



สำนักงานการบินพลเรือนแห่งประเทศไทย
The Civil Aviation Authority of Thailand

Exemption Policy and Procedure Manual

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Approved By

A handwritten signature in blue ink, appearing to read 'Chula Sukmanop', is written over a horizontal line.

Chula Sukmanop
Director General

The Civil Aviation Authority of Thailand

The previous circular on
The Issuance of Exemption Policy and Procedure
2nd Edition, Dated 1 March 2017
is hereby repealed

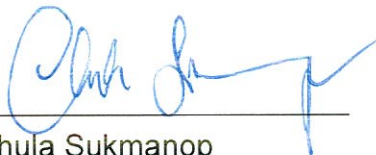
PREFACE

A petition for exemption is a request to the Director General to provide relief from any specified requirement in the Air Navigation Act B.E. 2497 (1954) (the Act), as amended, and the regulations issued thereunder. Under the Section 15/14, Section 39, Section 41/90, Section 41/91 and Section 44 of the Act, the Director may, if considered appropriate, grant an Exemption from a rule requirement, with appropriate conditions. Before granting an Exemption, the Director will consider whether an applicant's proposal provides a level of safety, or risk control, equivalent to that required by the existing rule.

This Exemption Policy and Procedure Manual has been prepared in line with Section 15/14, Section 39, Section 41/90, Section 41/91 and Section 44 of the Act. The propose of this manual is to harmonize the procedure for granting exemptions from any provisions in the Act includes regulations, requirements, notifications, rules, or orders issued thereunder and to ensure that the exemption process is equitable to all those who come forward with the request, while simultaneously ensuring the best interest of the public safety are protected.

Aviation is a dynamic environment and individual circumstances vary, therefore the granting of a similar Exemption in the past is not justification for the granting of another Exemption. Each Exemption will be assessed on its own merits, with reference to the most up to date information. The Civil Aviation Authority of Thailand (CAAT) is committed to implement national standards and the procedures for the consistent processing of exemption requests and rationale in the development of criterial to either grant or deny exemptions from regulatory requirements.

This manual will be updated from time to time based on suggestions received or to incorporate any changes in the procedures that may be carried out.



Chula Sukmanop
Director General
The Civil Aviation Authority of Thailand
10 MAY 2019

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0.3 Record of Revision

| Issue | Revision | Effective Date | Revised By | Reasons |
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| 01 | 00 | 1 JULY 2019 | LEG | Initial Issue |
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0.4 Distribution List

| No. | Responsible Person | Type of Document |
|--------------------------|-----------------------------|--------------------------------------|
| Original | Manager of Legal Department | Hard Copy |
| 01 | Director General | Hard Copy |
| Original (Electronic) | CAAT Staff | Electronic copy at E-Document System |
| | | |

0.5 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)

Compliance - Conformity with the provisions of Act and Civil Aviation Regulations

Director - Director General of the Civil Aviation Authority of Thailand

Emergency Decree - The Emergency Decree on Civil Aviation of Thailand B.E. 2558 (2015)

Exemptions - also includes exceptions, deviations and prolongs extensions

CHAPTER 1 - INTRODUCTION

1.1 What is an Exemption?

A petition for exemption is a request to the Director General to provide relief from any specified requirement in the Air Navigation Act B.E. 2497 (1954) (the Act), as amended, and the regulations issued thereunder. Under the Section 15/14, Section 39, Section 41/90, Section 41/91 and Section 44 of the Act, the Director may, if considered appropriate, grant an Exemption from a rule requirement, with appropriate conditions. Before granting an Exemption, the Director will consider whether an applicant's proposal provides a level of safety, or risk control, equivalent to that required by the existing rule. Aviation is a dynamic environment and individual circumstances vary, therefore the granting of a similar Exemption in the past is not justification for the granting of another Exemption. Each Exemption will be assessed on its own merits, with reference to the most up to date information.

