



ICAO

International Civil Aviation Organization

The Fifth Meeting of the Asia/Pacific
Aerodrome Assistance Working Group (AP-AA/WG/5)
Maldives, 13 to 16 March 2023

Agenda Item 8: AP-AA/WG Task List

GENERIC AERODROME EXEMPTIONS POLICY AND PROCEDURES MANUAL

(Presented by Australia and Nepal)

SUMMARY

This paper presents a generic aerodrome exemptions policy and procedures manual to assist States in administering their aerodrome safety oversight system.

1. DISCUSSION

1.1 With reference to AP-AA/WG Task 4/2, Australia and Nepal submits the attached generic manual for the working group's consideration.

1.2 The generic manual is available in **Attachment A**.

2. ACTION BY THE MEETING

2.1 The meeting is invited to:

- a) review and revise, as appropriate, the generic manual; and
- b) if the generic manual is acceptable, endorse the Draft Conclusion for submission to the AOP/SG for its consideration for publication on ICAO APAC Website.

Draft Conclusion/Decision AP-AA/WG/5 – xx: Asia - Pacific Generic Aerodrome Exemptions Policy and Procedures Manual	
What: That, the generic aerodrome exemptions policy and procedures manual (Attachment A to WP/10) developed by the AP-AA/WG be published on the ICAO APAC Website.	Expected impact: <input type="checkbox"/> Political / Global <input type="checkbox"/> Inter-regional <input type="checkbox"/> Economic <input type="checkbox"/> Environmental <input checked="" type="checkbox"/> Ops/Technical
Why: To assist State which have not completed the implementation of aerodrome certification for all international aerodromes and/or with an AGA EI below 75%.	Follow-up: <input type="checkbox"/> Required from States
When: 6-Jul-23	Status: Draft to be adopted by Subgroup
Who: <input checked="" type="checkbox"/> Sub groups <input checked="" type="checkbox"/> APAC States <input checked="" type="checkbox"/> ICAO APAC RO <input type="checkbox"/> ICAO HQ <input type="checkbox"/> Other:	

[Civil Aviation Authority]

[GENERIC]
AERODROME EXEMPTIONS
POLICY & PROCEDURES
MANUAL

[The basis of the following document is a system of exemption from a legislative requirement. Depending on a State's regulatory framework and legal system, these words may need to be changed. Additionally, some sections have limited placeholders and generic text, as the detail will be location specific.]

Amendment #: [X]

Date: [XX/XX/XXXX]

Foreword

The [Civil Aviation Authority] of [State] is responsible, under [the Civil Aviation Act], for the regulation of safety in civil aviation, including in the aerodrome sector.

This manual describes how [Civil Aviation Authority] staff will implement procedures for accepting, assessing, and issuing exemptions against standards, regulations, and other requirements.

The information contained within this manual has been developed in consultation with ICAO standards, recommended practices and guidance material as well as the applicable national legal requirements.

I expect our officers will comply with the specified processes and activities that are provided in this document. It is important that the [Civil Aviation Authority] can demonstrate consistency, equity, and leadership in its day-to-day regulatory activity. Compliance with our own published procedures is one way that we can demonstrate effective discharge of our functions and obligations to industry participants and the travelling public.

Users of this document are invited to pass advice of errors, inconsistencies, or suggestions for improvements to the office of the [Director-General of Aviation Safety].

[Name]

[Date]

[Director-General of Aviation Safety]

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Exemption Policy

The [Civil Aviation Authority] is committed to maintaining the highest aviation safety standards and ensuring that all aerodrome operations within [State] comply with relevant laws, regulations, and standards.

However, there may be circumstances in which it is necessary to grant exemptions from certain requirements (standards, regulations etc.) to accommodate unique or unusual operations, facilitate emergency response, support innovation and development of new technologies or practices, or address other compelling needs.

This exemption policy is designed to balance maintaining safety with supporting innovation and flexibility in the aviation industry. In determining whether to grant an exemption, The [Civil Aviation Authority] shall consider the proposed operation's potential safety risks and benefits and any other relevant factors, including the potential impact on the aviation industry and the public.

