



# **CIVIL AVIATION PUBLICATION**

## **CAP 12**

### **EXEMPTIONS**

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## CIVIL AVIATION PUBLICATIONS

### CAP 12

### EXEMPTIONS

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### 1 INTRODUCTION

Compliance with the BCAA's regulatory requirements is obligatory. However, on some occasions, there might be instances where full compliance is not feasible. In those instances, BCAA may grant an exemption from the Air Navigation Technical Regulations (ANTRs) when satisfied that there is a need and subject to compliance with any supplementary condition that BCAA considers necessary in order to ensure an acceptable level of safety in the particular case. Such measures must be supported by appropriate, robust and documented safety risk assessments or aeronautical studies and imposition of limitations, conditions or mitigation measures, as appropriate.

### 2 APPLICABILITY

Any interested person may apply to BCAA for an exemption from the regulations.

Only BCAA may issue exemptions, and no person may take or cause to be taken any action not in compliance with the regulations unless BCAA has issued an applicable exemption to the person.

An exemption should not be regarded by applicants as a means to circumvent the requirements. Similarly, it should not be regarded as the primary solution to an operational difficulty faced by an operator. An exemption should only be requested by an operator or maintenance organisation (and considered by BCAA) based on due technical cause. Exemptions shall, under no circumstance, be issued in retrospect as a means to alleviate against a breach of a requirement.

Exemptions will only be granted in extraordinary circumstances.

*Note: The term "exemptions" also includes exceptions.*

### 3 PETITIONS FOR EXEMPTIONS

The following policy applies;

- (a) Any interested person may petition the Undersecretary of BCAA to issue, amend or delete any regulation or technical standard.
- (b) Any person affected by any regulation who feels he has just cause for relief, may petition the Undersecretary of BCAA for temporary exemption.
- (c) Each petition filed under this section must:
  - (i) Be submitted at least 60 days before the proposed effective date of the regulation.



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- (ii) Include the text or substance of the regulation from which the exemption is sought, or specify the regulation that the petitioner seeks to have deleted.
- (iii) Explain the interests of the petitioner in the action requested and in the case of an exemption, include the nature and extent of the relief sought, a description of each aircraft or persons to be covered by the exemption and:
- (iv) Contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why granting of the request would be in the public interest and, if appropriate, in the case of an exemption, the reason why the exemption would not adversely affect safety, or the action to be taken by the petitioner to provide a level of safety equal to that provided by the regulation from which the exemption is sought. Such a petition shall be supported by an appropriate, robust and documented safety risk assessment or safety case that shall include any imposition of limitations, conditions or mitigation measures, as appropriate.

## 4 REQUIREMENTS FOR APPLICATION

### 4.1 General

- (1) Applications for an exemption should be submitted at least 60 days in advance of the proposed effective date, to obtain timely review. An applicant for an exemption shall submit form ALD/GEN/F186 containing the following as applicable:
  - (a) The applicant's name and address;
  - (b) Details of any relevant authorization,
  - (c) A citation of the specific requirement from which the applicant seeks relief;
  - (d) Description of the type of operations to be conducted under the propose exemption;
  - (e) The proposed duration of the exemption;
  - (f) Explain the interests of the applicant in the exemption requested, including the nature and extent of the exemption requested and a description of each person or thing to be covered by the exemption;
  - (g) An explanation of how the exemption would be in the public interest, that is, benefit the public as a whole;
  - (h) A detailed description of the alternative means by which the applicant shall ensure a level of safety equivalent to that established by the Regulation in question;



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- (i) A review and discussion of any known safety concerns with the requirement, including information about any relevant accidents or incidents of which the applicant is aware;
  - (j) a safety risk assessment to justify the application of the exemption as well as the continuing need for the exemption;
  - (k) If the applicant seeks to operate under the proposed exemption outside of the kingdom of Bahrain airspace, the application shall also indicate whether the exemption would contravene any provision of the Standards and Recommended Practices of the International Civil Aviation Organisation (ICAO).
- (2) Unless BCAA agrees otherwise, an application for an exemption shall be submitted no less than sixty days in advance of the proposed effective date of the exemption.
  - (3) Where an applicant seeks urgent processing, the application must contain supporting facts and reasons why the application was not filed in a timely manner, and the reasons it is an urgency. An application may be rejected if the Authority finds that the applicant has not justified the failure to apply in a timely manner.
  - (4) If the applicant is not a citizen or legal resident of the Kingdom of Bahrain, the application must specify a Bahraini agent for service.

### 4.2 ACTION ON PETITIONS FOR RULE MAKING OR EXEMPTIONS

- (a) Except for the written notice of proposed rule-making and comment procedures provided in this section, no public hearing, argument, or other formal proceeding will be conducted.
- (b) Except in cases of urgency, written notice of proposed rule-making will be distributed to affected aviation interests. A period of 30 days will normally be allowed for interested persons to submit comments to BCAA.
- (c) Comments concerning proposed rule-making must be submitted in a form acceptable to BCAA.
- (d) BCAA will consider all comments pertinent to proposed rule-making when they are submitted in the prescribed manner and within the established time limits.
- (e) Exemptions may be granted by BCAA if it determines after a technical evaluation that a petition is in the public interest and it provides a level of safety equivalent to that established by the regulation, the exemption will be in the form of a letter and will include:
  - (i) Name of petitioner.
  - (ii) A citation of each rule from which relief is requested.



