

CIVIL AVIATION ACT, 1977  
(NO. 13 OF 1977)

REGULATIONS

(Made under section 12)

**THE CIVIL AVIATION (CARRIAGE BY AIR) REGULATIONS, 2008**

**ARRANGEMENT OF REGULATIONS**

**PART I  
PRELIMINARY**

<i>Regulation</i>	<i>Title</i>
1.	Citation
2.	Application
3.	Interpretation
4.	Carriage performed by several carriers
5.	Carriage of postal items

**PART II  
DOCUMENTATION AND DUTIES OF THE PARTIES RELATING TO THE  
CARRIAGE OF PASSENGERS, BAGGAGE AND CARGO**

6.	Passengers and baggage
7.	Cargo
8.	Contents of air waybill or cargo receipt
9.	Document relating to the nature of the cargo
10.	Description of air waybill
11.	Documentation for multiple packages
12.	Non-compliance with documentary requirements
13.	Responsibility for particulars of documentation
14.	Evidentiary value of documentation
15.	Right of disposition of cargo

16. Delivery of the cargo
17. Enforcement of the rights of consignor and consignee
18. Relations of consignor and consignee or mutual relations of third parties
19. Formalities of customs, police or other public authorities

**PART III  
LIABILITY OF THE CARRIER AND EXTENT OF COMPENSATION FOR  
DAMAGE**

20. Death and injury of passengers - damage to baggage
21. Damage to cargo
22. Delay
23. Exoneration
24. Compensation in case of death or injury of passengers
25. Limits of liability in relation to delay
26. Limits of liability in relation to baggage
27. Limits of liability in relation to cargo
28. Stipulation on limits
29. Invalidity of contractual provisions
30. Freedom to contract
31. Advance payments
32. Basis of claims
33. Servants, agents - aggregation of claims
34. Timely notice of complaints
35. Death of person liable
36. Jurisdiction
37. Arbitration
38. Limitation of actions
39. Successive carriage
40. Right of recourse against third parties

**PART IV  
COMBINED CARRIAGE**

41. Combined carriage

**PART V  
CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE  
CONTRACTING CARRIER**

42. Contracting carrier - actual carrier
43. Respective liability of contracting and actual carriers
44. Mutual liability
45. Addressee of complaints and instructions
46. Servants and agents

- 47. Aggregation of damages
- 48. Addressee of claims
- 49. Additional jurisdiction
- 50. Invalidity of contractual provisions
- 51. Mutual relations of contracting and actual carriers

**PART VI  
GENERAL**

- 52. Mandatory application
- 53. Insurance
- 54. Carriage performed in extraordinary circumstances
- 55. Relationship with other Warsaw Regulation instruments
- 56. Exceptions
- 57. Offences
- 58. Penalties
- 59. Revocation

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(NO. 3 OF 1977)

REGULATIONS

(Made under section 12)

THE CIVIL AVIATION (CARRIAGE BY AIR) REGULATIONS, 2008

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**PART I  
PRELIMINARY**

Citation

1. These Regulations may be cited as the Civil Aviation (Carriage by Air) Regulations, 2008.

Application

2. (1) These Regulations apply to all carriage of persons, baggage or cargo performed by aircraft registered in Tanzania or operating within the United Republic –

- (a) for reward;
- (b) gratuitous carriage performed by an air transport undertaking; and
- (c) carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in paragraph (a) and (b).

(2) Except as provided in regulation 5, the provisions of these Regulations shall not apply to the carriage of postal items.

(3) Except where the context otherwise requires, the provisions of these Regulations:

- (a) in so far as they apply, whether by express reference or otherwise, to aircraft registered in the United Republic, shall apply to such aircraft wherever they may be;
- (b) in so far as they apply to other aircraft shall apply to such other aircraft when they are within the United Republic;
- (c) in so far as they prohibit, require or regulate, whether by express reference or otherwise, the doing of anything by persons in any aircraft registered in the

United Republic, shall apply to such persons, wherever they may be; and

- (d) in so far as they prohibit, require or regulate as aforesaid the doing of anything in relation to any aircraft registered in the United Republic by other persons shall, where such persons are citizens of the United Republic, apply to them wherever they may be.

Interpretation

**3. (1)** In these Regulations, except where the context requires otherwise –

“baggage” means both checked baggage and unchecked baggage, unless otherwise specified;

“days” means calendar days, not working days;

"international carriage" means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the United Republic and the territory of another State Party, or within the United Republic if there is an agreed stopping place within the territory of another State, even if that State is not a State Party except that it does not include carriage between two points within the United Republic without an agreed stopping place within the territory of another State;

“State Parties” means the State Parties to the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28<sup>th</sup> May, 1999;

“United Republic” means the United Republic of Tanzania.