Exemptions will only be granted if it can be demonstrated that the proposed operation can achieve an equivalent level of safety consistent with the highest standards of safety and the integrity of the aviation system.

Exemptions are granted case-by-case and subject to specific terms and conditions designed to ensure that safety is maintained.

The [Civil Aviation Authority] will review and decide on exemption requests promptly and transparently and work closely with applicants to ensure that any exemptions granted are properly managed and monitored. The [Civil Aviation Authority] will also review the effectiveness of exemptions regularly and take appropriate action, including revocation or modification, if necessary.

Aerodrome Operators must strictly adhere to the exemptions' terms and conditions. Failure to do so may result in the revocation of the exemption and the imposition of regulatory penalties. The Aerodrome Operator must also report any deviations from the exemptions' terms and conditions to the [Civil Aviation Authority] as soon as possible and take corrective action if required.

The [Civil Aviation Authority] shall conduct periodic audits or inspections to ensure that Aerodrome Operators comply with their exemptions' terms and conditions.

Applying for an Exemption

[A State's legislative framework associated with exemptions may be prescriptive on the form and timing of exemption applications. In the following section, not all possible variables have been identified in blue. Careful consideration of this entire section may be required.]

Before an Aerodrome Operator applies for an exemption, it should ensure that compliance with standards is not possible or, where permitted, not reasonably practicable. These steps should be documented and serve as the context within which an exemption application is made and a risk-based assessment is completed.

When a situation requiring an exemption is identified or when an existing, time-limited exemption needs to be renewed, the Aerodrome Operator must initiate the process in accordance with the following requirements and procedures.

Who may apply for an exemption?

The Aerodrome Operator's [Accountable Manager], as the key executive of the Aerodrome Certificate holder, may apply for an exemption.

Application timeframe

The Aerodrome Operator must submit an exemption application at least [three months] before the exemption is required. As an exemption against the regulations is considered a last resort, the intent of this timeframe is to:

- ensure that the exemption application is given due consideration
- encourage the industry to adopt appropriate planning and management fallback strategies
- ensure that an exemption is necessary rather than a convenient method of complying with the legislation.

However, when unforeseen circumstances require an exemption to be issued within a short time frame, the [Civil Aviation Authority] will consider a late application provided the applicant provides suitable justification as to why the application was not submitted in accordance with the standard time frame.

The [Civil Aviation Authority] will not accept poor planning or commercial impact on business as suitable justification. Even if the application is accepted, the exemption will be subject to a full assessment and no guarantees regarding decision time frames.

Form of an exemption application

An exemption application must consist of the following documents

- A completed form [XXXX] (Appendix A)
 - Including all legal details of the Aerodrome Operator, the [Accountable Manager], the Aerodrome Certificate, and a Point of Contact, as well as the standards against which the exemption is sought, an overview of the circumstances that prevent compliance with the standards, and an overview of the proposed mitigation measures for achieving an equivalent level of safety.
- A safety case
 - Detailing the context of the exemption request, the particulars of the proposed operation, analysis of potential safety risks, proposed mitigation measures, and a comparison to the existing standards with a determination of the equivalent level of safety.
- Supporting documentation
 - Such as detailed safety risk analysis, proposed aerodrome manual amendments, draft procedures, design drawings, and equipment specifications.
- Previous exemption documentation
 - If applying for renewal of an exemption

Application & Acceptance

Exemption applications are to be submitted to:

[INSERT SUBMISSION DETAILS FOR EXEMPTION PROCESSING]

*[E.g. Head of Aerodromes Section
PO Box XXXX
CAPITAL CITY, STATE]*

Upon receipt of an exemption application, it shall be assigned to an Assessment Officer for initial review and acceptance.

