

**STATUTORY INSTRUMENT.**

No. **10** of 2022.

*Civil Aviation (Aerodromes Certification and Operation)(Offences) Regulation 2022.*



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**ARRANGEMENT OF SECTIONS.**

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5. Incident, notification, and reporting (Rule Part 107.61).
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21. Notification of aerodrome data and information (Rule Part 139.75).
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28. Unsafe conditions (Rule Part 139.89).
29. Documentation (Rule Part 139.91).
30. Safety management system (Rule Part 139.93).
31. Quality management system (Rule Part 139.95).
32. Aerodrome security programme (Rule Part 139.96).
33. Continued compliance (Rule Part 139.101).
34. Aerodrome emergency plan - maintenance (Rule Part 139.103).
35. Rescue and firefighting - operational requirements (Rule Part 139.105).
36. Aeronautical study (Rule Part 139.107).
37. Aerodrome aircraft traffic management (Rule Part 139.109).
38. Aerodrome aircraft traffic services (Rule Part 139.111).
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51. Powers of arrest.



**STATUTORY INSTRUMENT.**

No. **10** of 2022.

***Civil Aviation (Aerodromes Certification and Operation)(Offences) Regulation 2022.***

Being a Regulation to provide for offences and penalties pursuant to Section 322 of the *Civil Aviation Act 2000* in relation to Civil Aviation Rule Part 107, 139, and 157, and for related purposes,

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

**PART I. - CIVIL AVIATION RULE PART 107 - AERODROME SECURITY PROGRAM.**

**1. SECURITY REQUIREMENTS (RULE PART 107.53).**

A holder of an aerodrome operating certificate who fails to meet the security requirements of Rule Part 107.53 is guilty of an offence.

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

**2. ACCESS CONTROL (RULE PART 107.55).**

A holder of an aerodrome operating certificate who fails to develop and implement procedures to control access to aerodromes as required under Rule Part 107.55 is guilty of an offence.

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

**3. SCREENING (RULE PART 107.57).**

A holder of an aerodrome operating certificate who fails to develop and implement procedures to screen passengers, crew and baggage as required under Rule Part 107.57 is guilty of an offence.

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

**4. TRAINING OF PERSONNEL (RULE PART 107.59).**

A holder of an aerodrome operating certificate who fails to establish a security training programme as required under Rule Part 107.59 is guilty of an offence.

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

**5. INCIDENT, NOTIFICATION AND REPORTING (RULE PART 107.61).**

A holder of an aerodrome operating certificate who does not have a procedure that complies with Rule Part 107.61 is guilty of an offence.

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

**6. LIAISON WITH OTHER ORGANISATIONS (RULE PART 107.63).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 107.63 is guilty of an offence.

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

**7. AIRPORT IDENTITY CARDS (RULE PART 107.65).**

Except as provided in Rule Part 107.65, a person who is issued an airport identity card by the Director who fails to comply with the requirements of Rule Part 107.65 is guilty of an offence.

Penalty: For an individual, a fine of K1,000.00.

**8. AERODROME DEVELOPMENT (RULE PART 107.67).**

A person who intends to undertake an aerodrome development without complying with the requirements of Rule Part 107.67 is guilty of an offence.

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

**PART II. - CIVIL AVIATION RULE PART 139 - AERODROME  
CERTIFICATION AND OPERATION.**

**9. REQUIREMENT FOR CERTIFICATE (RULE PART 139.3).**

Except as provided under Rule Part 139.13, a person who operates an aerodrome without complying with the requirements of Rule Part 139.3 is guilty of an offence.

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

**10. DURATION OF CERTIFICATE (RULE PART 139.9).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.9 (c) and (d) is guilty of an offence.

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

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**11. NON-CERTIFICATED AERODROME REQUIREMENTS (RULE PART 139.13).**

A person who operates an aerodrome without complying with the minimum standards acceptable to the Director under Rule Part 139.13 is guilty of an offence.

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

**12. PERSONNEL REQUIREMENTS (RULE PART 139.51).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.51, in relation to personnel to be engaged, employed or contracted, is guilty of an offence.

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

**13. AERODROME EMERGENCY PLAN (RULE PART 139.57).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.57, regarding aerodrome emergency plans, is guilty of an offence.

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

**14. RESCUE AND FIREFIGHTING - CATEGORY DETERMINATION (RULE PART 139.59).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.59, relating to rescue and firefighting capability, is guilty of an offence.

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

**15. RESCUE AND FIREFIGHTING - EXTINGUISHING AGENTS (RULE PART 139.61).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.61, regarding minimum extinguishing agents, is guilty of an offence.

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

**16. RESCUE AND FIREFIGHTING - VEHICLES (RULE PART 139.63).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.63, relating to rescue and firefighting vehicles, is guilty of an offence.

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

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**17. RESCUE AND FIREFIGHTING - PERSONNEL (RULE PART 139.65).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.65, regarding personnel requirements, is guilty of an offence.

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

**18. RESCUE AND FIREFIGHTING - RESPONSE CAPABILITY (RULE PART 139.67).**

A person who is granted a certificate to operate an aerodrome, but does not conform to the requirements of Rule Part 139.67, relating to response capability, is guilty of an offence.

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

**19. PUBLIC PROTECTION (RULE PART 139.71).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.71, regarding public protection, is guilty of an offence.

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

**20. WILDLIFE HAZARD MANAGEMENT (RULE PART 139.73).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.73, regarding wildlife hazard or domestic animals hazard, is guilty of an offence.

