



Exemption Policy and Procedure Manual

ISSUE I– JAN 2018

Issued under the authority of the Director General
Bhutan Civil Aviation Authority



FOREWORD

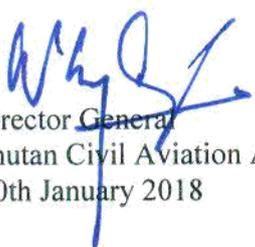
This Exemption Policy and Procedure Manual has been prepared in line with Civil Aviation Act of Bhutan 2016 Section 28(1). The purpose of this manual is to harmonize the procedure for granting exemptions which don't conform to all the specifications and requirements of the National laws. When non compliances are present, the effects on safety need to be analyzed and compensatory measures and/or limitations on its use to mitigate any non compliance has to be established. The harmonization of this aspect of procedure is therefore important for ensuring safety.

The ultimate goal is to require the non-compliance to be corrected and to deal with the situations where there is not possible, either due to physical constraints.

This manual contains a great volume of different aspects on the policy overview and procedures while seeking exemptions.

Comments and recommendations for revision/amendment action to this publication should be forwarded to the Legal Section for the perusal of the Director General, Bhutan Civil Aviation Authority.

This manual shall supersede earlier documents issued for the exemptions.


Director General
Bhutan Civil Aviation Authority
30th January 2018



List of Effective Pages

Page Number	Effective Date
FOR - i	30th JAN 2018
REV – ii	30th JAN 2018
LEP - iii	30th JAN 2018
HOR - iv	30th JAN 2018
TOC - v	30th JAN 2018
Chapter 1 –Policy Overview	
1-1	30th JAN 2018
1-2	30th JAN 2018
1-3	30th JAN 2018
1-4	30th JAN 2018
1-5	30th JAN 2018
1-6	30th JAN 2018
1-7	30th JAN 2018
Chapter 2- Factors and expectation inevitable	
2-1	30th JAN 2018
2-2	30th JAN 2018
2-3	30th JAN 2018
2-4	30th JAN 2018
2-5	30th JAN 2018
2-6	30th JAN 2018
Chapter 3– Classification of Exemption	
3-1	30th JAN 2018
3-2	30th JAN 2018
3-3	30th JAN 2018
Chapter 4– General Exemption procedure	

4-1	30th JAN 2018
Chapter 5– Exemption procedure for Aerodrome	
5-1	30th JAN 2018
5-2	30th JAN 2018
APPENDIX 1	
APP-i	30th JAN 2018

Table of Contents

Forward.....	i
Record of Revisions	ii
List of Effective Pages.....	iii
History of Revisions.....	iv
Table of Contents.....	v

Chapter 1– Policy overview

1-1	General.....	1
1-2	Obligation.....	1
1-3	Policy Objectives.....	1
1-4	Lawfulness.....	2
1-5	Fairness and firmness	2
1-6	Handling Complaints.....	2
1-7	Accessibility of Officials	2
1-8	Amendments of the issuance of exemptions Policy /Procedure Manual.....	2

Chapter 2 – Factors and expectations inevitable

2-1	Factors to be considered in BCAA's assessment of applications.....	3
2-2	Expectations	3
2-3	When grant is effective.....	4

Chapter 3 – Classification of exemption

3-1	Temporary Exemption.....	4
3-2	Permanent Exemption.....	4

Chapter 4 – General Exemption Procedures

4-1	General	4-6
-----	---------------	-----

Chapter 5 – Exemption Procedures for Aerodrome

5-1	General	6-7
5-2	Non compliance.....	7-8

Appendix I.....	9
------------------------	----------

CHAPTER 1 – POLICY OVERVIEW

1.1 General

In aviation, BCAA promotes the goal of improved aviation safety by encouraging voluntary compliance with and through the enforcement of Bhutanese aviation legislation and regulation.

1.2 Obligation

1.2.1 As a contracting State of the International Civil Aviation Organization (ICAO), the government of Bhutan has an obligation to oversee the safe and efficient operation of aviation activity for which it is responsible. Further, as a signatory to the ICAO Convention on International Civil Aviation, the Government has agreed to the application of Article 12 of the Convention which states in part:

1.2.2 Each contracting State undertakes to adopt measures to insure that every aircraft flying over or manoeuvring within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with regulations relating to the flight and manoeuvre of aircraft there in force. Each contracting State undertakes to ensure the prosecution of all persons violating the regulations applicable.

