

"authorised person" means a person designated by the Authority under regulation 8 to be an authorised person for the purposes of these Regulations;

"Authority" means the Civil Aviation Authority established by [Insert title of establishing Act];

"aviation security officer" means a person employed by an operator as defined in this regulation to carry out security controls;

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"background check" means a check of a person's identity and previous experience, including, where legally permissible, any criminal history as part of the assessment of an individual's suitability to implement a security control or for unescorted access to a security restricted area;

"cargo" means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage;

“catering stores” means all items, other than catering supplies, associated with passenger in-flight services, including newspapers, magazines, headphones, audio and video tapes, pillows, blankets and amenity kits;

“catering supplies” means all food, beverages, other dry stores and associated equipment used in air transport;

“certified” means a formal evaluation and confirmation by or on behalf of the Authority that a person possesses the necessary competencies to perform assigned functions to an acceptable level as defined by the Authority;

“civil aviation” includes-

(a) commercial air transport operations; and

(b) general aviation operations;

“COMAIL” means an abbreviation of commercial air transport operator company mail, shipped within its network of stations;

“COMAT” means an abbreviation of commercial air transport operator company materials, shipped within its network of stations;

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

“disruptive passenger” means a passenger who fails to comply with the rules of conduct at an airport or on board an aircraft or to follow the instructions of the airport staff or aircraft crew members and thereby disturbs the good order and discipline at an airport or on board an aircraft;

“general aviation operation” means an aircraft operation other than a commercial air transport operation or an aerial work operation;

“goods” includes cargo and mail;

“human performance” means human capabilities and limitations which have an impact on the safety, security and efficiency of aeronautical operations;

“known stores” means catering supplies and stores delivered to an aircraft operator and that have been subjected to appropriate security controls;

"landside" means an area of an airport and buildings on it to which the non-traveling public has free access;

“mail” means dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union (UPU);

“Minister” means the minister responsible for civil aviation;

“operator” includes an airport operator, an aircraft operator, a regulated agent and a catering operator;

“prohibited item” means an item prescribed in regulation 37 and which can be used to commit an act of unlawful interference;

“regulated agent” means an agent, freight forwarder or other entity who conducts business with an operator and provides security controls that are accepted or required by the Authority;

“sabotage” means an act or omission, intended to cause malicious or wanton destruction of property, endangering or resulting in unlawful interference with civil aviation and its facilities;

"screening" means the application of technical or other means which are intended to identify or detect weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference;

"security" means safeguarding civil aviation against acts of unlawful interference through a combination of measures and human and material resources;

“security audit” means an in-depth compliance examination of all aspects of the implementation of the National Civil Aviation Security Programme;

“security control” is a means by which the introduction of weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference can be prevented;

“security inspection” means an examination of the implementation of relevant National Civil Aviation Security Programme requirements by an airline, airport, or other entity involved in security;

“security restricted area” means airside areas of an airport which are identified as priority risk areas where, in addition to access control, other security controls are applied and includes, inter alia, all passenger departure areas between the screening checkpoint and the aircraft, the ramp, baggage make-up areas, including those where aircraft are being brought into service and screened baggage and cargo are present, cargo sheds, mail centres, airside catering and aircraft cleaning premises;

"security survey" means an evaluation of security needs, including the identification of vulnerabilities which could be exploited to carry out an act of unlawful interference and the recommendation of corrective actions;

"security test" means a covert or overt trial of an aviation security measure which simulates an attempt to commit an unlawful act;

"technical instructions" means the ICAO Technical Instructions for the Safe Transportation of Dangerous Goods by Air, Doc.9284;

"unidentified baggage" means baggage at an airport, with or without a baggage tag which is not picked by or identified with a passenger, and includes unattended baggage;

"unknown stores" means supplies and stores that have not have been subjected to appropriate security controls.

PART II – ORGANISATION

5. Functions of Authority in relation to aviation security
(1)The Authority shall-

(a) be responsible for the regulation of aviation security in FSM;

(b) regulate the security operations of airports, aircraft, regulated agents and catering operators, as the case may be, for the purpose of -

(i) protecting passengers, crew members, airport, and other aviation facilities;

(ii) preventing unlawful interference against civil aviation; and

(iii) assuring that appropriate action is taken when an act of unlawful interference occurs or is likely to occur;

(c) define and allocate tasks and coordinate activities under the National Civil Aviation Security Programme, between the ministries, departments, agencies and other organisations responsible for the various aspects of aviation security.

(2) The Authority shall, in respect of each operator-

(a) conduct security surveys to identify security needs at least once in each year;

(b) conduct security inspections and audits of security controls; and

(c) conduct security tests of security controls to assess their effectiveness.

6. Power to access and inspect airport, aircraft and operator's premises
The Authority shall have free and unobstructed access at all times to an airport, an aircraft operating from or within FSM, and the premises of an operator within FSM, for the purpose of inspecting security operations or to carry out security inspections and surveys, safety and security audits and testing functions.

7. Power of Authority to issue orders, circulars and directives
The Authority may make and issue orders, circulars and directives prescribing any aviation security matter which, under these Regulations, is to be prescribed, and generally for the better carrying out or enhancing of the objects and purposes of these Regulations.

8. Authorised persons
The Authority may, in writing, designate qualified persons, whether by name or by title of office, to be authorised persons for the purposes of these Regulations and shall state the functions and limits of operation of the authorised persons.

PART III - SECURITY PROGRAMMES

9. National Civil Aviation Security Programme
(1) The Authority shall –

(a) establish a written National Civil Aviation Security Programme and ensure its implementation to safeguard civil aviation against acts of unlawful interference through regulations, practices and procedures which take into account the safety, regularity and efficiency of flights; and

(b) make available to airports and aircraft operators operating in FSM and other operators and entities concerned, a written version of the appropriate part of the National Civil Aviation Security Programme.

(2) Without limiting the generality of subregulation (1) (a), the National Civil Aviation Security Programme shall include the following matters –

(a) allocation of responsibilities for implementation of the programme;

(b) co-ordination, facilitation and communications;

(c) protection of airports, aircraft and navigation facilities;

(d) security control of persons and items being placed on board aircraft;

(e) security equipment;

(f) personnel, including selection criteria and training;

(g) management of response to acts of unlawful interference;

(h) evaluation of effectiveness of the programme;

(i) adjustment of the programme and contingency plans; and

(j) financing of security.

(3) The National Civil Aviation Security Programme shall be reviewed and updated as the need may arise and at least once in each year.

10. National Civil Aviation Security Committee
(1) There shall be a National Civil Aviation Security Committee for the purpose of –

(a) advising and coordinating security activities between ministries, departments, agencies and other organisations of FSM, airports and aircraft operators and other entities concerned with or responsible for the implementation of various aspects of the National Civil Aviation Security Programme; and

(b) recommending and reviewing the effectiveness of security measures and procedures.

(2) The National Civil Aviation Security Committee shall be appointed by the Minister and shall consist of persons from ministries, departments, agencies and other organisations of the FSM, airports and aircraft operators and other related entities.

(3) Without limiting the generality of subregulation (2) the Minister shall, in appointing members of the National Civil Aviation Security Committee, ensure that it comprises one member from each of the following departments, agencies or organisations-

(a) the Authority;

(b) the Chairperson of the National Air Transport Facilitation Committee;

(c) the airport authority;

(d) the ministry responsible for security or internal affairs;

(e) intelligence organisations;

(f) the police;

(g) the armed forces;

(h) the department responsible for immigration;

(i) associations of domestic or local and international scheduled airlines;

(j) the national regulatory agency responsible for communications; and

(k) the department responsible for customs.

(4) The members of the National Civil Aviation Security Committee shall hold office on terms and conditions recommended by the Authority and specified in their instruments of appointment.

(5) The members of the National Civil Aviation Security Committee shall be paid such sitting and other allowances as the Authority may determine.

(6) The head of the Authority shall be the Chairperson of the Committee.

(7) The National Civil Aviation Security Committee may invite any person to attend and take part in the proceedings of the Committee and that person may participate in any discussion at the meeting but shall not have a right to vote at that meeting.

