

## Exemption

### Link Guideline for Submitting Exemption Regulations

#### 1. Current Exemptions

##### 1.1 General Exemption under Section 15/14

Area of Exemption	Name of Operator/Individual	Type of Exemption (Temporary/Permanent )	Description of Exemption	Given Date	End Date	Document (LINK)
OPS						
AIR						
PEL						
AGA						
ANS						
AMD						
ERD						

**1.2 Specific Exemption under Section 39, Section 41/90, Section 41/91, Section 44**

Area of Exemption	Name of Operator/Individual	Type of Exemption (Temporary/Permanent )	Description of Exemption	Given Date	End Date	Document
Section 39						
Section 41/90						
Section 41/91						
Section 44						

**2. Guideline for Submitting Exemption Regulations**

**2.1 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.

## **2.2 Exemption 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.

## **2.3 Type of exemption available**

### **2.3.1 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/security, 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.

### **2.3.2 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;

#### **(1) Exemption from the Requirement in Section 39**

Under 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) Exemption from the Requirement in Section 41/90**

Under 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.

**(3) Exemption from the Requirement in Section 41/91**

Under 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) Exemption from the Requirement in Section 44**

Under 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.

**2.4 Applicant Responsibility**

The obligation is on the applicant to provide a risk and evidence-based justification as to why the Director-General should grant an exemption. To be able to successfully assess an application, the CAAT requires 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.

The request for Exemptions shall be accompanied by safety and risk assessments. This will allow the CAAT to view proposals in context and should reduce the time spent analyzing 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.

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

- A person/organization seeking exemption shall submit an application for exemption to the Director.
- 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, means of mitigation, and an indication as to when compliance can be expected.
- The applicant's name and current mailing address.
- Aircraft Registration, Type, and Serial Number (a copy of the Certificate of Registration or equivalent must be supplied).
- Details of the airworthiness certificate and any associated Operating Limitations (a copy of the Certificate of Airworthiness or equivalent must be supplied, if applicable).

The details and 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), Analyses, 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, benefits the public as a whole.
5. The category under which exemption is 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 the temporary exemption, including the mitigation measures adopted for ensuring 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 the 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.

## **2.5 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 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.

Applicants need to demonstrate that the risk to safety/security 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/security is kept as low as reasonably practicable.

The Director must grant the all-type exemption if the Director is satisfied that granting the exemption would not adversely affect the safety/security of air navigation. 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.

## **2.6 Exemption Specialist/ Exemption Assessment Team**

The role of the CAAT Exemptions Specialist or Exemption Assessment Team 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.

## **2.7 Processing Time**

An exemption goes through internal assessment by the internal CAAT assessment team before it is presented to the Director. This assessment process takes time; therefore, an applicant should submit an exemption request 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 fall-back strategy if the exemption is declined. 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.

## **2.8 Charges**

Currently, there is no charge associated with the processing of an exemption request.

## **2.9 Period of Exemption**

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

- For permanent exemption, nature shall be effective until the Director has an order for cancellation.

## **2.10 Exemption issuing**

- The holder of an exemption (i.e., an air operator, individual, or organization) shall have to carry a copy of the exemption document while in operation.

- The exemption, once approved, shall be included in the relevant manuals of the applicant.

- 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.

## **2.11 When grant is effective**

If CAAT grants the exemption, the grant has effect from when notice of the grant is given to the applicant. However, 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 on longer wants the exemption.

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

### **2.12 Extension of granted exemption**

- The holder of an exemption may request to extend an exemption previously at least 60 days before the exemption expires.
- The extension of a granted exemption shall not modify a previously granted exemption. If your circumstances have changed, the CAAT may request that you file a new exemption as mentioned in item 2.3 above.

### **2.13 Guidance Material and Application for Seeking an Exemption**

The applicant can download the related notification exemption, guidance material for the exemption policy and procedure manual, and the exemption application form via the provided information below:

- The Notification of the Civil Aviation Authority of Thailand on Exemption Policy and Procedure B.E. 2565 (2019) can be downloaded via this link:

-The guidance material for the exemption policy and procedure manual can be downloaded via this link.

### **2.14 Submission**

The applicant shall submit the signed exemption application, including the evidence as mentioned in Item 2.3 above, to the Director-General of The Civil Aviation Authority of Thailand at the following address:

**THE CIVIL AVIATION AUTHORITY OF THAILAND**  
**333/105 Lak Si Plaza, tower 2, floor 11,**  
**Kamphaeng Phet 6 Rd., Talat Bang Khen, Lak Si, Bangkok 10210.**

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