**4.-(1)** Carriage to be performed by several successive carriers is deemed, for the purposes of these Regulations, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

(2) These Regulations apply also to carriage as set out in Part V, subject to the terms contained therein.

Carriage of postal items

**5.** In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

**PART II**  
**DOCUMENTATION AND DUTIES OF THE PARTIES RELATING TO THE**  
**CARRIAGE OF PASSENGERS, BAGGAGE AND CARGO**

Passengers and  
baggage

6. (1) In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the United Republic, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

(2) Any other means which preserves the information indicated in sub regulation (1) may be substituted for the delivery of the document referred to in that sub regulation.

(3) If any such other means mentioned in sub-regulation (2) is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.

(4) The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.

(5) The passenger shall be given written notice to the effect that these Regulations may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.

(6) Non-compliance with the provisions of the foregoing sub regulations (1) to (5) shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the provision of these Regulations including those relating to limitation of liability.

Cargo

7. (1) In respect of the carriage of cargo, an air waybill shall be delivered.

(2) Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill.

(3) If such other means mentioned in sub-regulation (2) are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

Contents of air waybill or cargo receipt

**8.** The air waybill or the cargo receipt shall include:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the United Republic, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
- (c) an indication of the weight of the consignment.

Document relating to the nature of the cargo

**9.** (1) The consignor may be required, if necessary, to meet the formalities of customs, police and similar public authorities to deliver a document indicating the nature of the cargo.

(2) This provision creates for the carrier no duty, obligation or liability resulting there from.

Description of air waybill

**10.**-(1) The air waybill shall be made out by the consignor in the following three original parts –

(a) the first part shall be marked "for the carrier"; it shall be signed by the consignor;

(b) the second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier; and

(c) the third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.

(2) The signature of the carrier and that of the consignor may be printed or stamped.

(3) If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Documentation for multiple packages

**11.** When there is more than one package:

(a) the carrier of cargo has the right to require the consignor to make out separate air waybills;

(b) the consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in sub regulation (2) and (3) of regulation 7 are used.

Non-compliance with documentary requirements

**12.** Non-compliance with the provisions of regulations 7 to 11 shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the provisions

of these Regulations including those relating to limitation of liability.

Responsibility  
for particulars  
of  
documentation

**13.** (1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in sub regulation (2) and (3) of regulation 7.

(2) The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.

(3) The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.

(4) Subject to the provisions of sub regulation (1) and (2), the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in sub regulation (2) and (3) of regulation 7.

Evidentiary  
value of  
documentation

**14.** (1) The air waybill or the cargo receipt is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

(2) Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

Right of  
disposition of  
cargo

**15.** (1) (i) Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the

right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure.

(ii) The consignor must not exercise the right of disposition in paragraph (i) of this sub regulation in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.

(3) If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with regulation 16.

Provided that, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right of disposition.

Delivery of the cargo

**16.** (1) Except when the consignor has exercised its right under regulation 15, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

(3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Enforcement of the rights of consignor and consignee

**17.** The consignor and the consignee can respectively enforce all the rights given to them by regulations 15 and 16, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

Relations of consignor and consignee or mutual relations of third parties

**18.** (1) Regulations 15, 16 and 17 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of regulations 15, 16 and 17 can only be varied by express provision in the air waybill or the cargo receipt.

Formalities of customs, police or other public authorities

**19.** (1) The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee.

(2) The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.

(3) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

### **PART III**

#### **LIABILITY OF THE CARRIER AND EXTENT OF COMPENSATION FOR DAMAGE**

Death and injury of passengers - damage to baggage

**20.** (1) The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

(2) The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier.

(3) The carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage.

(4) In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

(5) If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of twenty-one days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Damage to cargo

**21.** (1) The carrier is liable for damage sustained in the event of the destruction or loss of or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

(2) However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:

- (a) inherent defect, quality or vice of that cargo;
- (b) defective packing of that cargo performed by a person other than the carrier or its servants or agents;
- (c) an act of war or an armed conflict;
- (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.

(3) The carriage by air within the meaning of sub regulation (1) comprises the period during which the cargo is in the charge of the carrier.

(4) The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport.

Provided that, if such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

(5) If a carrier, without the consent of the consignor,

substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

Delay

**22.** The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

Exoneration

**23.** (1) If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

(2) When, by reason of death or injury of a passenger, compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger.

(3) This regulation applies to all the liability provisions in these Regulations, including sub regulation (1) of regulation 24.

Compensation  
in case of death  
or injury of  
passengers

**24.** (1) For damages arising under sub regulation (1) of regulation 20 not exceeding the equivalent in Tanzanian Shillings of United States Dollars 120,000 for each passenger, the carrier shall not be able to exclude or limit its liability.