(8) The National Civil Aviation Security Committee shall meet for the discharge of its functions as often as is necessary, at a time and place specified by the Chairperson, and in any case, shall meet at least once in every three months.

(9) Subject to this regulation, the National Civil Aviation Security Committee shall regulate the procedure for its meetings.

11. National Civil Aviation Security Quality Control Programme
(1) The Authority shall develop, implement and maintain a National Civil Aviation Security Quality Control Programme for the purposes of -

(a) determining and monitoring compliance with and validating the effectiveness of the National Civil Aviation Security Programme;

(b) determine the adequacy and effectiveness of the National Aviation Security Programme through audits, tests, surveys and inspections;

(c) ensuring that all persons who are assigned aviation security duties or responsibilities are verifiably trained and instructed to carry out those duties

(d) ensuring that personsimplementing security controls possess all competencies required to perform their duties and are appropriately trained and certified;

(e) ensuring that acts of unlawful interference are investigated; and

(f) reviewing and re-evaluating security measures and controls immediately following an act of unlawful interference.

(2) The Authority shall, in developing the National Civil Aviation Security Quality Control Programme, ensure the incorporation of appropriate methods, means and procedures for-

(a) ensuring that the personnel carrying out security audits, tests, surveys and inspections are trained to appropriate standards for these tasks in accordance with the National Civil Aviation Security Programme;

(b) ensuring that the personnel carrying out security audits, tests, surveys and inspections are afforded the necessary authority to obtain information to carry out those tasks, and to enforce corrective actions;

(c) supplementing the National Civil Aviation Security Quality Control Programme by establishing a confidential reporting system for analysing security information provided by sources including passengers, crew and ground personnel; and

(d) establishing a process to record and analyse the results of the National Civil Aviation Security Quality Control Programme, to contribute to the effective development and implementation of the National Civil Aviation Security Programme, including identifying the causes and patterns of non-compliance and verifying that corrective actions have been implemented and sustained.

(3) The National Civil Aviation Security Quality Control Programme shall-

(a) provide for structures, responsibilities, processes and procedures that promote and establish an environment and culture of continuing improvement and enhancement of aviation security; and the means for ensuring that persons tasked with carrying out security duties do so effectively; and

(b) provide all persons assigned aviation security duties or responsibilities with direction for the effective application of aviation security controls, to prevent acts of unlawful interference.

12. Independence in implementation of programme

The Authority shall ensure that the management, setting of priorities and organisation of the National Civil Aviation Security Quality Control Programme is undertaken independently from the entities and persons responsible for the implementation of the measures taken under the National Civil Aviation Security Programme.

13. Airport Operator Security Programme

(1) A person shall not operate an airport without an Airport Operator Security Programme approved by the Authority.

(2) Every operator of an airport serving civil aviation in FSM shall establish and implement a written Airport Operator Security programme that meets the requirements of the National Civil Aviation Security Programme and these Regulations.

(3) An Airport Operator Security Programme shall-

(a) detail the specific security measures and procedures to be implemented at the airport that comply with the requirements of the National Civil Aviation Security Programme;

(b) provide for the appointment of a person who shall coordinate the implementation of the National Civil Aviation Security Programme;

(c) provide for the establishment of an Airport Security Committee in conformity with the requirements stipulated in the National Civil Aviation Security Programme;

(d) require the integration of the needs of aviation security into the design and construction of new facilities and alterations to existing facilities at the airport;

(e) provide measures to control aircrafts from unlicensed airstrips.

(f) contain a contingency plan providing for matters including-

(i) measures and procedures in case of hijack of aircraft and hostage-taking at the airport and on board aircraft;

(ii) access and procedures in case of sabotage, including bomb threats to aircraft and to the airport;

(iii) access and procedures in case of terrorist attacks on aircraft and the airport, including attacks using manportable air defence systems (MANPADS) or chemical, biological and other weapons;

(iv) procedures when a prohibited item is found or is believed to be on board an aircraft;

(v) evacuation and search of aircraft on the ground;

(vi) special security measures to be enacted during periods of increased threat or for critical flights and routes;

(f) contain any other matter prescribed by the Authority.

(4) An Airport Operator Security Programme shall be in accordance with the requirements prescribed in the National Civil Aviation Security Programme.

(5) The Airport Operator Security Programme shall be reviewed and updated as the need may arise and at least once a year.

14. Aircraft Operator Security Programme
(1) A person shall not operate an aircraft serving civil aviation from or within FSM without an Aircraft Operator Security Programme approved by the Authority.

(2) Every aircraft operator providing service in or from FSM shall establish and implement a written Aircraft Operator Security programme that meets the requirements of the National Civil Aviation Security Programme and these Regulations.

(3) An Aircraft Operator Security Programme shall specify the measures, procedures and practices to be followed by the operator to protect passengers, crew, ground personnel, aircraft and facilities from acts of unlawful interference and shall include, at a minimum-

(a) the objectives of the programme and responsibility for ensuring its implementation;

(b) the organisation of the operator's security functions and responsibilities, including the designation of the operator in charge of aviation security;

(c) specific security measures including-

(i) pre-flight security checks of aircraft;

(ii) procedures for the screening of passengers' cabin baggage and hold baggage if this function is not assigned to the airport operator;

(iii) procedures to ensure that no weapons, explosives and other dangerous devices are left on board by disembarking passengers at transit stops;

(iv) reconciliation of hold baggage with boarding passengers, including transit and transfer passengers;

(v) measures and procedures to ensure safety on board the aircraft where passengers to be carried are obliged to travel as subjects of judicial and administrative proceedings;

(vi) procedures for the carriage of weapons in the cabin compartment and the aircraft hold;

(vii) in-flight procedures when a prohibited item is found or is believed to be on board an aircraft;

(viii) security of, and control of access, to parked aircraft;

(ix) protection of hold baggage, cargo, mail and aircraft catering supplies and stores;

(x) response procedures for crew members and other staff to occurrences and threats;

(xi) protection of flight documents;

(xii) procedures for screening, securing and control of known stores and unknown stores;

(xiii) procedures for application of security controls for COMAIL and COMAT;

(d) measures to ensure the effectiveness of the programme, including adequate training of staff and the periodic testing and evaluation of the security programme;

(e) prevention of unauthorised passengers;

(f) measures to ensure that passengers are in possession of valid documents prescribed by the state of transit and destination for control purposes; and

(g) any other matter prescribed by the Authority.

(4) An Aircraft Operator Security Programme shall be in accordance with the requirements prescribed in the National Civil Aviation Security Programme.

(5) The Aircraft Operator Security Programme shall be reviewed and updated as the need may arise and at least once a year.

15. Regulated Agent Security Programme

(1) A person shall not operate an enterprise or an organisation whose purpose is the movement of cargo, mail, baggage or goods by air within or from FSM without a Regulated Agent Security Programme approved by the Authority and a certificate issued by the Authority-

(2) A Regulated Agent Security Programme shall contain-

(a) provisions to meet the requirements of the National Civil Aviation Security Programme and these Regulations; and

(b) provisions to respond to orders, circulars and directives issued by the Authority under regulation 7;

(c) details of how the regulated agent plans to meet and maintain the requirements set out in the Regulated Agent Security Programme;

(d) procedures for-

(i) ensuring appropriate security control of goods;

(ii) ensuring the security of buildings, premises, transport facilities and access control;

(iii) recruitment and training of staff involved in the implementation of security controls;

(iv) incident reporting;

(e) any other matter prescribed by the Authority.

(3) A Regulated Agent Security Programme shall be set out in the manner prescribed in the National Civil Aviation Security Programme.

(4) The Regulated Agent Security Programme shall be reviewed and updated as the need may arise and at least once a year.

16. Catering Operator Security Programme

(1) A person shall not operate an enterprise or an organisation whose purpose is the direct provision to commercial air transport of catering supplies and stores within or from FSM, without a Catering Operator Security Programme approved by the Authority and a certificate issued by the Authority.