1.2 Applicant Responsibility

The onus is on the applicant to provide a risk and evidence-based justification as to why the Director should grant an Exemption. This applies regardless of what Exemptions an applicant may have been granted in the past. To be able to successfully assess an application, the CAAT requires the documentation and supporting evidence to clearly support the reasons for the Exemption request, including any proposed actions or conditions to maintain an appropriate level of safety. Petitions should be accompanied by safety and risk assessments. This will allow the Director to view proposals in context and should reduce CAAT time spent analysing any associated risks. Failure to provide adequate information will result in a delay in the processing of the application while the CAAT seeks the information necessary for it to consider the application.

1.3 Legal Criteria

In order to grant an Exemption, the Director will need to be satisfied in all cases that the risk to safety will not be significantly increased by the granting of the exemption. In the general type of exemption, if satisfied of this, the Director will then consider the grounds in section 15/14 of the Act. It is essential that appropriate evidence is provided to demonstrate that these grounds are met.

Execution for the exemption under Section 15/14 must have one of the following reasons Appears to the Director prior to such exclusion;

(1) The measures or actions necessary to oversight civil aviation or regulations, requirements, notifications, rules, or orders has been substantially complied with and that further compliance is unnecessary;

(2) The actions to be done or are being performed are in accordance with or more effective than actual compliance with the measures or actions necessary to oversight civil aviation or regulations, requirements, notifications, rules, or orders in that matter;

(3) The measures or actions necessary to oversight civil aviation or regulations, requirements, notifications, rules, or orders in that matter are clearly unreasonable or inappropriate in the particular case; or

(4) There are facts in that case cause the measures or actions necessary to oversight civil aviation or regulations, requirements, notifications, rules, or orders in that matter are unnecessary or inappropriate to comply with and may increase the risk of the civil aviation safety and security of the country if not grant an exemption.

Applicants need to demonstrate that the risk to safety will not be significantly increased by the granting of the Exemption and identify which of the above grounds in section 15/14 they are proposing to rely on for an Exemption. This is to provide assurance that all risks have been identified and mitigations are in place to ensure that risk to safety is kept as low as reasonably practicable.

1.4 Exemption Specialist

The role of the CAAT Exemptions Specialist is to assess the documentation and supporting evidence supplied, with input from subject matter experts, and provide an evidence-based recommendation for the Director's consideration. Therefore, the information and evidence supplied will directly affect the recommendation put forward to the Director. The Exemption process requires a CAAT technical, policy and legal review before it is presented to the Director. Additionally, applications are prioritised alongside all other applications received. Therefore, applicants should allow adequate time for their application to be processed.

1.5 Processing Time

An Exemption goes through a robust and structured assessment by a number of CAAT personnel before it is presented to the Director. This assessment process takes time and must be planned with consideration for other CAAT work. Therefore, an applicant should submit an Exemption petition **at least 90 days in advance**. This will ensure the Exemption decision is received before the date it is required, and provides adequate time for the applicant to implement a fallback strategy if the Exemption is declined. The CAAT will consider an application inside this 90-day window, but there should be no expectation that a short-notice request will receive urgent or priority attention, particularly if the applicant has known about the situation for some time.

CHAPTER 2 – POLICY OVERVIEW

2.1 General

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

2.2 Our Obligation

2.2.1 The Kingdom of Thailand is a signatory to the Convention on International Civil Aviation (known as the Chicago Convention) and, therefore, is obliged to comply with international standards and procedures established through the International Civil Aviation Organization (ICAO). Furthermore, Section 7 of the Civil Aviation Authority of Thailand Emergency Decree B.E 2558 (2015) empowers CAAT to “regulate, oversee, control, promote and develop civil aviation activities in the aspects of safety, environmental protection, security, air transport facilitation, air transport economy, and other aspects related to civil aviation activities to comply with law and International Standards” as well as in regulating and controlling civil aviation activities. Section 37 prescribes that CAAT shall have the powers and duties to “issue regulations, requirements, notifications, rules and orders to stipulate qualifications, rules, procedures, conditions, standards and practical guidance for the following matters to ensure conformity with current and timely International Standards”. The section then lists the subject matters addressed by the 19 Annexes to the Chicago Convention.