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

**21. NOTIFICATION OF AERODROME DATA AND INFORMATION (RULE PART 139.75).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.75, regarding data and information, is guilty of an offence.

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

**22. MOVEMENT DATA REPORTING (RULE PART 139.77).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.77, relating to collection and reporting of traffic movement data, is guilty of an offence.

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

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**23. AERODROME MAINTENANCE PROGRAMME (RULE PART 139.79).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.79, relating to the maintenance of an aerodrome, is guilty of an offence.

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

**24. AERODROME INSPECTION PROGRAMME (RULE PART 139.81).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.81, relating to the inspection of an aerodrome, is guilty of an offence.

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

**25. VISUAL AIDS FOR NAVIGATION - MAINTENANCE AND CHECKING (RULE PART 139.83).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.83, in relation to the inspection and checking of visual aids for navigation, is guilty of an offence.

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

**26. WORKS ON AERODROMES (RULE PART 139.85).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.85 is guilty of an offence.

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

**27. GROUND VEHICLES (RULE PART 139.87).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.87, in relation to the use of ground vehicles on the operational areas of an aerodrome, is guilty of an offence.

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

**28. UNSAFE CONDITIONS (RULE PART 139.89).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.89, where unsafe conditions exist in relation to the use of an aerodrome, is guilty of an offence.

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

**29. DOCUMENTATION (RULE PART 139.91).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.91 is guilty of an offence.



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

**30. SAFETY MANAGEMENT SYSTEM (RULE PART 139.93).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.93, in relation to the establishment and management of a safety management system at the aerodrome, is guilty of an offence.

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

**31. QUALITY MANAGEMENT SYSTEM (RULE PART 139.95).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.95, in relation to the establishment and management of a quality management system at the aerodrome, is guilty of an offence.

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

**32. AERODROME SECURITY PROGRAMME (RULE PART 139.96).**

A person who is granted a certificate to operate an aerodrome, but does not comply with the requirements of Rule Part 139.96, in relation to the establishment, implementation and maintenance of an aerodrome security programme at the aerodrome, is guilty of an offence.

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

**33. CONTINUED COMPLIANCE (RULE PART 139.101).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.101 is guilty of an offence.

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

**34. AERODROME EMERGENCY PLAN - MAINTENANCE (RULE PART 139.103).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.103 is guilty of an offence.

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

**35. RESCUE AND FIREFIGHTING - OPERATIONAL REQUIREMENTS (RULE PART 139.105).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.105 is guilty of an offence.

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

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- 36. AERONAUTICAL STUDY (RULE PART 139.107).**  
A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.107 is guilty of an offence.
- Penalty: For a company, a fine of K3,000.00.
- 37. AERODROME AIRCRAFT TRAFFIC MANAGEMENT (RULE PART 139.109).**  
A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.109 is guilty of an offence.
- Penalty: For a company, a fine of K3,000.00.
- 38. AERODROME AIRCRAFT TRAFFIC SERVICES (RULE PART 139.111).**  
A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.111 is guilty of an offence.
- Penalty: For a company, a fine of K3,000.00.
- 39. APRON MANAGEMENT SERVICE (RULE PART 139.113).**  
A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.113 is guilty of an offence.
- Penalty: For a company, a fine of K3,000.00.
- 40. PROTECTION OF NAVIGATION AIDS AND AIRCRAFT TRAFFIC SERVICE FACILITIES (RULE PART 139.115).**  
A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.115 is guilty of an offence.
- Penalty: For a company, a fine of K3,000.00.
- 41. AERODROME CONDITION NOTIFICATION (RULE PART 139.117).**  
A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.117 is guilty of an offence.
- Penalty: For a company, a fine of K3,000.00.
- 42. CHANGES TO CERTIFICATE HOLDER'S ORGANISATION (RULE PART 139.119).**  
A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.119 is guilty of an offence.
- Penalty: For a company, a fine of K3,000.00.

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**43. DEVIATIONS (RULE PART 139.121).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.121 is guilty of an offence.

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

**44. NON-SECURITY DESIGNATED AERODROME SECURITY REQUIREMENT (RULE PART 139.201).**

A holder of an aerodrome operating certificate who does not comply with the requirements of Rule Part 139.201 is guilty of an offence.

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

**PART III. - CIVIL AVIATION RULE PART 157 - NOTICE OF CONSTRUCTIONS, ALTERATIONS, ACTIVATION AND DEACTIVATION OF AERODROMES.**

**45. PROJECTS REQUIRING NOTICE (RULE PART 157.5).**

A person who intends to do any of the things listed in Rule Part 157.5 without following the procedures prescribed under Rule Part 157.7 is guilty of an offence.

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

**PART IV. - MISCELLANEOUS.**

**46. APPLICATION OF OTHER ACTS.**

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

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

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

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

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

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

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**48. STANDARD OF PROOF.**

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

**49. INFRINGEMENT FINES.**

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

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

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

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

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

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

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

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

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

- (a) shall not be regarded as an admission of liability for the purposes of this Regulation; and
- (b) does not affect or prejudice, any criminal proceedings, other than proceedings for the alleged offence or any civil claim, action or proceeding arising out of the same occurrence.

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

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

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

**51. POWERS OF ARREST.**

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

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

- (a) is committing; or
- (b) has committed an offence,

under this Regulation.

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

MADE this *Thursday, 10th* day of *November*, 2022.

  
**GOVERNOR-GENERAL.**