(2) A Catering Operator Security Programme shall contain-

(a) provisions to meet the requirements of the National Civil Aviation Security Programme and these Regulations;

(b) details of how the catering operator intends to comply with, and maintain the requirements set out in the Catering Operator Security programme;

(c) procedures for-

(i) ensuring appropriate security control of catering supplies;

(ii) ensuring the security of buildings, premises and transport facilities;

(iii) recruitment and training of staff involved in the implementation of security controls;

(iv) reporting of incidents;

(d) any other matter prescribed by the Authority.

(3) A Catering Operator Security programme shall be set out in the manner prescribed in the National Civil Aviation Security Programme.

(4) The Catering Operator Security Programme shall be reviewed and updated as the need may arise and at least once a year.

17. Application for approval of security programme
(1) Where a security programme is required to be approved by the Authority under regulations 13, 14, 15 and 16 of these Regulations, the applicant shall-

(a) submit the programme to the Authority, ensuring that it meets the requirements of the National Aviation Security Programme, these Regulations and any other relevant law; and

(b) pay the fee prescribed by the Authority.

(2) A security programme submitted to the Authority for approval under this regulation shall be in duplicate and signed by the applicant or on behalf of the applicant.

18. Approval of security programme
(1) Where the Authority is satisfied that a security programme submitted under regulation 17, meets the requirements of these Regulations, the National Civil Aviation Security Programme and any other relevant law, the Authority shall, within thirty days after receipt of the programme, approve the security programme.

(2) Where the Authority determines that a security programme submitted under regulation 17 does not meet the requirements of these Regulations, the National Civil Aviation Security Programme or relevant law, the Authority shall, within thirty days after receipt of the programme, direct the applicant to modify and re-submit the security programme to the Authority within thirty days after receipt of the programme by the applicant.

(3) Where the Authority is satisfied that a security programme re-submitted under sub regulation (2) meets the requirements of these Regulations, the National Civil Aviation Security Programme and any other relevant law, the Authority shall, within fifteen days, after receipt of the programme, approve the security programme.

19. Changed conditions affecting security

(1) Where a security programme has been approved under regulation 18, the operator, where applicable, shall comply with the procedure prescribed by subregulation (2), whenever the operator determines that-

(a) any description of the area set out in the security programme is no longer accurate;

(b) any description of the operations set out in the security programme is no longer accurate, or that the procedures included, and the facilities and equipment described in the security programme are no longer adequate.

(2) Whenever a situation described in subregulation (1) occurs, the operator, where applicable shall-

(a) immediately notify the Authority of the changed conditions, and identify each interim measure being taken to maintain adequate security until approval is granted for an appropriate amendment of the security programme; and

(b) within thirty days after notifying the Authority in accordance with paragraph (a), submit for approval, in accordance with the procedure prescribed by regulation 17, an amendment to the security programme to bring it into compliance with these Regulations.

(3) The Authority shall, where an amendment to a security programme is submitted to it under subregulation (2) (b), approve the amendment in accordance with the procedure prescribed by regulation 18.

20. Power of Authority to direct amendment of security programme

(1) Where the Authority determines that an operator's security programme requires amendment, the Authority may direct the respective operator to amend the security programme and submit it to the Authority for approval.

(2) The Authority shall, where an amended security programme is submitted to it under subregulation (1), approve the security programme in accordance with the procedure prescribed by regulation 18.

Training Programmes

21. National Aviation Security Training Programme
(1) The Authority shall develop a National Aviation Security Training Programme for personnel of all entities involved with or responsible for the implementation of various aspects of the National Civil Aviation Security Programme.

(2) The Authority shall co-ordinate the implementation of the National Aviation Security Training Programme developed under subregulation (1).

(3) The Authority shall notify the entities concerned of the training requirements identified in the National Aviation Security Training Programme for their implementation.

(4) Entities wishing to establish Aviation security Training Centers shall comply with the requirements of the National Civil Aviation Security Training Programme, these regulations and shall be holders of ATO certificate issued under Civil Aviation (Approved Training Organization) Regulations, ...

22. Operator Aviation Security Training Programme
(1) Every operator shall develop and implement an Aviation Security Training Programme to ensure the effective implementation of their respective security operations; and the training programme shall conform with the requirements of the National Aviation Security Training Programme and these Regulations.

(2) A training programme referred to in subregulation (1) shall include-

(a) training of appropriate employees, taking into account human factors principles and human performance; and

(b) training to acquaint appropriate employees with preventive measures and techniques in relation to passengers, baggage, cargo, mail, equipment, stores and supplies intended for carriage on an aircraft to enable them to contribute to the prevention of acts of sabotage, unlawful seizure of aircraft or other forms of unlawful interference and to minimise the consequences of such events should they occur.

(3) A training programme referred to in subregulation (1) shall be submitted to the Authority for approval in accordance with the procedure prescribed in regulations 17 and 18.

PART IV – PREVENTIVE SECURITY MEASURES

Airport Security

23. Airport Security Committee

(1) Every airport serving civil aviation shall establish an Airport Security Committee.

(2) The functions of the Airport Security Committee are -

(a) to coordinate the implementation and maintenance of security controls and procedures as specified in the Airport Operator's Security programme referred to in regulation 13;

(b) to oversee the implementation of the decisions or directives of the National Civil Aviation Security Committee;

(c) to oversee and monitor the Airport Security Programme, including special measures introduced by the airport administration, operators and airport tenants;

(d) to draw up, maintain and review from time to time, a list of vulnerable points, and of essential equipment and facilities;

(e) to ensure that-

(i) basic minimum-security measures and procedures are adequate to meet threats and are under constant review, providing for normal situations and periods of heightened tension and emergency situations;

(ii) recommendations that improve security measures and procedures are implemented;

(iii) security measures are incorporated in airport expansion or modification programmes;

(f) to prescribe and co-ordinate security education, awareness and training of airport and other staff and the general public.

(3) The Airport Security Committee shall refer to the National Civil Aviation Security Committee, any matter relating to aviation security and which is within its functions under subregulation (2), which cannot be resolved at the airport level.

(4) The director of the airport or the person in charge shall be the chairperson of the Airport Security Committee.

(5) The Chairperson shall appoint the other members of the Airport Security Committee.

(6) The Airport Security Committee shall, where available, consist of members from all agencies engaged in the operation of the airport which contribute to the establishment and implementation of security measures including-

(a) persons in charge of airport administration;

(b) persons in charge of aviation security at the airport;

(c) civil aviation;

(d) armed forces;

(e) police;

(f) immigration;

(g) local authorites;

(h) explosive detection expert;

(i) intelligence agency ;

(j) health;

(k) postal services

(l) fuel companies

(m) handling agents;

(n) in flight caterers;

(o) a representative of the airlines;

(p) a representative of the airport tenants;

(r) air navigation services provider;

(s) fire and rescue services; and

(t) customs.

(7) The Airport Security Committee may invite any person to attend and take part in the proceedings of the Committee and that person may participate in any discussion at the meeting but shall not have a right to vote at that meeting.

(8) The Chairperson shall convene every meeting of the Airport Security Committee and the Committee shall meet for the discharge of business at least once in every month to ensure that the security programme is up to date and effective and that its provisions are being properly applied.

24. Airport security controls

(1) An airport operator shall maintain and carry out security measures and procedures at the airport for the purpose of protecting passengers, crew members, aircraft, airports and aviation facilities and preventing acts of unlawful interference and ensuring that appropriate action is taken when an act of unlawful interference occurs or is likely to occur.