The Assessment Officer shall confirm the following:

- The submitted form [XXXX] contains the required details that align with the records held by the [Civil Aviation Authority], and the form has been signed by the [Accountable Manager]
- A safety case has been submitted, and this assessment, following a cursory review, appears to contain the required information as per the details contained on the form [XXXX]
- Also, after a cursory review, the supporting documentation appears to contain the required information as per the details contained on the form [XXXX]

- For exemption renewals, a copy of the existing exemption has been provided and annual review of the exemption
- The proposed commencement date of the non-compliant operation is no less than [three months] from the date the application was received
 - If the timeframe for assessment is less than [three months], the justification for the urgent request is sufficient and reasonable.

If the application meets the above requirements, the Assessment Officer may accept the application and notify the Applicant. This notification must confirm acceptance of the exemption request and the due date of the exemption. It must also inform the Applicant that further information may be requested through the nominated Point of Contact.

If the application does not meet any of the above requirements, the Assessment Officer must reject the application and notify the Applicant. This notification must state the reasons for the immediate rejection and advise the Applicant to resubmit the application once the deficiencies are addressed.

Payment of Processing Fee

[If cost recovery is required insert details of the application/processing fee procedure]

Assessment of the Safety Case

While a safety case does not need to be structured in a standard way, it should document a complete risk management process. While that process should align with the Aerodrome Operator's established Safety Management System, other risk assessment models may be used where technical or other operational needs should be considered. However, the process should address each of the following steps:

- Stakeholder coordination
- Defining the operational context
- Identifying hazards
- Analysing risks
- Evaluating risks
- Mitigating risk
- Monitoring and review

The Assessment Officer must review the safety case within the context that it is submitted and in consideration of [State] legislation and best practice.

Overall, the burden to satisfy the Assessment Officer rests with the Applicant. The information presented in the safety case must assure the Assessment Officer that an equivalent level of safety can be achieved.

When assessing a safety case, an Assessment Officer should consider the following (the X C's). They should ask, is the safety case:

- Complete – Does the application address all the relevant criteria, issues, hazards, risks, controls, etc.?
- Coherent – Is the application addressing the relevant standards, the safety issues raised and the identified hazards/risks?
- Consistent – Are the risk management identified in the safety case techniques (such as identification, scoring and evaluation) used consistently throughout the process?

If a safety case contains detailed technical analysis, the Assessment Officer may consult with an [Civil Aviation Authority] expert or they may request further information from the Applicant. Likewise, if any deficiencies in the safety case are identified, the Assessment Officer should contact the Applicant's Point of Contact and request further information or clarification.

The Assessment Officer is empowered to evaluate the value of further requests for information with due consideration to the initial application, subsequent information supplied and the likelihood that additional information will impact on their final assessment. When the expected value of such requests is low, the Assessment Officer may deny the application.

Determining if an Equivalent Level of Safety is Achieved

The final decision on any exemption application is whether the Assessment Officer believes that the safety case outlines a set of circumstances where the resulting level of safety is at least equivalent to that expected under full compliance with the standards.

Overall, this determination is a question of comparing the safety risk under the “normal” operation and the safety risk under the proposed operation. While the form of this determination may vary depending on the situation, the following considerations should be contemplated:

- In a scenario where the standard cannot be implemented, do the alternative risk controls address the hazard/risk associated with the original standard and any other induced risk?
- In a scenario where the hazard/risk associated with the original standard is not present or very low, do the actual conditions permit the exemption from the standard either with or without alternative risk controls?
- In a scenario where the proposed operation may introduce hazards/risks if the original standard is implemented, do the alternative risk controls address these new hazards/risks and any other induced risks?

Exemption Conditions

It is recommended that, as a minimum, all alternative risk controls identified by the Applicant be established as conditions on the exemption. The Assessment Officer may vary these alternative risk controls and recommend additional conditions where they consider it necessary to achieve an equivalent level of safety. Where variations or additional conditions, are imposed, the Assessment Officer must provide a justification.

Exemption Recommendation, Decision & Notification

Recommendation

The Assessment Officer must document the basis of their decision in a recommendation to the [Director-General of Aviation Safety].