(2) The carrier shall not be liable for damages arising under sub regulation (1) of regulation 20 to the extent that they exceed for each passenger the equivalent in Tanzanian Shillings of United States Dollars 120,000 if the carrier proves that:

(a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents;  
or

(b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

Limits of liability in relation to delay

**25.** In the case of damage caused by delay as specified in regulation 22 in the carriage of persons, the liability of the carrier for each passenger is limited to the equivalent in Tanzanian Shillings of United States Dollars 5000.

Limits of liability in relation to baggage

**26.** (1) In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to the equivalent in Tanzanian Shillings of United States Dollars 1200 for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires.

(2) In the case of the situation in sub regulation (1), the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.

Limits of liability in relation to cargo

**27.** (1) (i) In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of the equivalent in Tanzanian Shillings of United States Dollars 20 per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires whereby the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

(2) (i) In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned.

(ii) When the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in sub regulation (2) and (3) of regulation 7, the total weight of such package or packages shall

also be taken into consideration in determining the limit of liability.

(3) The provisions of regulations 25 and 26 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.

(4) (i) The limits prescribed in regulations 24 through 27 shall not prevent the court from awarding, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest.

(ii) The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

Stipulation on limits

**28.** A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in these Regulations or to no limits of liability whatsoever.

Invalidity of contractual provisions

**29.** Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these Regulations shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of these Regulations.

Freedom to contract

**30.** Nothing contained in these Regulations shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under these Regulations, or from laying down conditions, which do not conflict with the provisions of these Regulations.

Advance payments

**31.** In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, and in any event not later than fifteen days after the identity of the natural person entitled

to compensation has been established, make advance payments as may be required, without delay, to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons.

Provided that, such advance payments shall not constitute recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

Basis of claims

**32.** In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under these Regulations or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in these Regulations without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights.

Provided that, in any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

Servants, agents  
- aggregation of  
claims

**33.** (1) If an action is brought against a servant or agent of the carrier arising out of damage to which these Regulations relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under these Regulations.

(2) The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.

(3) Save in respect of the carriage of cargo, the provisions of sub regulations (1) and (2) shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Timely notice  
of complaints

**34.** (1) Receipt by the person entitled to delivery of checked baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in sub regulation (2) and (3) of Regulation 6 and sub regulation (2) and (3) of Regulation 7.

(2) (i) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of checked baggage and fourteen days from the date of receipt in the case of cargo.

(ii) In the case of delay, the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his or her disposal.

(3) Every complaint must be made in writing and given or dispatched within the times provided in sub regulation (2).

(4) If no complaint is made within the times provided in sub regulation (2), no action shall lie against the carrier, save in the case of fraud on its part.

Death of person  
liable

**35.** In the case of the death of the person liable, an action for damages lies in accordance with the provisions of these Regulations against those legally representing his or her estate.

Jurisdiction

**36.** (1) An action for damages may be brought, at the option of the plaintiff, in the territory of one of the States Parties, either:

- (a) before the court of the domicile of the carrier;
- (b) before the court of principal place of business of the carrier;
- (c) where the carrier has a place of business through which the contract has been made; or
- (d) before the court at the place of destination.

(2) In respect of damage resulting from the death or injury of a passenger, an action may be brought:

- (a) before one of the courts mentioned in sub regulation (1);
- (b) in the territory of a State Party in which at the time of the accident the passenger has his principal and permanent residence;
- (c) in the territory of a State Party to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft or on another carrier's aircraft pursuant to a commercial agreement; or
- (d) in the territory of a State Party in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another

carrier with which it has a commercial agreement.

(3) For the purposes of sub regulation (2) –

(a) "commercial agreement" means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;

(b) "principal and permanent residence" means the one fixed and permanent abode of the passenger at the time of the accident.

Provided that, the nationality of the passenger shall not be the determining factor in this regard.

(4) Questions of procedure shall be governed by the law of the court seized of the case.

Arbitration

**37.** (1) Subject to the provisions of this regulation, the parties to the contract of carriage for cargo may stipulate, in writing, that any dispute relating to the liability of the carrier under these Regulations shall be settled by arbitration.

(2) The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in regulation 36.

(3) The arbitrator or arbitration tribunal shall apply the provisions of these Regulations.

(4) The provisions of sub regulations (2) and (3) shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

Limitation of actions

**38.** (1) The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

(2) The method of calculating that period shall be determined by the law of the court seized of the case.

Successive carriage

**39.** (1) In the case of carriage to be performed by various

successive carriers and falling within the definition set out in sub regulation (3) of regulation 4, each carrier which accepts passengers, baggage or cargo is subject to the provisions set out in these Regulations and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.

(2) In the case of carriage of the nature described in sub regulation (1), the passenger or any person entitled to compensation in respect of him can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place and these carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Right of  
recourse against  
third parties

**40.** Nothing in these Regulations shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

#### **PART IV COMBINED CARRIAGE**

Combined  
carriage

**41.** (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of these Regulations shall, subject to sub regulation (4) of regulation 21, apply only to the carriage by air, provided that the carriage by air falls within the terms of sub regulation (1) of regulation 2.