1.2.2 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 ensure 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, 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 Aviation 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 15/14, Section 39, Section 41/90, Section 41/91 and Section 44 of the Act provides for the issuance of exemptions and CAAT need to establish a policy and procedures for issuance.

2.3 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.

2.4 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.

2.5 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 willfully disregard aviation safety are dealt with firmly.

2.6 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.

2.7 Accessibility of Officials

The concerned CAAT Officers will be accessible to the public to explain the Exemptions Policy and Procedure Manual. Suggestions to improve this procedure are always welcome.

2.9 Amendment of Exemption Policy and Procedure Manual

This Exemption Policy and Procedure 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 3 – FACTORS AND EXPECTATIONS INEVITABLE

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 – TYPE OF EXEMPTION AVAILABLE

4.1 The Air Navigation Act

The provisions of the Act apply to, whole of Thailand Civil Aerodromes/Heliports and to persons on, aircraft registered in Thailand wherever they may be and also to, and to persons on, all aircraft for the time being in or over Thailand except otherwise specified.

In consonance with the above, all persons/ aircraft are expected to comply with all provisions of the Act, including its regulations made thereunder. 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. Which may warrant exemptions from the Act and regulations.

4.2 General Exemption

To cater such circumstances, Section 15/14 of the Act provides the power to the Director to exempt in public interest and does not affect air navigation safety, by notification through at least in CAAT Website or in any CAAT Information Network, any person, aircraft, aeronautical product, aerodrome, or aviation related service from any specified requirement in any regulations order, notice, circular, directive, guideline or requirement, issued under this Act in either wholly or partially, subject to such conditions, if any, as may be specified in such notification..

4.3 Specific Exemption

On the other hand, Section 39, Section 41/90, Section 41/91 and Section 44 of the Act provides the power to the Director to grant exemption to an applicant for a Type Certificate, any Aircraft registrant or Air Operator, Foreign Aircraft, and the applicant for a Personnel license from the operation of the conditions specified in each provision as follows;

4.3.1 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.

4.3.2 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.

4.3.3 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. The provisions of Section 41/90 shall apply mutatis mutandis.

4.3.4 Exemption from the Requirement in Section 44

Section 44. An applicant for a Personnel license 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 Chapter 5.

4.4 Policy for Exemptions

4.4.1 Exemptions under Section 15/14, 39, 41/90, 41/91 and 44 of the Act shall be granted by the Director.

4.4.2 CAAT shall carry out a technical evaluation of the application for grant of exemption. The exemption, if granted, shall 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.

4.4.3 Before granting an exemption under Section 15/14, the Director shall be satisfied in the circumstances of each case that —

(1) the requirement has been substantially complied with and that further compliance is unnecessary;

(2) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement;

(3) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or

(4) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case, and that the risk to safety will not be significantly increased by the granting of the exemption.

4.4.4 The exemption, once approved, shall be published as soon as practicable at least in CAAT Website or in any CAAT Information Network and after the expiry of the period of exemption, the notification shall be removed from the website or network.

4.4.5 Exemptions shall be reviewed by CAAT with respect to the conditions or mitigation measures.

4.4.6 Holder of exemption (i.e. Air Operator, individual or organization) shall have to carry copy of exemption document while in operation.

Note: The term “exemptions” also includes exceptions, deviations and prolongs extensions.

CHAPTER 5 – PROCEDURE FOR GRANTING OF GENERAL EXEMPTIONS

5.1 General Exemption Procedure

The Director shall possess the discretionary power to grant or refuse application for exemptions and the following basic steps shall be followed in connection to the aforementioned exemptions.

5.1.1 In general, 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 Personnel Licencing, Flight Operation, Air Navigation Service, 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.