(2) Every operator of an airport serving civil aviation shall be responsible for the security of the facilities and equipment at the airport and shall-

(a) institute and maintain measures to prevent weapons, explosives or any other dangerous device which may be used to commit an act of unlawful interference, the carriage or bearing of which is not authorised, from being introduced, by any means, on board an aircraft engaged in civil aviation;

(b) ensure that –

(i) access to airside areas at the airport is controlled in order to prevent unauthorised entry;

(ii) security restricted areas are established at the airport, in accordance with regulation 25;

(iii) architectural and infrastructure related requirements necessary for the optimum implementation of security measures under the National Civil Aviation Security programme are integrated into the design and construction of new facilities and alterations to existing facilities at airports;

(iv) persons engaged to implement security controls are subject to background checks and selection procedures, are capable of fulfilling their duties and are adequately trained;

(v) originating passengers and their cabin baggage are screened before boarding an aircraft engaged in commercial air transport operations;

(vi) originating hold baggage is screened before being loaded into an aircraft engaged in commercial air transport operations;

(vii) all hold baggage to be carried on aircraft engaged in commercial air transport is protected from unauthorised interference from the point it is screened or accepted into the care of the carrier, whichever is earlier, until departure of the aircraft on which it is to be carried; and that where the integrity of hold baggage is jeopardized, the hold baggage is re-screened before being placed on board an aircraft;

(viii) commercial air transport operators do not transport the baggage of passengers who are not on board the aircraft unless that baggage is identified as unaccompanied and subjected to additional screening subsequent to it being established as unidentified;

(ix) transfer hold baggage is screened before being loaded into an aircraft engaged in commercial air transport operations, unless the airport operator has established a validation process and continuously implements procedures, in collaboration with the other Contracting State where appropriate, to ensure that such hold baggage has been screened at the point of origin and subsequently protected from unauthorised interference from the originating airport to the departing aircraft at the transfer airport;

(x) commercial air transport operators only transport items of hold baggage which have been individually identified as accompanied or unaccompanied, screened to the appropriate standard and accepted for carriage on that flight by the air carrier and that all such baggage is recorded as meeting these criteria and is authorised for carriage on that flight;

(xi) transfer and transit passengers and their cabin baggage are subjected to adequate security controls to prevent unauthorised articles from being taken on board aircraft engaged in civil aviation;

(xii) there is no possibility of mixing or contact between passengers subjected to security control and other persons not subjected to such control after the security screening points at airports serving civil aviation have been passed; and that where mixing or contact does take place, the passengers concerned and their cabin baggage are re-screened before boarding an aircraft;

(xiii) the persons carrying out security controls are certified according to the requirements of the National Civil Aviation Security Programme;

(xiv) luggage or personal belongings left unattended at an airport are subjected to appropriate security controls and disposal procedures;

Where practicable, in order to improve efficiency, modern screening or examination techniques shall be used to facilitate the physical examination of goods to be imported or exported.

(c) establish –

(i) storage areas where mishandled baggage may be held after screening until forwarded, claimed or disposed of;

(ii) bomb disposal areas where detected explosives may be disposed of;

(iii) person and vehicle identification systems;

(d) institute and implement adequate security controls, including background checks on persons other than passengers granted unescorted access to security restricted areas of the airport;

(e) provide adequate supervision over the movement of persons and vehicles to and from the aircraft in order to prevent unauthorised access to aircraft;

(f) make investigation and disposal, if necessary, of suspected sabotage devices or other potential hazards at the airport;

(g) employ and deploy suitably trained personnel to assist in dealing with suspected or actual cases of unlawful interference with civil aviation;

(h) conduct a full scale contingency exercise that incorporates security scenarios at least once in every three years;

(i) conduct a table top contingency exercise at least once a year.

25. Security restricted areas and airport security permits

(1) The Authority, in conjunction with the airport operator and other responsible persons concerned, shall identify areas where, based on a security risk assessment carried out by the Authority, operations vital to the continued safe operation of civil aviation in FSM are carried out, and designate those areas as security restricted areas.

(2) An area designated as a security restricted area shall-

(a) be marked and protected through physical or personnel protective measures or through a combination of physical and personnel protective measures to prevent unauthorised access to it;

(b) be separated from public or non-security restricted areas by an appropriate physical barrier; and

(c) be inspected at regular intervals.

(3) Authorised access to a security restricted area at every airport and designated off-airport facilities serving commercial air transport operations shall be controlled through the issuance of airport security permits.

(4) A person issued with an airport security permit under this regulation shall, while on duty, at all times properly display the security permit.

(5) Designated authorities responsible for controlling access to security restricted areas shall specify the recognised places of entry through the security restricted area barrier and ensure that the area has adequate physical protection, of at least the same quality as the barrier itself, or is enough to prevent unauthorised access.

(6) All areas at an airport to which access is restricted shall bear signage indicating the type of restriction and penalty for non-compliance.

(7) An airport operator shall keep, at the airport, a current scale map of the airport identifying security restricted areas, security barriers and security restricted area access points.

26. Airport boundary
An airport operator shall ensure that-
(1) the airport has a conspicuous physical barrier or means of indicating the airport boundary with posted signs bearing a warning to prevent incursions and trespassing.

(2) measures are in place to ensure continuous protection and monitoring of the integrity of the perimeter to prevent incursions and trespassing.

27. Carriage of firearms, explosives or inflammable materials in airport premises
(1) Except for law enforcement officers on duty, no person shall carry or possess, in airport premises, firearms, explosives or inflammable materials or weapons, unless authorised by the Authority in writing.

(2) An airport operator shall ensure that no unauthorised person carries firearms, explosives or inflammable materials within the airport premises.

28. Control of access by tenants
(1) The airport operator shall ensure that tenants whose premises or facilities form part of the landside or airside boundary through which access can be gained to the airside are responsible for control of access through their premises, and shall carry on business in compliance with the Airport Operator Security Programme.

(2) In subregulation (1), "tenants" means-

(a) individuals or businesses granted a licence or other permit by the airport operator to conduct business operations at the airport, including concessionaires, cargo handlers, caterers, tour operators, taxi and bus operators, porters, aircraft maintenance organisations and fuel companies; and

(b) Government authorities and agencies at the airport, including customs, immigration, health, agriculture and meteorology.

29. Obligation of airport operator in case of threat against facility or airport
Where an airport operator is made aware of a threat against his or her facility or any part of the airport under the control of a person carrying on any activity at the airport other than the airport operator, the airport operator shall immediately-

(a) notify the Authority and other entities concerned with the nature of the threat; and

(b) determine whether the threat affects the security of the airport and coordinate the implementation of appropriate measures to counter any threat.

30. Persons authorised to screen to inform airport operator of threat against airport
Where a person authorised to conduct any screening activity at an airport is made aware of a threat against the airport, that person shall-

(a) immediately notify the airport operator of the nature of the threat; and

(b) assist the airport operator in determining whether the threat affects the security of the airport.

31. Airport operator to take measures in event of threat
(1) Where an airport operator determines that there is a threat that affects the security of the airport, the airport operator shall immediately take all measures necessary to ensure the safety of the airport and persons at the airport, including informing the relevant parties of the nature of the threat.

(2) An airport operator shall immediately inform the Authority of the receipt of a bomb threat against an airport and its facilities, or an aircraft.

32. Discovery of weapons, incendiary devices or explosives at airport
An airport operator shall immediately notify the Authority when there is-

(a) discovery, at the airport, of a weapon other than a firearm allowed under regulation 27;

(b) discovery, at the airport, of an explosive substance or an incendiary device, other than an explosive substance or incendiary device allowed under regulation 27; or

(c) an explosion at the airport, unless the explosion is known to be the result of an excavation, a demolition, construction or the use of fireworks displays.

33. Airport operator to submit plans before renovation and expansion works
(1) Notwithstanding regulation 24(2)(b)(iii), an airport operator shall, before the implementation of any renovation, remodeling or expansion works at the airport, or the construction of new or additional airport facilities, submit to the Authority for its approval, the plans for the renovation and expansion works.

(2) The Authority shall, in approving the plans submitted to it under subregulation (1), assess the plans to ensure that security considerations are properly addressed and that the needs of aviation security are integrated in the configuration of the works.

Records

34. Operators to keep records
(1) Every operator shall keep a record of every security incident occurring in the course of their operations.

(2) A record required to be kept under sub regulation (1), shall-

(a) be kept for a minimum of ninety days;

(b) be submitted to the Authority within thirty days after the occurrence of the incident; and

(c) where relevant, include-

(i) the number and type of weapons and incendiary devices discovered during any passenger screening process and the method of detection of each;

(ii) the number of acts and attempted acts of unlawful interference;

(iii) the number of bomb threats received, real and simulated bombs found and actual bombings or explosions at the airport; and

(iv) the number of detentions and arrests and the immediate disposition of each person detained or arrested.

