


The Civil Aviation Authority of Thailand (CAAT)

The Issuance of Exemption Policy and Procedure

2016 - Edition

## Foreword

The Issuance of Exemptions Policy Manual has been prepared for the use and guidance of all the Civil Aviation Authority of Thailand (CAAT) personnel. The manual contains policies and procedures to exemptions specific provisions of Air Navigation Act B.E.2497. It includes an overview of the objectives of the exemption policy, the exemptions available, our approach, and the factors the agency will consider in assessing exemption applications. All Inspectors are to employ the applicable policies contained in this Manual.



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## GLOSSARY

*Act* - Air Navigation Act B.E. 2497 (1954) and its latest amendment

*Civil Aviation Authority of Thailand (CAAT)* – Civil Aviation Authority of Thailand established by the Emergency Decree on Civil Aviation of Thailand B.E. 2558 (2015)

*Director* - Director of the Civil Aviation Authority of Thailand

## **Chapter 1 – Policy Overview**

### **1.1 General**

CAAT promotes the goal of improved aviation safety by encouraging voluntary compliance with and through the enforcement of Thai aviation legislation and regulation.

### **1.2 Our Obligation**

Issue Date: 1 September 2016

The Issuance of Exemption Policy and Procedure

As a contracting State of the International Civil Aviation Organization (ICAO), the government of Thailand 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:

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering 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 maneuver of aircraft there in force. . . . Each contracting State undertakes to ensure the prosecution of all persons violating the regulations applicable.

Accordingly, CAAT supervises and administers the enforcement mandate inherent in the international agreement. Enforcement and sanctioning powers, provided by a legal framework, have been delegated to CAAT 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 Act provides for the issuance of exemptions specific provisions and CAAT need to establish a policy and procedures for issuance.

### **1.3 Policy objectives**



CAAT aims to create an environment of continuous compliance with the Act that all participants have to greatly 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 CAAT'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 is vested with the power to make decisions regarding applications for exemption.

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 CAAT in its consideration of exemption applications. CAAT 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, we will adhere to our *guiding principles* which aim to ensure that CAAT achieves an equitable and effective regulatory environment with an efficient use of resources.

#### **1.4 Lawfulness**

We 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**

Exemptions will only be issued where CAAT is satisfied that it has the power to do so and that it will not compromise the integrity of the regulation. In assessing applications and

issuing exemptions, CAAT will maintain its guiding principles of efficiency, fair, integrity, transparency and firm manner. Concern about potential political consequences should not be taken into consideration when determining the appropriate exemption action.

CAAT 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 CAAT shall be recorded and passed to responsible department for response. Every complaint shall be responded to and the result shall be recorded.

## **1.7 Accessibility of Officials**

CAAT officials will be accessible to the public to explain the issuance of exemptions policy/procedure. Suggestions to improve this procedure are always welcome.

## **1.8 Amendment of the Issuance of Exemptions Policy Manual**

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

## Chapter 2 – Types of exemptions available

The Act contains various provisions for exemption from the effect of certain provisions. There are four means by which this can be achieved.

### 2.1 Exemption from the Requirement in Section 39

**Section 39** If there is an applicant for a Type Certificate under Section 38 and the Director finds that the standards prescribed in Section 34 do not govern, or may not apply to, the type proposed by the applicant because there is a development or design feature which differs from the Aircraft or Major Aircraft Appliance currently in use, the Director shall issue a letter of provisional permission under Section 38, paragraph three 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.

The special conditions specified by the Director under paragraph one shall have a degree of safety not lower than the standards under Section 34.

### 2.2 Exemption from the Requirement in Section 41/90

**Section 41/90.** If it is necessary for any Aircraft prohibited from flying under Section 41/89 to fly back to the base of the Aircraft registrant or Air Operator, to fly to a repair station, or to fly for avoidance of impending danger; or if 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, the Director may, upon finding that such Aircraft is capable of safe flight for that purpose, permit in writing that the Aircraft fly to that place, subject to the conditions specified by the Director.