5.1.2 When seeking an exemption, the applicant should provide at least the following information:

- (1) A person/organization seeking exemption shall submit application for exemption to the Director.
- (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.
- (3) The applicant's name and current mailing address.
- (4) Aircraft Registration, Type and Serial Number (a copy of the Certificate of Registration or equivalent must be supplied).
- (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)).

5.1.3 The Director 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.

5.1.4 A letter of provisional permission will be affective until the Director 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.

5.1.5 The exemption, once approved, shall be included in the relevant manuals of an applicant;

5.1.6 Exemptions of 'temporary' nature shall be reviewed annually by the Director with respect to the conditions or relevant regulations and standards;

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

- (1) Proposed Start and End dates for the Exemption;
- (2) Whether the exemption will affect a particular kind of operation, the details thereof;
- (3) The applicant has to indicate the mitigation measures adopted to reduce the risk arising due to non-compliance after carrying out a safety assessment.

5.1.8 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.

5.1.9 Upon receiving the application, the Director shall examine the evidentiary document of the applicant.

5.1.10 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.

5.1.11 The Director 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.

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

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

5.2 Requirement for Application

5.2.1 General

Applications for an exemption should be submitted at least **90 days** in advance of the proposed effective date, to obtain timely review. In case of seeking exemption, person /organization shall submit an application in prescribe form to CAAT. **(The form is presented in Appendix-1 of this Manual).**

- (a) The request must contain the applicant's:
 - (1) Name
 - (2) Street address and mailing address, if different.
 - (3) Telephone number
 - (4) Fax number if available.
 - (5) Email address if available.

(6) Agent for all purposes related to the application.

(b) If the applicant is not a citizen or legal resident of Thailand, the application must specify Thai agent for service.

5.2.2 Substance of the Request for Exemption

(a) The application for exemption shall clearly state-

- (1) The reasons for seeking exemption;
- (2) Risk assessments report (s), Analysis, aeronautical studies, etc.

As appropriate which may deem fit, along with the means of mitigation and indication as to when compliance can be expected.

(b) Applications must contain the following:

(1) A citation of the specific requirement from which the applicant seeks relief;
(2) Description of the type of operations to be conducted under the proposed exemption;

(3) The proposed duration of the exemption;
(4) An explanation of how the exemption would be in the public interest, that is, benefit the public as a whole.

(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.

(6) A detailed description of the alternative means by which the applicant will ensure a level of safety equivalent to that established by the Regulation in question;

(7) A review and discussion of any known safety concerns with the requirement, including information about any relevant accidents or incidents of which the applicant is aware;

(8) If the applicant seeks to operate under the proposed exemption outside of Thailand airspace, the application must also indicate whether the exemption would contravene any provision of the Standards and Recommended Practices of the International Civil Aviation Organization (ICAO).

(c) The action plan for rectification and review of for temporary exemption, including the mitigation measures adopted for ensuring the safety during the exemption period.

(d) If a 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.

(e) Undertaking by the person/ organization 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 are proposed.

(f) The applicant should provide adequate information in the prescribed proforma for consideration for granting exemptions with supporting documents. Failure to provide adequate information may delay processing/ refusal of the application.

(g) If the applicant seeks emergency processing, the application must contain supporting facts and reasons that the application was not timely filed, and the reasons it is an emergency. The Authority may deny an application if the Authority finds that the applicant has not justified the failure to apply in a timely fashion.

5.3 Initial Review by the CAAT Exemptions Specialist (CAAT technical, policy and legal officer)

5.3.1 The CAAT Exemptions Specialist will review the application for accuracy and compliance with the requirements of 5.2.2. The CAAT Exemptions Specialist review exemption request material to ensure all necessary documentation has been provided. If not, await its provision before proceeding with the assessment.

5.3.2 If the application appears on its face to satisfy the provisions of 5.2.2. and the CAAT Exemptions Specialist determines that a review of its merits is justified, the CAAT Exemptions Specialist will publish a detailed summary of the application for comment and specify the date by which comments must be received by the CAAT Exemptions Specialist for consideration.

