



Part 11

Rules Making and Use

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SUBPART A General

11.1 Applicability

This Part applies to the issue, amendment, and repeal of:

- (a) Egyptian civil aviation regulations (ECARs) issued using the honour of international best practices derived from, Federal Aviation Regulations (FARs), European regulations (EU) and other contracting states of International Civil Aviation Organization (ICAO) under Egyptian civil aviation law number 28 for the year 1981 and its amendment by law number 136 for the year 2010 to achieve high standard not less than ICAO SARPs and international civil aviation bodies as a minimum requirements.
- (b) Rules and regulations for airspace assignment and use issued under the above mentioned Egyptian law ;
- (c) Other substantive rules, including those applicable to a class of persons, and those addressed to and served on named persons whenever the ECAA decides to use public rulemaking procedures in such a case;
- (d) Each Egyptian Civil Aviation Regulation (ECAR) Part will only contain requirements. When appendices to requirements are used they also have the same status as the requirement with which they are associated.
- (e) Each Part includes the scope of applicability and dates of affectivity of the ECAR and allow for a transition period and if it is to be permitted that an exemption and /or waiver may be granted from any provision of a ECAR, the ECAR Part or Subpart will include a provision which allows for the possible waivers and / or exemptions and their associated equivalent safety conditions.
- (f) The detailed minimum Standards for training, examination and inspection for the application of different ECARs are included in corresponding separate Egyptian Civil Aviation Standards Handbooks and are referred to in the pertinent ECAR Parts.
- (g) Egyptian Civil Aviation Advisory Circulars referred to in some ECAR Parts are means of compliance and interpretative and explanatory material and not the only means to implement the pertinent regulations.
- (h) In some circumstances, the uniform application of a particular standard or procedure may not be possible or necessary. Such a standard or procedure will be phrased using words or expressions such as: “should”, “may”, “if practicable”, “where physically practicable”, “where determined necessary” or similar words or expressions. Whilst such phrases may imply compliance is not mandatory, certificate holders need to provide justification for non compliance or a relevant plan for compliance and the final authority as to the applicability of the standard to a particular certificate holder facility or procedure rests with the Egyptian Civil Aviation Authority.

11.3 Records

Official ECAA records relating to rulemaking actions, including:

- (a) Proposals;
- (b) Notices of proposed rulemaking;
- (c) Written material received in response to notices;
- (d) Petitions for rulemaking and exemptions;
- (e) Written material received in response to summaries of petitions for rulemaking and exemptions;
- (f) Petitions for rehearing or reconsideration;
- (g) Petitions for modification or revocation;
- (h) Notices denying petitions for rulemaking;
- (i) Notices granting or denying exemptions, waivers or accepting/refusing relevant plans for compliance ;
- (j) Summaries required to be published under 11.17;
- (k) Special conditions required;
- (l) Written material received in response to published special conditions;
- (m) Notices denying proposals; and

- (n) Final rules or orders are maintained in the Office of the Regulation General Directorate. A document relating to rulemaking actions taken by the ECAA on petitions for exemption filed is maintained in this office. Unless a request for comment indicates otherwise, a public hearing record related to rulemaking actions taken by ECAA under Subparts B of this Part is maintained in this office. Any interested person may examine any material at that office at any time, except material that is ordered withheld from the public, and may obtain a duplicate copy of it upon paying the cost of the copy.

11.5 Delegation of authority

- (a) All officials, with regulatory issuance authority, may exercise the authority of the ECAA to make certifications, findings and determinations with regard to any rulemaking document for which issuance authority is delegated by other sections in this Part.
- (b) The HECAA is delegated the authority to issue any new regulation that is in the public interest without notice.

11.7 (Reserved)

11.9 Direct final rule

Whenever the ECAA anticipates that a proposed regulation is unlikely to result in adverse comment, it may choose to issue a direct final rule. The direct final rule will advise the public that no adverse or negative comments are anticipated, and that unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified in the direct final rule. If no written adverse or negative comment, or notice of intent to submit such a comment is received within the comment period, the direct final rule will become effective on the date indicated in the direct final rule. The ECAA will publish a document indicating that no adverse or negative comments were received and confirming the date on which the final rules will become effective. If the ECAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published, and a notice of proposed rulemaking may be published with a new comment period. Normal procedures for the agency's receipt and consideration of comments will then apply.

SUBPART B

Rules other than Airspace Assignment and Use

11.11 Scope

- (a) This subpart applies to substantive rules, other than those relating to airspace assignment and use.
- (b) Unless the ECAA, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, the ECAA issues notices of proposed rulemaking and allows interested persons to participate in rulemaking proceedings involving a substantive rule.
- (c) Unless the ECAA determines that notice and rulemaking procedures are to be followed, interpretive rules, general statements of policy, and rules of ECAA organization, procedure, or practice are prescribed as final without notice or rulemaking procedures.