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- (iii) A brief description of the general nature of the relief granted.
- (iv) Disposition of the petition.

*Note: All exemptions must be controlled.*

- (f) If BCAA determines that a petition for an exemption cannot be justified, he will provide the petitioner with written notification of that decision.
- (h) The applicant shall regularly review any exemptions / variations with a view to removing the need for such exemptions, where possible, as well as check the validity and robustness of any mitigating measures in place.

## 5 REVIEW, PUBLICATION, AND ISSUE OR DENIAL OF THE EXEMPTION

### 5.1 Initial Review by the Authority

- (a) BCAA will review the application for accuracy and compliance with the requirements of paragraph 4 above.
- (b) If the application appears on its face to satisfy the provisions of paragraph 4 above and BCAA determines that a review of its merits is justified, BCAA will publish a detailed summary of the application for comment and specify the date by which comments must be received by BCAA for consideration.
- (c) If the filing requirements of paragraph 4 above have not been met, BCAA will notify the applicant and take no further action until the applicant complies with the requirements of paragraph 4 above.

### 5.2 Evaluation of the Request

- (a) After initial review, if the filing requirements have been satisfied, BCAA shall conduct an evaluation of the request to include:
  - (i) A determination of whether an exemption would be in the public interest;
  - (ii) A determination, after a technical evaluation, of whether the applicant's proposal would provide a level of safety equivalent to that established by the Regulation:
    - (1) A safety risk assessment or safety case shall be developed by the applicant to demonstrate whether an equivalent level of safety or an alternative acceptable means of compliance can be achieved.
    - (2) BCAA shall carry out a technical evaluation of the application for grant of exemption and review the applicant's risk assessment or safety case for acceptance. The exemption, if granted, shall contain conditions/limitations for the person/organisation to follow while



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operating under the exemption. In all cases, before granting exemption, it shall be ascertained that an equivalent level of safety is maintained.

- (3) If it appears to BCAA that a technical evaluation of the request would impose a significant burden on the Authority's technical resources, BCAA may deny the exemption on that basis.
  - (4) The issuance of an exemption which is not supported by a safety risk assessment or safety case and by a thorough review by BCAA is not acceptable.
- (iii) A determination, if the applicant seeks to operate under the exemption outside of the Bahrain FIR, of whether a grant of the exemption would contravene the applicable ICAO Standards and Recommended Practices, and, if so, ensure that ICAO is notified of the differences.
  - (iv) An evaluation of comments received from interested parties concerning the proposed exemption.
  - (v) A recommendation, based on the preceding elements, of whether the request should be granted or denied, and of any conditions or limitations that shall be part of the exemption.

### 5.3 Notification of Determination

- (a) BCAA shall notify the applicant by letter and publish a detailed summary of its evaluation and decision to grant the request, the summary shall specify the duration of the exemption and any conditions or limitations to the exemption.
- (b) If the request is for urgency relief, will publish the application and/or the Authority's decision as soon as possible after processing the application.
- (c) All cases involving the granting of exemptions shall be fully documented and recorded and all exemptions shall be published on BCAA website, [www.mtt.gov.bh](http://www.mtt.gov.bh) and/or in the AIP. The publication shall include the following particulars in respect of the exemption granted:
  - (i) The reference number of the application;
  - (ii) The full name of the applicant;
  - (iii) A reference to the requirement for which exemption is granted;
  - (iv) References to relevant limitations, conditions or mitigation measures; and
  - (v) The expiry date of the exemption.

After the expiry of the period of exemption, all notifications shall be removed.



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### 6 EXTENSION OF THE EXEMPTION TO OTHER INTERESTED PARTIES

- (a) If BCAA determines that an exemption should be granted, other persons or organizations may apply to BCAA to be included in the relief granted.
- (b) Such applications shall be in accordance with the requirements of paragraph 4 above.
- (c) If BCAA determines that the request merits extension of the exemption to the applicant, it shall notify the applicant by letter, specifying the duration of the exemption, and listing any additional conditions that may pertain to the applicant that are not addressed in the underlying exemption.

### 7 VALIDITY OF EXEMPTION

- (a) An exemption granted shall cease -
  - (i) At the end of the date specified in the instrument of exemption; or
  - (ii) If no date is specified for that purpose in the instrument, one year after the commencement of the exemption.
- (b) An exemption granted to an applicant shall be in the name of that applicant and shall be non-transferable.

### 8 SUSPENSION AND CANCELLATION OF EXEMPTION

Notwithstanding anything contained in these procedures, the Undersecretary for Civil Aviation Affairs (USCA) may suspend permanently/ for a specified time or cancel an exemption granted if he has reason to believe that the holder of the exemption does not conform to the minimum safety standards.

### 9 NON-COMPLIANCE WITHOUT APPLICABLE EXEMPTION

- (a) No person may take or cause to be taken any action not in compliance with the regulations unless BCAA has issued an applicable exemption to the person/organisation.
- (b) Any person, organisation or entity, conducting an operation in commercial air transport or international commercial air transport who contravenes the provisions of this regulatory procedure commits an offence and upon conviction, shall be liable to a penalty which may include a fine in accordance with the Enforcement Manual.
- (c) Any person, organisation or entity, other than that conducting an operation in commercial air transport or international commercial air transport, who contravenes



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the provisions of this regulatory procedure commits an offence and upon conviction, shall be liable to a penalty which may include a fine in accordance with the Enforcement Manual.



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