5.3.3 If the filing requirements of 5.2.2 have not been met, the CAAT Exemptions Specialist will notify the applicant and take no further action until the applicant complies with the requirements of 5.2.2.

When review the application, the CAAT Exemptions Specialist shall use Assessment Form of Granting/Rejection of Exemption. (The form is presented in Appendix 2 of this Manual).

5.4 Evaluation of the Request by the Director

After initial review, if the filing requirements have been satisfied, the Director shall conduct an evaluation of the request to include:

(1) A determination of whether an exemption would be in the public interest;
(2) A determination, after a technical evaluation, of whether the applicant's proposal would provide a level of safety equivalent to that established by the Regulation;

(i) If it appears to the Director that a technical evaluation of the request would impose a significant burden on the CAAT's technical resources, the Director may deny the exemption on that basis.

(3) A determination, if the applicant seeks to operate under the exemption outside of Thailand airspace, of whether a grant of the exemption would contravene the applicable ICAO Standards and Recommended Practices.

(4) An evaluation of comments received from interested parties concerning the proposed exemption.

(5) A recommendation, based on the preceding elements, of whether the request should be granted or denied, and of any conditions or limitations that should be part of the exemption.
The form is presented in Appendix-1 of this Manual).

5.5 Notification of Determination

5.5.1 The Director shall notify the applicant by letter and publish a detailed summary of its evaluation and decision to grant or deny the request in CAAT website. The summary shall specify the duration of the exemption and any conditions or limitations to the exemption.

5.5.2 If the request is for emergency relief, the Director will publish the application and/or the Director's decision as soon as possible after processing the application.

5.5.3 If the exemption affects a significant population of the aviation community of Thailand the Director shall also publish the summary in its aeronautical information publications.

5.6 Extension of the Exemption to other Interested Parties

5.6.1 If the Director determines that an exemption should be granted, other persons or organizations may apply to the Director to be included in the relief granted.

5.6.2 Such applications shall be in accordance with the requirements of 5.2.2.

5.6.3 If the Director determines that the request merits extension of the exemption to the applicant, it shall notify the applicant by letter, specifying the duration of the exemption, and listing any additional conditions that may pertain to the applicant that are not addressed in the underlying exemption.

CHAPTER 6 – PROCEDURE FOR GRANTING OF SPECIFIC EXEMPTIONS

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 prescribes the procedures for application and granting of exemptions for these Sections.

6.1 Exemption from the Requirement in Section 39

6.1.1 Application

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

6.1.2 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.

6.1.3 A Period of time for Exemption

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

6.2 Exemption from the Requirement in Section 41/90

6.2.1 Application

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

6.2.2 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 clearly 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 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.

6.2.3 A Period of time for Exemption

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

6.3 Exemption from the Requirement in Section 41/91

6.3.1 Application

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

6.3.2 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

6.3.3 A Period of time for Exemption

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

6.4 Exemption from the Requirement in Section 44

6.4.1 Application

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

6.4.2 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 license B.E. 2559 dated 26 February 2016 and the Announcement of Ministry of Transport – The Procedures and Conditions for exemption from the qualifications of an applicant for a Personnel license (Issued 2) B.E.2559 dated 14 September 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 centre that are approved by CAAT. However, this condition does not force for an applicant for a private pilot license.

(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.

6.4.3 A Period of time for Exemption

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

CHAPTER 7- EXEMPTIONS FOR AERODROME

7.1 CLASSIFICATION OF EXEMPTIONS FOR AERODROME

Exemptions for non-compliance shall be:

(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.

(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.

7.2 PROCEDURE FOR SEEKING EXEMPTIONS ON AERODROME

7.2.1 The aerodrome certificate holder shall submit separate application for each noncompliance in the prescribed form for seeking exemption (Appendix 1).

7.2.2 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.