### **2.3 Exemption from the Requirement in Section 41/91**

**Section 41/91** Upon finding that any Foreign Aircraft not in flight may be unsafe for operation, the Director shall communicate with the pertinent officials of the country of the Aircraft registrant. Upon finding that a Foreign Aircraft which is intended to fly may be unsafe or may cause damage, the Director shall have the power to order that such Aircraft be prohibited from flying in the Kingdom unless it conforms to the conditions specified by the Director General. The provisions of Section 41/90 shall apply *mutatis mutandis*.

### **2.4 Exemption from the Requirement in Section 44**

**Section 44.** An applicant for a Personnel licence shall have the following qualifications:

- (1) Being of Thai nationality;
- (2) Being of good conduct;
- (3) Being of an age, good health, knowledge and skills as prescribed in the Regulations of the Civil Aviation Board.

When there is necessity or there are special grounds in a particular case, the Director shall have the power to grant exemption from the qualifications as specified in this Section in accordance with the rules and procedures designated by the Minister.

Although the Act do not specifically provide for applications for exemption, in practice CAAT will require a written application from any person seeking exemption under the Act.

CAAT's guidance note on exemptions explains the application process and should be read in the next Chapter.

## Chapter 3 Factors and Expectations

### 3.1 Factors to be considered in CAAT's assessment of applications

3.1.1 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 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.

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

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

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

## **3.2 Expectations**

### **3.2.1 You can expect that CAAT will:**

(1) Abide by our 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.

### **3.2.2 CAAT expects that you will:**

- (1) Understand and comply with your obligations under the relevant Act
- (2) Make applications in good faith
- (3) Submit complete written applications to CAAT as early as possible
- (4) Notify CAAT in writing if any changes occur to your activities that are directly or indirectly related to the activities for which you were previously granted an exemption or where CAAT is currently considering an application submitted by you.

### **3.3 When grant is effective**

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

3.3.2 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 CAAT 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 CAAT written notice the holder no longer wants the exemption.

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

## Chapter 4 Exemption Procedure

The Act provides the Director the power to exempt any aircraft, person or an organization under Section 39, 41/90, 41/91 and 44 from the operation of these rules, either wholly or partially, subject to such conditions, if any, as may be specified in such order which may be of a general or specific nature. This Chapter stipulates the procedures for application and grant of exemptions for these sections.

### 4.1 Exemption from the Requirement in Section 39

#### 4.1.1 Application

This section applies to an applicant for a Type Certificate under Section 38

#### 4.1.2 Procedure for issuing exemptions

(1) The Director finds that the standards prescribed in Section 34 do not govern, or may not apply to, the type proposed by the applicant because there is a development or design feature which differs from the Aircraft or Major Aircraft Appliance currently in use.

(2) The Director issues a letter of provisional permission under Section 38, paragraph three

(3) The Director specifies special conditions in respect of the standards for Aircraft or Major Aircraft Appliances relating to the development or design as may be appropriate. In addition, such special conditions shall have a degree of safety not lower than the standards under Section 34.

(4) The exemption, once approved, shall be included in the relevant manuals of an applicant for a Type Certificate



(5) Exemptions of 'temporary' nature shall be reviewed annually by the director with respect to the conditions and relevant standards.

#### **4.1.3 A Period of time for Exemption**

A letter of provisional permission will be affective until the director will have an order for cancellation.

### **4.2 Exemption from the Requirement in Section 41/90**

#### **4.2.1 Application**

This section applies to an aircraft owner or the person has the possessory right in such aircraft under Section 41/90

#### **4.2.2 Procedure for issuing exemptions**

(1) A person/organization seeking exemption shall submit application for exemption to Airworthiness and Aircraft Engineering Department

(2) The application for exemption shall clear state the reasons for seeking exemption and 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.

(3) An application for a standard exemption shall include:

- i. the applicant's name and current mailing address.
- ii. Aircraft Registration, Type and Serial Number (a copy of the Certificate of Registration or equivalent must be supplied)
- iii Details of the airworthiness certificate and any associated Operating Limitations (a copy of the Certificate of Airworthiness or equivalent must be supplied, (if applicable))

iv. Details of the purpose of flight and justifiable reasons why the applicant needs the exemption. The reasons provided should be detailed and self-explanatory.

v. Proposed Start and End dates for the Exemption

vi. Whether the exemption will affect a particular kind of operation, the details thereof;

vii. 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.

viii. The applicant has to indicate the mitigation measures adopted to reduce the risk arising due to noncompliance after carrying out a safety assessment.