1.2.3 Accordingly, BCAA supervises and administers the enforcement mandate inherent in the international agreement. Enforcement and sanctioning powers, provided by a legal framework, have been delegated to BCAA Inspectors who have the responsibility and authority to conduct investigations. However, there may be situations wherein it may not be possible to comply with the regulations because of exceptional circumstances, physical constraints, non-availability of specified equipment etc. Therefore, the Section 28(1) and 149 of the Civil Aviation Act of Bhutan provides for the issuance of exemptions and BCAA need to establish a policy and procedures for issuance.

1.3 Policy objectives

1.3.1 BCAA aims to create an environment of continuous compliance with the Act that all Operators and Service Providers have to abide by the Act. However, there will be occasions when the requirements, as applied to individual situations, may appear excessive and to go beyond the intention of the legislation. This policy sets out BCAA's approach to all those seeking exemption from obligations under the Act. Various exemption provisions have been included in the Act to accommodate such circumstances. The Director General is vested with the power to make decisions regarding applications for exemption.

1.3.2 The purpose of exemptions is to relieve regulated entities from any unintended consequences of the legislation, while at the same time ensuring that the integrity of the law is maintained. Awareness of the need to strike this balance will guide BCAA in its consideration of exemption applications. BCAA will approve exemptions if it forms the view that they are relevant and necessary in

the circumstances of a particular case. Applications for exemptions will be assessed on a case-by-case basis. However, in all cases, BCAA will adhere to our guiding principles which aim to ensure that BCAA achieves an equitable and effective regulatory environment with an efficient use of resources.

1.4 Lawfulness

BCAA recognize that compliance with the Act and regulations is effective approach to aviation safety. Voluntary compliance is based on the idea that members of the aviation community have a shared interest, commitment, and responsibility to aviation safety, and that they will operate on the basis of common sense, personal responsibility, and respect for others.

1.5 Fairness and Firmness

1.5.1 Exemptions shall only be issued where BCAA is satisfied that it has the power to do so and that shall not compromise the integrity of the regulation. In assessing applications and issuing exemptions, BCAA will maintain its guiding principles of efficiency, fair, integrity, transparency and firm manner. Concern about potential political consequences shall not be taken into consideration when determining the appropriate exemption action.

1.5.2 BCAA promotes and applies a policy of fairness and firmness by:

- a) Encouraging open communication between alleged offenders by necessity and enforcement Inspectors, especially in cases where there are mitigating circumstances;
- b) Providing oral counselling for minor violations by necessity where there is no threat to aviation safety;
- c) Ensuring that repeat offenders and those who wilfully disregard aviation safety are dealt with firmly.

1.6 Handling of Complaints

Complaints by the Public or Civil Aviation Stakeholders, concerning the BCAA shall be recorded and passed to Legal Section for response. Every complaint shall be responded to and the result shall be recorded.

1.7 Accessibility of Officials

BCAA officials shall be accessible to the public to explain the issuance of Exemption Policy and Procedure Manual.

1.8 Amendment of the Issuance of Exemptions Policy and Procedure Manual

This Issuance of Exemptions Policy and Procedure Manual will be amended as required. All amendments to this Manual shall be issued by Legal Section who is the Office of Primary Interest (OPI) for this Manual.

CHAPTER 2- FACTORS AND EXPECTATIONS INEVITABLE

2.1 Factors to be considered in BCAA's assessment of applications

2.1.1 Decisions regarding the issuing of exemptions will be based upon the facts and circumstances of each application. Factors that may be considered by the Director General or his delegate in deciding whether to issue an exemption include:

- (1) The nature of the exemption, including the impact it will have on the aviation safety.
- (2) Whether granting the exemption would be consistent with the intent and purpose of the Act,
- (3) The risk profile of the applicant.
- (4) The level of regulatory burden to which the applicant is being subjected.

2.1.2 In determining whether to issue an exemption, the director or his delegate may consider it necessary to consult as appropriate with stakeholders.

2.1.3 The Director General must grant the exemption if the Director General is satisfied that granting the exemption would not adversely affect the safety of air navigation.

2.1.4 If the Director General grants the exemption, the grant may be made or given subject to such conditions as BCAA thinks necessary in the interests of the safety of air navigation.

2.2 Expectations

- (1) Abide by Guiding Principles which are efficiency, equity, integrity and transparency.
- (2) Use the power to issue exemptions responsibly and equitably
- (3) Abide by the processes outlined in this manual.
- (4) Inform applicant in writing of the outcome of the application, including an explanation of our decision if it was unsuccessful
- (5) Comply with the provisions in the Act relevant to our conduct
- (6) Review this policy regularly to ensure it remains current as the Act is implemented.