11.13 Initiating rulemaking procedures

The ECAA initiates rulemaking procedures upon its own motion, however, in doing so, he considers the recommendations of other agencies of Egypt and the petitions of other interested persons.

11.15 Petitions for rulemaking or exemptions

- (a) Any interested person may petition the ECAA to issue, amend, or repeal a rule whether or not it is a substantive rule within the meaning of this Part, or for a temporary or permanent exemption from any rule issued by the ECAA under statutory authority.
- (b) Each petition filed under this section must:
 - (1) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 120 days before the proposed effective date of the exemption;
 - (2) Be submitted in duplicate to the ECAA General Manager of Regulations, in the case of any petition for exemption from:
 - (i) A rule; or
 - (ii) Airworthiness directive.
 - (3) Set forth the text or substance of the rule or amendment proposed, or of the rule or statute from which the exemption is sought, or specify the rule that the petitioner seeks to request including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of each aircraft or person to be covered by the exemption;
 - (4) Contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why the 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 rule from which the exemption is sought:
 - (i) In the case of a unit of governmental unit that is applying for an exemption from any requirement, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the statutory change, the petition for exemption must contain any information, views, analysis, or arguments available to the petitioner to show that:
 - (A) The exemption is necessary to prevent an undue economic burden on the unit of government; and
 - (B) The aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.
 - (ii) The authority of the Minister of the Civil Aviation, to grant exemptions to investors may be delegated to the HECAA.
- (c) A petition for rulemaking filed under this section must contain a summary, which includes:
 - (1) A brief description of the general nature of the rule requested; and

- (2) A brief description of the pertinent reasons presented in the petition for instituting rulemaking procedures.
- (d) A petition for exemption filed under this section must contain a summary, which includes:
 - (1) A citation of each rule from which relief is requested; and
 - (2) A brief description of the general nature of the relief requested.

11.17 Action on petitions for rulemaking or exemptions

- (a) General: Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a petition, filed under 11.19, before its disposition by the ECAA.
- (b) Publication of summary of petition for rulemaking: After receipt of a petition for rulemaking, except as otherwise provided in paragraph (i) of this section, the ECAA publishes a summary of the petition, which includes:
 - (1) The record number of the petition;
 - (2) The name of the petitioner;
 - (3) A brief description of the general nature of the rule requested;
 - (4) A brief description of the pertinent reasons presented in the petition for instituting rulemaking procedures; and
 - (5) In appropriate situations, a list of questions to assist the ECAA in obtaining comment on the petition. Comments on the petition for rulemaking must be filed, in triplicate, within 60 days after the summary is published unless the ECAA, for good cause, finds a different time period appropriate. Timely comments received will be considered by the ECAA before taking action on the petition.
- (c) Publication of summary of petition for exemption: After receipt of a petition for exemption, except as otherwise provided in paragraphs (i) and (j) of this section, the ECAA publishes a summary of the petition, which includes:
 - (1) The record number of the petition;
 - (2) The name of the petitioner;
 - (3) A citation of each rule from which relief is requested; and
 - (4) A brief description of the general nature of the relief requested: Comments on the petition for exemption must be filed, in triplicate, within 20 days after the summary is published unless the ECAA, for good cause, finds a different time period appropriate. Timely comments received will be considered by the ECAA before taking action on the petition.
- (d) Instituting rulemaking procedures based on a petition: If the ECAA determines, after consideration of any comments received in response to a summary of a petition for rulemaking, that the petition discloses adequate reasons, the ECAA institutes rulemaking procedures.
- (e) Grant of petition for exemption summary: If the ECAA determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition is in the public interest, the ECAA grants the exemption and, except as otherwise provided in paragraph (i) of this section, the ECAA publishes a summary of the grant of the petition for exemption. A summary of a grant of a petition for exemption includes:
 - (1) The record number of the petition;
 - (2) The name of the petitioner;
 - (3) A citation of each rule from which relief is requested;
 - (4) A brief description of the general nature of the relief granted; and
 - (5) The disposition of the petition.
- (f) Denial of petition for rulemaking: If the ECAA determines, after consideration of any comments received in response to a summary of a petition for rulemaking, that the petition does not justify instituting rulemaking procedures, the ECAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this section, the ECAA publishes a summary of the denial of the petition for rulemaking in accordance with paragraph (h) of this section.
- (g) Denial of petition for exemption: If the ECAA determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition does not justify granting the requested exemption, the ECAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this