The exemption recommendation must include the following:

- The legal details of the Aerodrome Operator, the [Accountable Manager], and the Aerodrome Certificate
- The standards from which the exemption was sought
- An overview of the circumstances that prevent compliance with the standards
- The determination/evaluation of the Assessment Officer
- The justification for this determination/evaluation
- If the recommendation is to approve the application,
 - An overview of the proposed mitigation measures for achieving an equivalent level of safety
 - The recommended terms of the exemption, such as the validity period and any operational limitations
 - Any conditions to be placed on the exemption
 - [Unless required by legislation] Additional administrative conditions including the requirement to include a copy of the exemption in the aerodrome manual and, where appropriate, publish details of the exemption in AIP.

Exemption Decision

Upon receipt of an exemption recommendation, the [Director-General of Aviation Safety] is to review the document and may consult with the Assessment Officer and supporting information, as required.

The [Director-General of Aviation Safety] will document their decision and justification. They will then forward the decision to either the [Legal Office] for the drafting of the exemption or to the Assessment Officer for the notification of application denial.

Drafting

The [Legal Office] must draft the exemption in the standard form as per the decision and recommendation. The final exemption is to be signed by the [Director-General of Aviation Safety] and sent to the Assessment Officer for dispatch to the Applicant.

Notification

The Assessment Officer must prepare a notification to the Applicant on the result of the exemption application assessment.

- If the application has been approved, the notification must consist of a cover letter and the signed exemption.
- If the application has been denied, the notification must consist of a letter outlining the reasons for the decision.

Publication of Exemptions

In addition to any conditions on the Aerodrome Operator to publish details of the exemption in the AIP, the [Civil Aviation Authority] must also publish details of the exemption on the [Exemption Register].

The [Civil Aviation Authority] must ensure that these details are published prior to the commencement of the exemption's validity period.

Monitoring & Revocation

Surveillance

The [Civil Aviation Authority] shall conduct targeted or general surveillance of an Aerodrome Operator's compliance with aerodrome standards including any relevant exemptions and their conditions.

Such audits and inspections will be conducted in accordance with general surveillance procedures with any initial identification of non-compliance managed under the same procedures.

Any failure by the Aerodrome Operator to address such non-compliance in accordance with standard surveillance procedures or any subsequent non-compliances relating to the same exemption must be addressed the procedures outlined below.

Revocation

The [Civil Aviation Authority] may revoke an exemption, at any time, in the interests of aviation safety. This may occur due to the Aerodrome Operator not complying with the conditions of the exemption or circumstances arising that result in a lower than equivalent level of safety.

When revoking an exemption, the [Civil Aviation Authority] must notify the Aerodrome Operator of its intention and provide them with an opportunity to respond. The Aerodrome operator must provide this response within [two weeks].

The [Civil Aviation Authority] must consider this response in making the final decision to revoke the exemption.

The above notification is not required with the circumstances in question present a serious and imminent risk to aviation safety or where the applicant has been found guilty of breaching a condition of the exemption or a related provision of the legislation.

The [Civil Aviation Authority] may also revoke an exemption on request of the Aerodrome Operator.

When the [Civil Aviation Authority] revokes an exemption, it must notify the Aerodrome Operator in writing and provide justification for its decision.

Appendix A – Exemption Application Form [XXXX]

Aerodrome Name			
Aerodrome Operator			
Certificate Number			
Accountable Manager			
Point of Contact Name			
Email		Phone	
Relevant Aerodrome Standards			
Circumstances that prevent compliance with the above standards			
<i>[] further details contained in attached safety case</i>			
Proposed method for achieving an equivalent level of safety			
<i>[] further details contained in attached safety case</i>			
Proposed Start Date		Proposed End Date	
Attachments	<input type="checkbox"/> Safety case	<input type="checkbox"/> Supporting documentation	<input type="checkbox"/> Existing exemption, <i>if applicable</i>
Declaration			
<i>I declare that I am authorised to make this application on behalf of the Applicant and that all statements in this application are true and correct in every particular and that I have read and understood all provisions of the civil aviation legislation which are relevant to this application.</i>			
Signed			Date