2.2.1 Operator/Service Providers shall:

- (1) Understand and comply with the obligations under this Manual
- (2) Make applications in good faith

- (3) Submit complete written applications to BCAA as early as possible
- (4) Notify BCAA in writing if any changes occur to their activities that are directly or indirectly related to the activities for which you were previously granted an exemption or where BCAA is currently considering an application submitted by the applicant.

2.3 When grant is effective

2.3.1 If BCAA grants the exemption, the grant has effect from when notice of the grant is given to the applicant.

2.3.2 The exemption stops being in force if:

- (1) It is expressed to have effect for a limited period and that period ends; or
- (2) It is revoked by BCAA by written notice given to the applicant or the holder of the certificate of registration for the aircraft concerned; or
- (3) The applicant or the holder of the certificate of registration for the aircraft concerned gives BCAA written notice the holder on longer wants the exemption.

2.3.3 BCAA must not revoke an exemption unless BCAA thinks it is necessary to do so for the purpose of ensuring the safety of air navigation.

CHAPTER 3 -CLASSIFICATION OF EXEMPTIONS FOR AERODROME

Exemptions for non-compliance shall be:

3.1. Temporary Exemptions:

where the non-compliance is expected to be removed and inter operability is the predominant aspect of the requirement, such as mandatory signs, availability of runway strip etc.

3.2. Permanent Exemptions:

where non-compliance is not reasonably, be removed and interoperability is not the predominant aspect of the requirement, such as the infringement of high ground into an obstacle limitation surface etc.

CHAPTER 4 -GENERAL EXEMPTION PROCEDURE

4.1 The exemptions are granted to Aerodrome Operations in exceptional circumstances involving insurmountable geographical or other physical problems. However, in practice exemptions are more frequently granted for PEL,OPS and Airworthiness areas. In all cases, before granting exemption, it shall be ascertained that an equivalent level of safety is maintained. The

exemption, if granted, may contain conditions/ limitations for the person/ organization to follow while operating under the exemption.

- 4.2 When seeking an exemptions, the applicant should provide at least the following information:
 - 4.2.1 A person/organization seeking exemption shall submit application for exemption to the Director General, BCAA.
 - 4.2.2 The application for exemption shall clearly state the reasons for seeking exemption and shall be supported with the reasons for non-compliance, safety assessment reports, along with means of mitigation and indication as to when compliance can be expected.
 - 4.2.3 The applicant's name and current mailing address.
 - 4.2.4 Aircraft Registration, Type and Serial Number(a copy of the Certificate of Registration or equivalent must be supplied).
 - 4.2.5 Details of the airworthiness certificate and any associated Operating Limitations (a copy of the Certificate of Airworthiness or equivalent must be supplied, (if applicable).
 - 4.2.6 The Director General shall issue a letter of provisional permission and specify special conditions in respect of the standards for Aircraft or Major Aircraft Appliances relating to the development or design as may be appropriate.
 - 4.2.7 A letter of provisional permission will be affective until the Director General will have an order for cancellation. The action plan for rectification and review of non-compliance for temporary exemption, including the mitigation measures adopted for ensuring the safety during the exemption period.
 - 4.2.8 The exemption, once approved, shall be included in the relevant manuals of an applicant;
 - 4.2.9 Exemptions of 'temporary' nature shall be reviewed annually by the Director General with respect to the conditions or relevant regulations and standards;
 - 4.2.10 Details of the purpose of flight and justifiable reasons why the applicant needs the exemption. The reasons provided should be detailed and self-explanatory;
 - 4.2.11 Proposed Start and End dates for the Exemption;
 - 4.2.13 Whether the exemption will affect a particular kind of operation, the details thereof;
 - 4.2.14 The applicant has to indicate the mitigation measures adopted to reduce the risk arising due to non compliance after carrying out a safety assessment.

- 4.2.15 The applicant should provide adequate information that for consideration for granting exemptions with supporting documents. Failure to provide adequate information may delay processing/ refusal of the application.
- 4.2.16 Upon receiving the application, the Director General shall examine the evidentiary document of the applicant.
- 4.2.17 It is necessary to allow any Aircraft having a Certificate of Airworthiness to make a flight apart from the limitations specified in the Aircraft manual.
- 4.2.18 The Director General or relevant inspectors shall inspect such aircraft and consider that such Aircraft is capable of safe flight. The exemption, if granted, may contain conditions/ limitations for the person/ organization to follow while operating under the exemption.
- 4.2.19 The Director General issues a letter of permission that the Aircraft fly to that place, and specifies special conditions.
- 4.2.20 The exemption will be affective until the Director General will have an order for cancellation.