(2) Nothing in these Regulations shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of these Regulations are observed as regards the carriage by air.

**PART V**  
**CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE**  
**CONTRACTING CARRIER**

Contracting  
carrier - actual  
carrier

**42.** The provisions of this Part apply when a person (hereinafter referred to as "the contracting carrier") as a principal makes a contract of carriage governed by these Regulations with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as "the actual carrier") performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of these Regulations.

Provided that such authority shall be presumed in the absence of proof to the contrary.

Respective  
liability of  
contracting and  
actual carriers

**43.** If an actual carrier performs the whole or part of carriage which, according to the contract referred to in regulation 42, is governed by these Regulations, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Part, be subject to the provisions of these Regulations, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

Mutual liability

**44.** (1) The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

(2) (a) The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier.

Provided that, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in regulations 24, 25, 26 and 27.

(b) Any special agreement under which the contracting carrier assumes obligations not imposed by these Regulations or any waiver of rights or defences conferred by these Regulations or any special declaration of interest in delivery at destination contemplated in regulations 25, 26 or 27 shall not

affect the actual carrier unless agreed to by it.

Addressee of  
complaints and  
instructions

**45.** Any complaint to be made or instruction to be given under these Regulations to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier.

Provided that, instructions referred to in Regulation 15 shall only be effective if addressed to the contracting carrier.

Servants and  
agents

**46.** In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under these Regulations to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with these Regulations.

Aggregation of  
damages

**47.** In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under these Regulations, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

Addressee of  
claims

**48.** (1) In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately.

(2) If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seized of the case.

Additional  
jurisdiction

**49.** Any action for damages contemplated in regulation 48 must be brought, at the option of the plaintiff, in the territory of one of the States Parties either –

(a) before a court in which an action may be brought against the contracting carrier, as provided in Regulation 36; or

(b) before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

Invalidity of contractual provisions

**50.** Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Part or to fix a lower limit than that which is applicable according to this Part shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Part.

Mutual relations of contracting and actual carriers

**51.** Except as provided in regulation 48, nothing in this Part shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

## **PART VI GENERAL**

Mandatory application

**52.** Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by these Regulations, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

Insurance

**53.-** (a) Carriers shall maintain adequate insurance covering their liability under these Regulations.

(b) A carrier operating in the United Republic may be required to furnish evidence that it maintains adequate insurance covering its liability under these Regulations.

Carriage performed in extraordinary circumstances

**54.** The provisions of regulations 6, 7 8, 10 and 11 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

Relationship with other Warsaw Regulation instruments

**55.** These Regulations shall prevail over any law which apply to international carriage by air between the United Republic and any States Parties by virtue of the United

Republic and those States commonly being Party to –

- (i) the *Convention for the Unification of Certain Rules relating to International Carriage by Air* signed at Warsaw on 12 October 1929 (hereinafter called the Warsaw Convention);
- (ii) the *Protocol to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw on 12 October 1929*, done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);
- (iii) the *Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules relating to International Carriage by Air Performed by a Person other than the Contracting Carrier*, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);
- (iv) the *Protocol to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocol done at The Hague on 28 September 1955*, signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);
- (v) Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol, signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols).

Exceptions

**56.** The Authority may at any time exempt from application of these Regulations:

(a) an international or domestic carriage by air performed and operated directly by the United Republic for non-commercial purposes in respect to its functions and duties as a sovereign State; or

(b) the carriage of persons, cargo and baggage for the military authorities of the United Republic on aircraft registered in or leased by the United Republic, the whole capacity of which has been reserved by or on behalf of such authorities.

Offences

**57.** (1) Any carrier which fails to include in its conditions of carriage the provisions contained in these Regulations as required of him shall be guilty of an offence.

- (2) A carrier which fails to ensure that:
  - (a) the information required to be made available on request to passengers and consignors is so made available; or
  - (b) its document of carriage or an equivalent contains the summary of the requirements contained in regulation 6 plain and intelligible language,

shall be guilty of an offence unless it proves that the failure to do so occurred without its consent or connivance and that it exercised all due diligence to prevent the failure.

Penalties

**58.** (1) A person guilty of an offence under these Regulations shall be liable to a fine not less than the equivalent in Tanzania Shillings of United States Dollars 400.

(2) Where an offence under these Regulations has been committed by a body corporate, and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any such person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his consent or connivance or that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all circumstances.

(3) Where the affairs of a body corporate are managed by its members, sub regulation (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Revocation

**59.** The Tanzania Civil Aviation (Carriage by Air) Regulations, 2007 are hereby revoked.

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*Minister for Infrastructure Development*