

## AERONAUTICAL CIRCULAR CIVIL AVIATION AUTHORITY – MACAO, CHINA

**SUBJECT:**

**Exemption Procedure**

**EFFECTIVE DATE:**

12 March 2009

**CANCELLATION:**

NIL.

**GENERAL:**

The President of Civil Aviation Authority – Macao, China, in exercise of his power under Paragraph 89 of the Air Navigation Regulation of Macao (ANRM) and Article 35 of the Statutes of Civil Aviation Authority, approved by the Decree-Law 10/91/M, establishes this Aeronautical Circular (AC).

### **1 Introduction**

The present AC establishes the parameters on how the President of Civil Aviation Authority of Macao, China (AACM) opinion is formed, and against what criteria, in granting exemptions from regulatory requirements and ensures that the exemption process is equitable to all those who come forward with a request, while simultaneously ensuring the best interests of the public are protected.

### **2 Definitions**

**2.1 Exemption:**

An exemption entitles a person to act outside the normal regulatory requirements.

**2.2 Generally speaking, there are two ways in which compliance with a regulation governing aviation will not be required:**

(a) Exemption Pursuant to a Regulation with Criteria (Authorization):

The first type of exemption is provided for in the regulation itself, by the use of such words as "unless authorized by AACM", followed by criteria on which the authorization will be based. Where these criteria form a complete guide for the granting of the exemption, the person who holds the President of AACM delegated authority may issue the exemption once all the criteria have been met. Since the conditions are actually set out in the regulation, the public is aware that an exemption is granted on that basis and that there will be no discrimination.

(b) Exemption by the President of AACM's decision pursuant to paragraph 86 of Air Navigation Regulation of Macao (Executive Decision Exemption):

Where the regulation itself does not include any provision for exemptions, the paragraph 86 of the Air Navigation Regulation of Macao (ANRM) may be invoked. This paragraph authorizes the President of AACM to exempt from the provisions of that Regulation, requirements or Aeronautical Circulars made under it, on such terms and conditions that he deems necessary.

Exemptions will be granted under the paragraph 86 of the ANRM only in unforeseen circumstances which are unlikely to recur or when the regulation is being amended to address certain situations. The President of AACM or the person holds the President of AACM's delegated authority to issue such exemptions.

- 2.3 In most cases, exemptions are issued only in exceptional circumstances and may be granted only after a thorough analysis is conducted on the impact the granting of the exemption may have on aviation safety. An equivalent level of safety is established through the development of terms and conditions that will provide alternate requirements or procedures to ensure any safety concerns are satisfied and safety is not compromised.
- 2.4 A person may also be exempt from the application of standards incorporated by reference into a regulation. For that purpose, the person must be exempt from the regulation but only to the extent that compliance to the standards is required. Paragraph 86 of ANRM would then be used, and the link between the regulation and the standard would be clearly spelled out in the wording of the exemption.
- 2.5 To ensure that exemptions are granted in a non-discriminatory and consistent fashion in AACM, the following procedures for issuing exemptions are provided to assist in exercising this authority:

### 3 Procedure

#### 3.1 Exemption Request

Applicant must make own case sufficiently to justify the exemption request being granted.

- (a) Provide letter of Exemption Request.
- (b) Make compelling case why the exemption should be granted.
- (c) Demonstrate by providing supporting argument on the following criteria:
  - (i) How the exemption would be in the public interest; and
  - (ii) How the exemption would not affect aviation safety.
- (d) Propose conditions to which the exemption would be subject that could mitigate any potential risk from being exempt from any regulatory requirement, and ensure that aviation safety would not be affected.

### 3.2 Exemption Request Assessment

Exemption Assessment is a comprehensive, documented process used in decision-making to assess the potential risks associated with the exemption. Each assessment shall be conducted and documented independently.

- (a) Review exemption request material to ensure all necessary documentation has been provided. If not, await its provision before proceeding with the assessment.
- (b) Assess whether the supporting argument provided by the applicant making the exemption request in fact demonstrates the criteria to show that the exemption, if granted, is in the public interest and not affect aviation safety.
- (c) Conditions identified to mitigate any potential risk resulting from regulatory requirements being exempt.

### 3.3 Legal Review of Exemption Process

### 3.4 Exemption Disposition

Decide on the basis of the assessment findings completed and the legal review of the exemption process whether or not to grant or refuse the exemption request.

- (a) If the exemption request is refused, inform the applicant of the decision with rationale.
- (b) If granted, finalize the conditions to which the exemption would be subject.

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