( 4) 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.

(5) Upon receiving the application, the director shall examine the evidentiary document of the applicant. The Director shall grant exemptions in accordance with conditions are as follows:

i. It is necessary for any Aircraft prohibited from flying under Section 41/89 to fly back to the base of the Aircraft registrant or Air Operator, to fly to a repair station, or to fly for avoidance of impending danger **or**

ii. 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.

(6) The Director or his delegate inspectors shall inspect such aircraft and consider that such Aircraft is capable of safe flight for that purpose as mentioned in (5). The exemption, if granted, may contain conditions/ limitations for the person/ organization to follow while operating under the exemption. In all cases, before granting exemption, it shall be ascertained that an equivalent level of safety is maintained.

(7) The Director issues a letter of permission that the Aircraft fly to that place, and specifies special conditions under Section 41/90

(8) The exemption, once approved, shall be included in the relevant manuals

#### **4.2.3 A Period of time for Exemption**

The exemption will be affective until the director will have an order for cancellation.

### **4.3 Exemption from the Requirement in Section 41/91**

#### **4.3.1 Application**

This section applies to a foreign aircraft owner or the person has the possessory right in such aircraft under Section 41/91

#### **4.3.2 Procedure for issuing exemptions**

(1) The Director finds that any Foreign Aircraft not in flight may be unsafe for operation or it is intended to fly may be unsafe or may cause damage

(2) The Director shall communicate with the pertinent officials of the country of the Aircraft registrant

(3) The Director has the power to order that such Aircraft be prohibited from flying in the Kingdom.

(4) It is necessary for any Foreign Aircraft prohibited from flying as mentioned in (3). The Director shall grant exemptions for such aircraft to fly back to the base of the Aircraft registrant or Air Operator, to fly to a repair station, or to fly for avoidance of impending danger or to make a flight apart from the limitations specified in the Aircraft manual.

(5) The Director or his delegate inspectors shall inspect such aircraft and consider that such Aircraft is capable of safe flight for that purpose as mentioned in (4). The exemption, if granted, may contain conditions/ limitations for the person/ organization to follow while operating under the exemption. In all cases, before granting exemption, it shall be ascertained that an equivalent level of safety is maintained.

(6) The Director issues a letter of permission that the Aircraft fly to that place, and specifies special conditions.

(7) The exemption, once approved, shall be included in the relevant manuals

#### **4.3.3 A Period of time for Exemption**

The exemption will be affective until the director will have an order for cancellation.

### **4.4 Exemption from the Requirement in Section 44**

#### **4.4.1 Application**

This section applies to an applicant for a Personnel licence under Section 44 in case of student pilot, private pilot, commercial pilot and flight dispatcher licence.

#### **4.4.2 Procedure for issuing exemptions**

(1) A person/organization seeking exemption shall submit application for exemption from the qualifications as specified in this Section to Aircraft Registration and Personnel Licensing Department

(2) The applicant should provide adequate information that contains the details of applicant and exemption sought for consideration for granting exemptions with supporting documents. Failure to provide adequate information may delay processing/refusal of the application.

(3) Upon receiving the application, the director shall examine the evidentiary document of the applicant. The Director shall grant exemption from the nationality qualifications as specified in this Section in accordance with the Announcement of Ministry of Transport – The Procedures and Conditions for exemption from the qualifications of an applicant for a Personnel licence B.E. 2559 dated 26 February 2016 that are as follows:

(3.1) An applicant is non-Thai nationality

(3.2) Being approved a record and personal circumstances from Immigration Bureau, National Intelligence Agency and Office of the Narcotics Control Board that show:

i. Applicant not prohibited from entering or departure the Kingdom as provided by the Immigration Act

ii. Having no criminal record in Thailand

iii. Never be sentenced by final judgment to imprisonment for an offense under the drug laws

(3.3) Having a contract, an agreement or other documents that show an applicant attended to or graduated from courses and aviation training center that are approved by CAAT.

(4) The Director grants exemption from the nationality qualifications in writing

(5) The exemption will be attached for considering in a process of issuing a Personnel license for such applicant.

#### **4.4.3 A Period of time for Exemption**

The exemption will be affective until the director will have an order for cancellation.