



ELLIS & PARTNERS

legal practitioners

Our Ref: SE/mb

Your Ref:

27 July 2023

The Executive Director

Namibia Civil Aviation Authority

Windhoek

Per email: semt@ncaa.na

edpa@ncaa.na

Dear Executive Director,

AVIATION DIRECTIVE PERTAINING TO PERSONNEL LICENSING OF FOREIGN NATIONALS

1. We act herein as before, on behalf of the Aircraft Owners and Pilots Association of Namibia ("**our client**").
2. Reference is made to the draft Aviation Directive received from you at 19h00 on 25 July 2023 (the "**AD**"), pursuant to the meeting held with you on the same date at 14h30.
3. We enclose hereunder a suggested amended version of the AD, in which all suggested amendments are shown through track changes.
4. Along with the amended AD, we hold instructions to place the following on record:
 - 4.1 Our client's amenability to the publication of the AD is entirely without prejudice of our client's rights and should in no way be construed as a waiver of its rights, including but not limited to its rights in respect of the - mildly put - irregular process through which the new Personnel Licensing Regulations were promulgated in Government Gazette No. 8119 (the "**PEL Regulations**").
 - 4.2 The publication of the AD does however (momentarily) solve our client's

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immediate and urgent concerns regarding certain provisions of the PEL Regulations, which concerns our client will address through the reconsideration process described below.

- 4.3 Our client agrees to the publication of the AD as an interim measure, pending, at least, until finalisation of the reconsideration process described below, including any judicial process which may follow the reconsideration process.
- 4.4 Our client requires that the AD be signed by you on or before 28 July 2023 and that it shall take effect upon signature.
- 4.5 Our client furthermore requires the AD to be published in the Government Gazette, without delay.
- 4.6 Upon signature and publication of the AD, our client shall proceed to prepare and lodge a reconsideration application, as provided for under regulation 3.01.10 of the Namibian Civil Aviation Regulations, 2001 (the "**NAMCARS**").
- 4.7 Through the reconsideration process, our client will attempt to convince you and the Honourable Minister to reconsider some of the provisions contained in the PEL Regulations and amend the PEL Regulations accordingly.
- 4.8 Our client's right to approach the appropriate court, in the event of the reconsideration process failing, remains expressly reserved.
- 4.9 We point out that we could not find the "Reconsideration Form" on your website, as referred to in regulation 3.01.10 (3) of the NAMCARS, and we assume the form does not exist. Should the form exist, we kindly ask that it be shared with the undersigned and should it not exist, our client shall file a reconsideration application in a form which we deem appropriate.
- 4.10 Should the AD not be signed by 28 July 2023, in a form acceptable to our client, our instructions are to approach the High Court for urgent relief.

5. All our client's rights remain expressly reserved.

Yours faithfully,

ELLIS & PARTNERS


PER: MR SHAUN ELLIS