- section, the ECAA publishes a summary of the denial of the petition for exemption in accordance with paragraph (h) of this section.
- (h) Summary of denial of petition for rulemaking or exemption: A summary of a denial of a petition for rulemaking or exemption includes:
 - (1) The record number of the petition;
 - (2) The name of the petitioner;
 - (3) In the case of a denial of a petition for exemption, a citation of each rule from which relief is requested;
 - (4) A brief description of the general nature of the rule or relief requested; and
 - (5) The disposition of the petition.
 - (i) General exceptions: The publication and comment procedures of Paragraphs (b) through (h) of this section do not apply to petitions for exemptions from the requirements of Part 67.
 - (j) Exceptions to publication of summary of petition for exemption: The publication and comment procedures of paragraph (c) of this section do not apply to the following:
 - (1) To petitions for emergency exemptions;
 - (2) Whenever the ECAA, finds for good cause shown in a petition for exemption that action on the petition should not be delayed by the publication and comment procedures. Factors that may be considered in determining whether good cause exists, include:
 - (i) Whether a grant of exemption would set a precedent or whether the petition for exemption and the reasons presented in it are identical to exemptions previously granted;
 - (ii) Whether the delay in acting on the petition for exemption that would result from publication would be detrimental to the petitioner; and
 - (iii) Whether petitioner acted in a timely manner in filing the petition for exemption.
 - (k) Status of petition for rulemaking: Within 120 days after publication of a summary of petition for rulemaking and every 120 days thereafter, unless sooner denied or issued as a notice of proposed rulemaking under 11.21, the ECAA shall advise petitioner in writing of the status of the petition.

11.19 Reserved

11.21 Action on special conditions

- (a) Each general notice of proposed rulemaking is published, unless all persons subject to it are named and are personally served with a copy of it.
- (b) Each notice, whether published or personally served, includes:
 - (1) A statement of the time, place, and nature of the proposed rulemaking proceeding;
 - (2) A reference to the authority under which it is issued;
 - (3) A description of the subjects and issues involved or the substance and terms of the proposed rule;
 - (4) A statement of the time within which written comments must be submitted and the required number of copies; and
 - (5) A statement of how and to what extent interested persons may participate in the proceedings, as prescribed by paragraphs 11.23 and 11.25.
- (c) A petition for extension of the time for comments must be submitted in duplicate not later than two days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows a substantive interest in the proposed rule and good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted it is published.

11.23 Participation of interested persons in rulemaking procedures

- (a) Each interested person is entitled to participate in rulemaking proceedings by submitting written information, views, or arguments. In addition, he may comment on the original information, views, and arguments submitted by other persons, if, after receiving them, the ECAA considers it desirable.
- (b) In any appropriate case, the ECAA also allows interested persons to participate in the rulemaking procedures described in 11.25.

11.25 Additional rulemaking proceedings

- (a) The rulemaking procedure also includes any further procedural steps that best serve the purposes of a particular proceeding. For example, interested persons may be allowed to make oral arguments, participate in conferences between the ECAA or its representative and interested persons and organizations, appear at informal hearings presided over by a designated ECAA official or participate in any other procedure whenever it is desirable and appropriate to assure informed administrative action and adequate protection of private interests.
- (b) Any appropriate combination of the procedures described in paragraph (a) of this section may be used in addition to the basic procedure of allowing interested persons to participate in rulemaking proceedings by submitting written information, views, or arguments.

11.27 (Reserved)

11.29 Requests for informal appearances

- (a) Upon his request, any interested person may appear informally before an appropriate official of the ECAA to present, adjust, or determine a question or controversy relating to a rulemaking function of the ECAA.
- (b) A request for an appearance under this section must be sent in writing to the ECAA.

11.31 Reconsideration of a denial or grant of exemption

- (a) Except as provided in paragraph (c) of this section, if a petition for exemption is denied, the petitioner may file a petition for reconsideration with the ECAA. The petition must be filed, in duplicate, within 30 days after the petitioner is notified of the denial of the exemption.
- (b) If a petition for exemption is granted, a person other than the initial petitioner may file a petition for reconsideration with the ECAA. The petition must be filed, in duplicate, within 45 days after the grant of exemption is issued.
- (c) If a petition for exemption from the requirements of Part 67 is denied, the petitioner may file a petition for reconsideration with the ECAA Medical Evaluators. The petition must be filed in duplicate, within 30 days after the petitioner is notified of the denial of the exemption. However, if the final action on the initial petition was by the ECAA, the ECAA Medical Evaluators shall reconsider it and make recommendations to the ECAA for final action.
- (d) A petition for reconsideration under this section must be based on the existence of one or more of the following:
 - (1) A finding of a material fact that is erroneous;
 - (2) A necessary legal conclusion that is without governing precedent or is a departure from or contrary to law, ECAA rules, or precedent;
 - (3) An additional fact relevant to the decision that was not presented in the initial petition for exemption: In order for a petition under paragraph (a) or (c) of this section to be based on this ground, the petition for reconsideration must state the reason the additional fact was not presented in the initial petition.