7.2.3 An application for a standard exemption includes:

(1) the applicant's name and address. Name of aerodrome where exemption is being sought. (Aerodrome certificate number to be quoted if already issued).

(2) the relevant provisions of the Act and Regulations for which the exemption is sought.

(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.

(4) whether the exemption will affect a particular kind of operation, the details thereof.

(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.

(6) the period for which the exemption is required.

(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.

(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.

(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.

7.2.4 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.

7.2.5 The Director after examining the applications for exemptions may exempt, in writing, an aerodrome operator from complying with specific provisions of the Act and respective regulations and may impose conditions for such exemption to ensure the safety and regularity of aircraft operation.

7.2.6 On approval of the exemption, it shall be included in the aerodrome manual and in AIP.

7.2.7 On removal of the exemption the certificate holder shall notify the same to the Director and after approval of Director, the same shall be deleted from Aerodrome manual and AIP.

7.2.8 The frequency for review of exemption granted shall be based on the duration of exemption.

7.2.9 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 1

APPLICATION FOR SEEKING EXEMPTION

(In duplicate)

1. DETAILS OF APPLICANT

- 1.1 Name of Applicant/ Organization.....
- 1.2 License/ Certificate/Approval Number
- 1.3 Full name of applicant (in capital letters)

2. DETAILS OF EXEMPTION SOUGHT

2.1 Relevant provisions of the Air navigation Act or the Regulations 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 requiredDays/Months

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 noncompliance, 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:

.....
.....
.....

2.8 What factors were considered by the applicant in the determination of Public Interest?

- a)
- b)
- c)

(If required additional page(s) may be included.)

Are conditions related to Public Interest required?

.....
.....
.....

2.9 What factors were considered by the applicant to ensure equivalent level of Safety? Identify criteria and formulate as conditions of the exemption:

- a)
- b)
- c)

(If required additional page(s) may be included.)

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

NAME.....
(in capital letters)
DATE.....
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.

APPENDIX 2

ASSESSMENT FORM OF GRANTING/REJECTION OF EXEMPTION
(In duplicate)

1. DETAILS OF APPLICANT

- 1.1 Name of Applicant/ Organization.....
- 1.2 License/ Certificate/Approval Number
- 1.3 Full name of applicant (in capital letters)

2. DETAILS OF EXEMPTION SOUGHT

2.1 Relevant provisions of the Air navigation Act or the Regulations for which exemption is sought: Satisfactory Not Satisfactory

2.2 Reasons why the exemption is needed. Justified Not Justified

2.3 Nature of exemption applied for Temporary Permanent

2.4 If the exemption will affect a particular kind of operation, the details there of

2.5 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.

Satisfactory Not Satisfactory

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

Satisfactory Not Satisfactory

2.7 What factors were considered by the applicant in the determination of Public Interest?

- a)
- b)
- c)
- d)

If required additional page(s) may be included.

Are conditions related to Public Interest required?

Satisfactory Not Satisfactory

2.8 What factors were considered by the applicant to ensure equivalent level of Safety? Identify criteria and formulate as conditions of the exemption:

- a)
- b)
- c)
- d)

If required additional page(s) may be included.

Are conditions related to Public Interest required?

Satisfactory Not Satisfactory

2.9 The justified period of exemptions:Days/Months

3. NAME (S) OF THE CAAT TEAM MEMBER(S) ASSESSING THE EXEMPTIONS APPLICATION SUBMITTED BY THE OPERATOR:

The application has been examined and forwarded for granting/denial of exemptions application:

| S/N | Name of the official(s) | Area | Signature |
|-----|-------------------------|------|-----------|
| 01. | | | |
| 02. | | | |
| 03. | | | |

4. RECOMMENDATION:

The exemptions- may be granted forDays./Months
 may not be granted.

Manager of Department
DATE.....
(official seal)

5. APPROVAL:

The exemption is hereby granted.

Director General
DATE.....
(official seal)

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