Aircraft Security

35. Responsibilities of aircraft operators
(1) An aircraft operator providing service from FSM shall not-

(a) transport the baggage of a passenger who is not on board the aircraft unless that baggage is subjected to appropriate security controls, including screening, after determining that the person is not on board;

(b) accept consignments of cargo, courier and express parcels or mail for carriage on passenger flights, unless the security of the consignments is accounted for by a regulated agent, or the consignments are subjected to security controls to meet the appropriate security requirements.

(2) An aircraft operator providing service in or from FSM shall-

(a)carry out and maintain, at an airport, on an aircraft and at any aviation facility under the control of the operator, security measures prescribed in the National Civil Aviation Security Programme and the Airport Security Programme;

(b) ensure that-

(i) all its appropriate personnel are familiar with, and comply with the requirements of the National Civil Aviation Security Programme;

(ii)necessary precautions are taken at the point of embarkation to ensure that passengers are in possession of valid documents prescribed by the state of transit and destination for control purposes..

(iii) all its aircraft carry a checklist of the procedures to be complied with for that type of aircraft in searching for concealed weapons, explosives or other dangerous devices.

(c) be responsible for the security of his or her aircraft;

(d) ensure that persons engaged to implement security controls are subject to background checks and selection procedures, are capable of fulfilling their duties and are adequately trained; and

(e) institute and implement adequate security controls, including background checks on persons other than passengers granted unescorted access to security restricted areas of the airport.

36. Special protection for aircraft
(1) An aircraft operator may, notwithstanding regulation 35(2) (c), request for special protection of an aircraft from an airport operator.

(2) Where special protection is offered to an aircraft operator under subregulation (1), the protection shall be on terms and conditions determined by the airport operator.

37. Control of prohibited items
(1) No person shall, subject to regulation 25, possess or have with him or her a prohibited item while –

(a) in a security restricted area;

(b) on board an aircraft; or

(c) in an air navigation installation.

(2) The prohibited items referred to in subregulation (1) include-

(a) firearms or articles appearing to be firearms, whether or not they can be discharged;

(b) chemical or biological agents adapted, or capable of being used for causing injury to or incapacitating persons or damaging or destroying property;

(c) explosives;

(d) articles manufactured or adapted to have the appearance of explosives, whether in the form of a bomb, grenade or otherwise;

(e) articles made or adapted for causing injury to or incapacitating persons or damaging or destroying property; and

(f) any other dangerous article or substance or other item prescribed by the Authority from time to time.

38. Control of access to flight crew compartment
An aircraft operator engaged in commercial air transport shall-

(a) where an aircraft is equipped with a flight crew compartment door, ensure

that the door is lockable from the flight crew compartment only and remains locked during flight, except to permit access and exit by authorised persons; and

(b) where an aircraft is not equipped with a flight crew compartment door, ensure the implementation of measures as appropriate to prevent unauthorised persons from entering the flight crew compartment during flight.

39. Control of special categories of passengers

(1) Law enforcement officers shall inform the aircraft operator and the pilot in command when passengers are obliged to travel because they have been the subject of judicial or administrative proceedings, in order that appropriate security controls can be applied.

(2) The aircraft operator shall inform the pilot in command of the number of armed or unarmed escort persons, the individuals whom they are escorting and their seat locations in the aircraft.

40. Authorised carriage of weapons on board aircraft

(1) The carriage of weapons on board aircraft by law enforcement officers and other authorised persons, acting in the performance of their duties, shall be in accordance with the laws of FSM.

(2) [Subject to subregulation (3)], the Authority may-

(a) approve, in writing, the carriage of weapons on board aircraft by law enforcement officers and other authorised persons acting in the performance of their duties;

(b) consider requests by any other State to allow the travel of armed personnel on board aircraft of the requesting State, except that the Authority shall not allow the travel of armed personnel under this regulation unless there is an agreement between both States on such travel.

(3) [Notwithstanding subregulation (2)], an aircraft operator may allow or refuse the carriage of weapons on board an aircraft in accordance with conditions issued by the Authority.

(4) Where an aircraft operator accepts the carriage of weapons removed from passengers, the aircraft shall have provision for stowing the weapons so that they are inaccessible to passengers during flight time and, in the case of a firearm, to ensure that it is not loaded.

(5) Where FSM decides to deploy in-flight security officers-

(a) the officers shall be government personnel who are especially selected and trained, taking into account the safety and security aspects on board an aircraft; and

(b) the officers shall be deployed according to the threat assessment of the Authority.

(6) The deployment under subregulation (5) shall be done in be co-ordination with concerned states and shall be kept strictly confidential.

Regulated Agents

41. Conditions for acceptance of goods for air transportation

(1) A regulated agent shall, before accepting goods for transport in an aircraft-

(a) establish and register the name and address of the consignor;

(b) establish the credentials of the person who delivers the goods as an agent of the consignor;

(c) ensure, on the basis of appropriate security controls or security screening, that such goods do not contain any prohibited items;

(d) ensure the safeguarding of such goods from unauthorised interference after acceptance;

(e) ensure the goods are received by staff who are properly recruited and trained;

(f) designate a person to implement and supervise the screening process;

(g) ensure that the following categories of goods are not carried by air unless they have been subjected to screening-

(i) unaccompanied baggage;

(ii) goods from unknown consignors;

(iii) goods for which the contents do not coincide with the description delivered; and

(h) ensure that each shipment of goods is accompanied by documentation providing the statement of the security status of the shipment.

(2) A regulated agent who offers goods to an aircraft operator for transport by aircraft shall produce and make available to the aircraft operator, and the Authority on demand, shipping documents, records of goods accepted and offered for air transport, employee training records and airway bills.

(3) A regulated agent shall make available to the Authority, a report of any incident where a shipping document did not provide an accurate record of the goods being offered for air transport.

(4) All cargo and mail intended for carriage on passenger commercial flights shall be subjected to appropriate security controls by aircraft operators and regulated agents before being placed on board an aircraft.

42. Conditions for acceptance of baggage, goods, COMAT and COMAIL for air transportation

For the purpose of protecting passengers, crew members, aircraft and airports and preventing acts of unlawful interference with civil aviation, every regulated agent shall establish measures to ensure that –

(a) only screened baggage is loaded into aircraft engaged in civil aviation;

(b) all hold baggage to be carried on commercial aircraft is protected from unauthorised interference from the point it is screened or accepted into the care of the carrier, whichever is earlier, until departure of the aircraft on which it is to be carried; and that if there are grounds to suspect that that the integrity of hold baggage may be jeopardised, the hold baggage is re-screened before being placed on board an aircraft;

(c) persons engaged to implement security controls are subject to background checks and selection procedures, are capable of fulfilling their duties and are adequately trained; and

(d) the regulated agent institutes and implements adequate security controls, including background checks on persons other than passengers granted unescorted access to security restricted areas.

(e) COMAT and COMAIL are subjected to appropriate security controls prior to placement on board an aircraft engaged in passenger commercial flights.

43. Security measures to be taken by aircraft operators

(1) The aircraft operator is responsible for ensuring that appropriate security controls have been carried out, and in so doing, the aircraft operator shall-

(a) carry out appropriate security controls to be applied to any given consignment, to the required level;

(b) protect the consignment from unlawful interference while it is in the custody of the aircraft operator

(c) ensure that all consignments have been secured to an appropriate level before being placed in the aircraft; and

(d) ensure that all consignments placed on board the aircraft are recorded on the aircraft manifest.

(2) The aircraft operator may delegate any of the functions under subregulation (1) to a regulated agent.

(3) For the avoidance of doubt, notwithstanding the delegation of any functions to a regulated agent under subregulation (2), the aircraft operator shall remain responsible for ensuring that the appropriate security controls have been carried out.