CHAPTER 5- PROCEDURE FOR SEEKING EXEMPTIONS ON AERODROME

- 5.1 The aerodrome certificate holder shall submit separate application for each non compliance in the prescribed form for seeking exemption (Appendix I).
- 5.2 The application for exemption shall be supported with the reasons for non compliance, safety assessment reports, means of mitigation and indication as to when compliance can be expected.
- 5.3 An application for a standard exemption includes:
- 5.3.1 the applicant's name and address. Name of aerodrome where exemption is being sought. (Aerodrome certificate number to be quoted if already issued).
- 5.3.2 the relevant provisions of Civil Aviation Requirements for which the exemption is sought.
- 5.3.3 In case of exemption for non-compliance with the national legislation, regulation, standards and procedures, then an investigation report including the cost benefit analysis must be attached to the application for exemption.
- 5.3.4 whether the exemption will affect a particular kind of operation, the details thereof.
- 5.3.5 the category under which exemption sought (temporary/ permanent) and justifiable reasons why the applicant needs the exemption. The reasons provided should be detailed and self-explanatory.

- 5.3.6 the period for which the exemption is required.
- 5.3.7 The action plan, short term within two months, medium term within one year and long term within three years, for rectification and review of non-compliance for temporary exemption, including the mitigation measures adopted for ensuring the safety during the exemption period.
- 5.3.8 In case of permanent exemption is sought, the applicant has to indicate the mitigation measures adopted to reduce the risk arising due to non-compliance after carrying out a safety assessment .
- 5.3.9 undertaking by the certificate holder that he shall annually review the conditions or mitigation measures and any other resultant non-compliance in particular when any significant changes in the activity or aerodrome development is proposed
- 5.4 The applicant should provide adequate information in the prescribed form for consideration for granting exemptions with supporting documents. Failure to provide adequate information may delay processing/refusal of the application.
- 5.5 The DG after examining the applications for exemptions may exempt, in writing, an aerodrome operator from complying with specific provisions of the BANRs AERODROME Volume - I and may impose conditions for such exemption to ensure the safety and regularity of aircraft operation.
- 5.6 On approval of the exemption, it shall be included in the aerodrome manual and in AIP.
- 5.7 On removal of the exemption the certificate holder shall notify the same to the DG and after approval of DG, the same shall be deleted from Aerodrome manual and AIP.
- 5.8 The frequency for review of exemption granted shall be based on the duration of exemption.
- 5.9 **NON-COMPLIANCES**
 Non-compliances are primarily related to the following aspects at the aerodrome for which some examples are given below:
- Facilities and equipment
- i. Visual and non-visual aids.
 - ii. Obstacles on the strip and the obstacle limitation surfaces i.e. approach, departure and transitional surfaces.
 - iii.Strip areas - dimensions and quality.
- Inadequate runway strip with, inadequate taxiway width and lack of fillets
- i. Runway end safety areas
 - ii. Inadequate runway

- iii. taxiway separation distances.
- iv. Landing systems.
- v. Rescue and fire-fighting vehicles and equipment.
- vi. Meteorological equipment.
- vii. Rescue and fire-fight

APPENDIX - I

APPLICATION FOR SEEKING EXEMPTION (In duplicate)

1. DETAILS OF APPLICANT

- 1.1 Name of Aerodrome:
- 1.2 Airport Certificate Number:
- 1.3 Full name of applicant (in capital letters):

2. DETAILS OF EXEMPTION SOUGHT

- 2.1 Relevant provisions of Act for which exemption is sought:

- 2.2 The category under which exemption sought (TEMPORARY/ PERMANENT):

- 2.3 Reasons why the exemption is needed (The reasons provided should be detailed and self explanatory):

- 2.4 Period for which exemption is required:

- 2.5 If the exemption will affect a particular kind of operation, the details thereof:

- 2.6 For temporary exemption, the action plan for rectification and review of non compliance, including the mitigation measures adopted for ensuring the safety during the exemption period:

- 2.7 For permanent exemption, the mitigation measures adopted to ensure safety of aircraft operation. Complete safety assessment report shall be enclosed:

I hereby certify that the forgoing information is correct in every respect and no relevant information has been withheld. I also undertake the responsibility for annually reviewing the conditions or mitigation measures and any other resultant

non-compliance in particular when any significant changes in the aerodrome activity and development are proposed.

SIGNATURE OF APPLICANT DATE.....

NAME.....

(in capital letters)

POSITION HELD.....

(with official seal)

Note:

- i) It is an offence to make any false representation with the intent to deceive, for the purpose of obtaining exemption
- ii) Application not completed in all respect and not accompanied with relevant enclosures is likely to be rejected.