(4) The aircraft operator or the regulated agent shall ensure that all consignments due to be loaded into an aircraft are -

(a) delivered by an established employee of a handling agent;

(b) covered by valid documentation that has been checked for inconsistencies and fully describes the contents;

(c) covered by a valid consignment security declaration;

(d) checked to establish that there is no evidence of having been tampered with;

(e) kept secure until delivered into the aircraft operator's charge; or

(f) subjected to the appropriate level of security screening.

(5) An aircraft operator shall make available to the Authority, a report of any incident where an airway bill or equivalent document did not provide an accurate record of the goods being offered for air transport.

(6) An aircraft operator shall require a regulated agent operator to comply with the ICAO Technical Instructions for the Safe Transportation of Dangerous Goods by Air, Doc. 9284.

(7) Appropriate security controls referred to in this regulation shall be as prescribed by the Authority.

Catering Operators

44. Aviation security responsibilities of catering operator
(1) A catering operator shall, before accepting supplies and equipment for preparation as catering supplies for transport in an aircraft-

(a) establish and register the name and address of the supplier of the supplies and equipment;

(b) establish the credentials of the person who delivers the supplies and equipment as an agent of the supplier of the supplies and equipment;

(c) ensure, on the basis of appropriate security controls or security screening, that the supplies and equipment do not contain any prohibited items;

(d) ensure the safeguarding of the supplies and equipment from unauthorised interference after acceptance;

(e) ensure the supplies and equipment are received by staff who are properly recruited and trained by the operator;

(f) designate a person to implement and supervise the screening process;

(g) ensure that catering stores and supplies are not carried by air unless they have been subjected to screening;

(h) ensure that each shipment of catering stores and supplies is accompanied by documentation providing the statement of the security status of the shipment;

(i) ensure that persons engaged to implement security controls are subject to background checks and selection procedures, are capable of fulfilling their duties and are adequately trained;

(j) institute and implement adequate security controls, including background checks on persons other than passengers granted unescorted access to security restricted areas of the airport.

(2) A catering operator who offers catering stores and supplies to an aircraft operator for transport by aircraft shall produce and make available to the aircraft operator, and the Authority on demand, shipping documents, records of supplies and equipment accepted and catering stores and supplies offered for air transport, employee training records and other accountable catering documents.

45. Conditions for acceptance of catering stores and supplies for air transportation
(1) An aircraft operator shall accept catering stores and supplies for transport on an aircraft only from a catering operator.

(2) An aircraft operator shall, before accepting catering stores and supplies for transport on an aircraft, ensure-

(a) that the catering stores and supplies have been subjected to screening;

(b) the safeguarding of the catering supplies and stores against unlawful interference until the catering supplies and stores have been placed in the aircraft;

(c) that the shipments of catering supplies and stores are recorded; and

(d) that whenever the catering supplies and stores are received, those catering supplies and stores are delivered by an authorised employee of the catering operator.

(3) An aircraft operator shall not accept any catering supplies and stores for transport by aircraft unless the documentation for those catering supplies and stores is examined for inconsistencies and is accompanied by a valid security declaration.

(4) An aircraft operator shall require a catering operator to comply with the ICAO Technical Instructions for the Safe Transportation of Dangerous Goods by Air, Doc. 9284.

(5) An aircraft operator shall make available to the Authority, a report of any incident where a catering or equivalent document did not provide an accurate record of the catering supplies and stores being offered for air transport.

(6) An aircraft operator shall preserve, for not less than one year, a record of acceptance checklists and inspections carried out under this Part.

PART V – MANAGEMENT OF RESPONSE TO ACTS OF UNLAWFUL INTERFERENCE

46. Prevention of acts of unlawful interference
(1) The Authority shall take adequate measures, when reliable information exists that an aircraft may be subjected to an act of unlawful interference-

(a) if the aircraft is on the ground, to safeguard the aircraft and ensure that the aircraft is searched for concealed weapons, explosives or other dangerous devices, articles or substances; and prior notification of the search shall be provided to the operator concerned;

(b) if the aircraft is in flight, to provide as much prior notification as possible of the arrival of that aircraft to relevant airport authorities and air traffic services of the States and aircraft and airport operators concerned;

(2) The Authority shall ensure that arrangements are made to investigate, render safe or dispose of, if necessary, suspected dangerous devices or other potential hazards at airports.

(3) The Authority shall ensure that authorised and suitably trained personnel are readily available for deployment at every airport serving civil aviation to assist in dealing with suspected or actual cases of unlawful interference.

47. Authority's response to acts of unlawful interference
The Authority shall-

(a) take adequate measures for the safety of passengers and crew of an aircraft which is subjected to an act of unlawful interference while on the ground until their journey can be continued;

(b) collect all pertinent information on the flight which is the subject of an act of unlawful interference and transmit that information to all other States responsible or the Air Traffic Services units concerned, including those at the airport of known or presumed destination, so that timely and appropriate safeguarding action may be taken en-route and at the aircraft's known, likely or possible destination;

(c) provide such assistance to an aircraft subjected to an act of unlawful seizure, including the provision of navigation aids, air traffic services and permission to land as may be necessitated by the circumstances;

(d) notify the State of registry of an aircraft and the State of the operator of the landing aircraft subjected to an act of unlawful interference, and shall similarly transmit, by the most expeditious means, all other relevant information to-

(i) the state of registry and the state of the operator;

(ii) each State whose citizens suffered fatalities or injuries;

(iii) each State whose citizens were detained as hostages;

(iv) each state whose citizens are known to be on board the aircraft; and

(v) the International Civil Aviation Organisation.

48. Mandatory reporting
(1) Every operator shall, where an act of unlawful interference occurs, immediately notify the Authority.

(2) Every aircraft operator, pilot in command, airport operator or air navigation service provider shall submit to the Authority-

(a) a preliminary written report, within fifteen days after the occurrence of an act of unlawful interference, including sabotage, threats, hijacks, incidents and disruptive passengers; and

(b) a final written report, upon completion of investigations, but within thirty days after the occurrence of an act of unlawful interference, including sabotage, threats, hijacks, incidents and disruptive passengers.

49. Notification to the International Civil Aviation Organisation

(1) The Authority shall, where an act of unlawful interference has occurred, provide the International Civil Aviation Organisation with a report on each incident, whether successful or unsuccessful as follows-

(a) a preliminary report, within thirty days after the occurrence of the act, containing all pertinent information concerning the security aspects of the occurrence; and

(b) a final report, within sixty days after completion of investigations.

(2) The Authority shall provide copies of reports submitted to the International Civil Aviation Organisation under this regulation to other States which may have an interest.

PART VI - OFFENCES AND PENALTIES

50. Offences committed at airports

(1) Any person who commits, at an airport or its related facilities, any of the following acts commits an offence-

(a) assault, intimidation or threat, whether physical or verbal, against an aviation security officer or authorised person if the act interferes with the performance of the duties of the aviation security officer or authorised person or lessens the ability of the aviation security officer or authorised person to perform those duties;

(b) refusal to follow a lawful instruction given by the airport operator or on behalf of the Authority by an aviation security officer or authorised person for the purpose of ensuring the safety at the airport or of any person or property at the airport or for the purpose of maintaining good order and discipline at the airport;

(c) an act of physical violence against an aviation security officer or authorised person on duty;

(d) intentionally causing damage to, or destruction of, property.

(2) A person who commits an offence under subregulation (1) is liable, on conviction, to a fine not exceeding [ ] or to imprisonment not exceeding [……..], or both.

(3) An airport operator who fails to notify the Authority or other party concerned of a threat under regulation 29 commits an offence and is liable, on conviction, to a fine not exceeding […….] or to imprisonment for a term not exceeding […….] or both.

51. Offences committed against crew on board aircraft
(1) Any person who commits on board a civil aircraft any of the following acts commits an offence-

(a) assault, intimidation or threat, whether physical or verbal, against a crew member if the act interferes with the performance of the duties of the crew member or lessens the ability of the crew member to perform his or her duties;

(b) refusal to follow a lawful instruction given by the aircraft commander or on behalf of the aircraft commander by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board or for the purpose of maintaining good order and discipline on board.

(2) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding [ ] or to imprisonment not exceeding […….], or both.

52. Offences jeopardising good order and discipline on board aircraft
(1) A person commits an offence who commits on board an aircraft an act of physical violence against a person or of sexual assault or child molestation commits an offence.

(2) Any person who commits on board an aircraft any of the following acts commits an offence if that act is likely to endanger the safety of the aircraft or of any person on board or if such an act jeopardises the good order and discipline on board the aircraft-

(a) assault, intimidation or threat, whether physical or verbal, against another person;

(b) intentionally causing damage to, or destruction of, property;

(c) consuming alcoholic beverages or drugs resulting in intoxication.

(3) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding [ ] or to imprisonment not exceeding […….], or both.

53. Other offences committed on board aircraft
(1) A person who commits on board an aircraft, any of the following acts, commits an offence-

(a) smoking in a lavatory, or elsewhere in an aircraft;

(b) tampering with a smoke detector or any other safety- related device on board the aircraft;

(c) operating a portable electronic device when such act is prohibited.

(2) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding [ ] or to imprisonment not exceeding […….], or both.

54. Possession of prohibited items

A person who is in unlawful possession of a prohibited item at an airport, in a security restricted area, on board an aircraft or at an airport navigation installation or has with him or her a prohibited item contrary to regulation 37 commits an offence and is liable, on conviction, to a fine not exceeding […….] or to imprisonment for a term not exceeding [……] or both.

55. Entering security restricted areas

A person who, without lawful authority, enters a security restricted area commits an offence and is liable, on conviction, to a fine not exceeding [……..] or to imprisonment not exceeding [……], or both.

56. Offences relating to airport security permits

(1) A person commits an offence who –

(a) for the purpose of, or in connection with, an application for the issue of an airport security permit; or

(b) in connection with continuing to hold an existing airport security permit, makes a statement which he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular.

(2) A person who uses an airport security permit to gain access to an aircraft, an area of an airport or an air navigation installation when he or she is not entitled to such access commits an offence.

(3) A person who uses a false or unauthorised airport security permit for the purpose of gaining access to a security restricted zone or to an air navigation installation commits an offence.

(4) A person commits an offence who-

(a) fails to comply with any conditions applying to an airport security permit;

(b) fails to display an airport security permit upon being required to do so by an Aviation Security Officer;

(c) fails to return an airport security permit promptly following its expiry or upon his or her becoming no longer authorised to possess it; or

(d) continues using an airport security permit after it has expired; or uses a valid permit after he or she is no longer authorised to possess it.

(5) A holder of a security permit who transfers, lends, gives or sells his or her permit to another person with the intention of enabling that other person to gain access to an aircraft, a security restricted or an air navigation installation when he or she is not authorised to gain such access, commits an offence.

(6) A person who, being a person authorised by the Authority to issue security permits, issues a security permit to a person who is not authorised to be issued with such a permit, with the intention of enabling that other person to gain access to an aircraft, a security restricted or an air navigation installation commits an offence.

(7) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding [ ] or to imprisonment not exceeding […….], or both.

57. Failure to establish and maintain security programmes
A person who operates without a security programme referred to in regulations 13, 14, 15, 16 and 22, or who fails to implement a security programme, or a training programme commits an offence and is liable, on conviction, to [……...], or both.

58. Obstructing authorised persons
(1) A person commits an offence who –

(a) intentionally obstructs a person acting under a power conferred by these Regulations;

(b) falsely pretends to be a person acting under a power conferred by these Regulations; or

(a) refuses to obey any order or a reasonable request of a police officer or an aviation security officer, acting in the execution of his or her duty.

(2) A person who commits an offence under subregulation (1) is liable, on conviction, to a fine not exceeding [] or imprisonment not exceeding […….], or both.

59. Offences by body corporate
Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of-

(a) any director, manager, secretary or similar officer of the body corporate; or

(b)any person who was purporting to act in any such capacity,
that person, as well as the body corporate, commits the offence and is liable to be proceeded against and punished accordingly.

60. Jurisdiction
(1) FSM shall have jurisdiction over any act constituting an offence under regulation 37 if the act took place on board-

(a) any aircraft registered in FSM;

(b) any aircraft leased with or without crew to a lessee whose principal place of business is in FSM or, if the lessee does not have a principal place of business, whose permanent residence is in FSM;

(c) any aircraft on or over the territory of FSM; or

(d) any other aircraft in flight outside FSM, if the next landing of the aircraft is in FSM, and the pilot in command has-

(i) delivered the suspected offender to the competent authorities in accordance with regulation 63(3);

(ii) requested the FSM to prosecute the suspected offender; and

(iii) affirmed that no similar request has been or will be made by the pilot in command or the aircraft operator to any other contracting State.

(2) For the purposes of this regulation, an aircraft is deemed to be “in flight” at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; and in the case of forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

PART VII – ENFORCEMENT OF REGULATIONS

61. Unidentified baggage

Where a police officer or an aviation security officer has reasonable cause to suspect that an item of baggage or any other object may constitute a security risk, whether because it is unidentified, unattended or for any other reason, that officer may, after subjecting the baggage to security controls, including investigation and evaluation to ascertain explosives, remove the item of baggage or object and destroy it.

62. Power to stop passengers travelling

Where a police officer or an aviation security officer has reasonable cause to suspect that a person-

(1) is about to embark on an aircraft in FSM; or

(2)is on board an aircraft in FSM;

and that that person intends to commit an offence that amounts to an act of unlawful interference, the police officer may,, with the approval of the police officer in charge at the airport or in case of an aviation security officer, with the approval of the officer in charge of the airport, prohibit that person from travelling on board the aircraft by-

(a) preventing him or her from embarking on the aircraft;
(b) removing him or her from the aircraft; or

(c)in case of aviation security officer, arresting him or her without warrant and immediately handing him or her to police for appropriate action..

63. Powers and responsibilities of pilot in command

(1) The pilot in command shall, while the aircraft is in flight, have the power and responsibility to-

(a) protect the safety of persons and property on board;

(b) restrain persons on board who may be a threat to safety;

(c) disembark persons who may be a threat to safety;

(d) search persons and baggage on an aircraft and take possession of items which could be used in connection with any act of unlawful interference;

(e) notify authorities of FSM as soon as practicable and, before landing, in the territory of FSM;

(f) provide the authorities of FSM with evidence and information regarding the incident that necessitated the restraint and or disembarkation of a passenger.

(2) In case of severe threat to safety by a disruptive passenger on board, the pilot in command shall have the mandate to land at the nearest suitable airport and disembark the passenger in consultation with the local authorities.

(3) The police or person in charge of the airport shall accept delivery of persons disembarked in accordance with subregulation (2) for appropriate action.

64. Powers of Aviation Security Officers

An Aviation Security Officer shall have power to-

(a) screen goods, persons and their personal effects, hold baggage, carryon baggage and vehicles;

(b) prevent unauthorised persons from accessing a security restricted area;

(c) prevent unauthorised persons from accessing aircraft; and

(d) arrest any person who commits or attempts to commit an offence or an act of unlawful interference in accordance with regulation 62(2)(c) of these regulations.

65. Power to exempt

(1) The Authority may exempt any person to whom these Regulations apply from the application of these Regulations or any provision of these Regulations, except that the exemption shall not violate the Standards prescribed by the International Civil Aviation Organisation.

(2) The Authority may exempt any airport or category of airports to which these Regulations apply from the application of these Regulations or any provision of these Regulations, and may impose conditions for such exemptions.

(3) An exemption granted under subregulation (1) or (2) shall be notified in the Gazette within fourteen days after it is granted.

66. Power to enforce compliance

(1) The Authority or any authorised person may, for purposes of ensuring the implementation of the National Aviation Security Quality Control Programme, or the requirements of the National Civil Aviation Security Programme, or any other operator security programme, or requirements set out under these Regulations, and without prejudice to the provisions of Part VII, of these Regulations, adopt procedures for

aviation security monitoring and enforcement approved by the National Aviation Security Committee.

(2) The procedures referred to in subregulation (1) shall establish enforcement to ensure rectification of any matter, including but not limited to the following-

(a) failure to comply with any order, circular or directive issued under these Regulations;

(b) failure to comply with any requirement set out under the National Civil Aviation Security Programme or the respective operator security programme;

(c) failure to comply with an oversight recommendation made by the Authority;

(d) failure to take into account unique or exceptional circumstances which, although not expressly provided under the National Civil Aviation Security Programme, or the respective operator security programme but may expose an airport, aircraft or catering facility to risk.

(3) The Authority or any authorised person may, without limiting the generality of this regulation, issue infringement notices set out in Part VIII of these Regulations on serious or prolonged breaches of security or failure to rectify security lapses that may endanger the safety of civil aviation.

(4) An infringement notice may require that the operations of a particular operator be halted until the breach has been rectified.

PART VIII – INFRINGEMENT NOTICES

67. Purpose and effect of infringement notices

(1) The purpose of this Part is to create a system of infringement notices for offences against these Regulations as an alternative to prosecution.

(2) This Part does not-

(a) require an infringement notice to be issued to a person for an offence;

(b) affect the liability of a person to be prosecuted for an offence if an infringement notice is not issued to the person for the offence;

(c) prevent the issue of two or more infringement notices to a person for an offence;

(d) affect the liability of a person to be prosecuted for an offence if the person does not comply with an infringement notice for the offence; or

(e) limit or otherwise affect the penalty that may be imposed by a court on a person convicted of an offence.

68. Penalty payable under infringement notice

The penalty for an offence payable under an infringement notice issued to the person for the offence is one-fifth of the maximum penalty that a court could impose on the person for the offence.

69. Authorised persons may issue infringement notice

(1) In this regulation, "infringement notice offence" means an offence against regulations 50, 54, 55, 57 and 58.

(2) Where an authorised person has reason to believe that a person has committed an infringement notice offence, the authorised person may issue a notice, called an infringement notice, to the person for the offence.

(3) An authorised person who knowingly improperly issues an infringement notice or who issues an infringement notice for any purpose other than to ensure aviation security commits an offence and is liable, on conviction, to [……..…].

70. Contents of infringement notice

(1) An infringement notice shall-

(a) bear a unique number;

(b) state the name of the authorised person who issued it;

(c) state its date of issue;

(d) state the full name, or the surname and initials, and the address, of the person to whom it is issued;

(e) give brief details of the offence for which it is issued, including-

(i) the date and time of the offence;

(ii) where the offence happened;

(iii) the provision of these Regulations contravened;

(f) state the penalty for the offence payable under the notice;

(g) state where and how that penalty can be paid including, if the penalty can be paid by posting the payment, the place to which it should be posted;

(h) state that if the person to whom it is issued (the recipient) pays the penalty within twenty-eight days after the day on which the notice is served, or any longer time allowed in writing by an authorised person, then, unless the infringement notice is subsequently withdrawn and any penalty paid refunded-

(i) any liability of the recipient for the offence will be discharged;

(ii) the recipient will not be prosecuted in a court for the offence;

(iii) the recipient will not be taken to have been convicted of the offence;

(i) state the greatest penalty that a court could impose on the recipient for the offence;

(j) state that if the recipient is prosecuted in court and found guilty of the offence, the recipient may be convicted of the offence and ordered to pay a penalty and costs, and be subject to any other order that the court makes;

(k) state how and to whom the recipient can apply to be allowed more time to pay the penalty; and

(l) be signed by the authorised person who issued it.

(2) An infringement notice may contain any other information that the authorised person who issues it thinks necessary.

71. Service of infringement notice

(1) An infringement notice shall be served on the person to whom it is issued.

(2) An infringement notice may be served on an individual-

(a) by giving it to the individual;

(b) by leaving it at, or by sending it by post, telex, fax or similar facility to, the address of the place of residence or business (the relevant place) of the individual last known to the authorised person who issues it;

(c) by giving it, at the relevant place, to someone who-

(i) lives or is employed, or apparently lives or is employed, there; and

(ii) is, or the authorised person who issued it has reason to believe is, over eighteen years of age.

(3) An infringement notice may be served on a corporation-

(a) by leaving it at, or by sending it by post, telex, fax or similar facility to the address of the head office, a registered office or a principal office of the corporation;

(b) by giving it, at an office mentioned in paragraph (a), to someone who is, or the authorised person who issued it has reason to believe is, an officer or employee of the corporation.

72. Time for payment of penalty

The penalty stated in an infringement notice shall be paid-

(a) within twenty-eight days after the day on which the notice is served on the person to whom it is issued;

(b) if the person applied for a further period of time in which to pay the penalty, and that application is granted, within the further period allowed;

(c) if the person applies a further period of time in which to pay the penalty, and the application is refused, within seven days after the notice of the refusal is served on the person;

(d) if the person applies for the notice to be withdrawn, and the application is refused, within twenty-eight days after the notice of the refusal is served on the person.

73. Extension of time to pay penalty

(1) The person to whom an infringement notice is issued may apply, in writing, to the Authority for a further period of up to twenty-eight days in which to pay the penalty stated in the notice.

(2) Within fourteen days after receiving the application, the Authority shall-

(a) grant or refuse a further period not longer than the period sought; and

(b) notify the recipient in writing of the decision and, if the decision is a refusal, the reasons for it.

(3) Notice of the decision may be served on the recipient in any way in which the infringement notice could have been served on the recipient.

74. Effect of payment of penalty

(1) Where an infringement notice is not withdrawn, and the person to whom it is issued for an offence pays the penalty stated in the notice-

(a) any liability of the person for the offence is discharged;

(b) the person shall not be prosecuted in a court for the offence;

(c) the person is not taken to have been convicted of the offence.

(2) Where two or more infringement notices are issued to a person for the same offence, the person's liability to be prosecuted for the offence ceases if the person pays the penalty stated in any of the notices.

75. Withdrawal of infringement notice

(1) A person may apply in writing to the Authority, before the end of twenty eight days after receiving an infringement notice, for the infringement notice to be withdrawn.

(2) The Authority shall, within fourteen days after receiving the application -

(a) withdraw or refuse to withdraw the notice;

(b) notify the person in writing of the decision and, if the decision is a refusal, the reasons for the decision.

(3) Where the Authority has not approved, or refused to approve, the withdrawal of the notice within the period allowed by subregulation (2), the Authority is taken to have refused to approve the withdrawal of the notice.

(4) The Authority shall, before withdrawing or refusing to withdraw a notice, consider-

(a) whether the person has been convicted previously of an offence against these Regulations;

(b) the circumstances of the offence stated in the notice;

(c) whether the person has previously paid a penalty under an infringement notice issued to the person for an offence of the same type as the offence mentioned in the notice; and

(d) any other relevant matter.

(5) The Authority may also withdraw an infringement notice without an application having been made.

76. Notice of withdrawal of infringement notice

(1) Notice of the withdrawal of an infringement notice may be served on a person in any way in which the infringement notice could have been served on the person.

(2) A notice withdrawing an infringement notice served on a person for an offence-

(a) shall include the following information-

(i) the full name, or surname and initials, and address of the person;

(ii) the number of the infringement notice;

(iii) the date of issue of the infringement notice;

(b) shall state that the notice is withdrawn; and

(c) if the Authority intends to prosecute the person in a court for the offence, shall state that the person may be prosecuted in a court for the offence.

77. Refund of penalty

Where an infringement notice is withdrawn after the penalty stated in it has been paid, the [relevant Government Authority] must refund the amount of the penalty to the person who paid it, within sixty days after the withdrawal of the notice.

PART IX – [REVOCATION] SAVINGS AND TRANSITIONAL PROVISIONS

78. Revocation

The [Insert title of existing Regulations in State] Regulations are revoked.

79. Existing operators

Every person who, immediately before the commencement of these Regulations, was operating as an airport operator, an aircraft operator, a regulated agent or a catering operator may, on the commencement of these Regulations, continue their operations but

shall, within ninety days after the commencement of these Regulations, submit to the Authority a security programme for approval in accordance with regulation 17.

80. Existing airport security permits

An airport security permit in force at the commencement of these Regulations shall, until its expiry, have effect as if issued under these Regulations.