

GOVERNMENT NOTICE NO.. published on.....

**THE TANZANIA CIVIL AVIATION AUTHORITY ACT, 2003
(No 10 OF 2003)**

RULES

(Made under Section 19(6))

The Tanzania Civil Aviation Authority Rules for Conducting Inquiries, 2007

ARRANGEMENT OF RULES

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PRELIMINARY PROVISIONS

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**PART I
PRELIMINARY PROVISIONS**

Citation. **1.** These Rules may be cited as the Tanzania Civil Aviation Authority Rules for Conducting Inquiries, 2007.

Interpretation **2.** In these Rules, unless the context otherwise requires-
“the Act” means the Tanzania Civil Aviation Authority Act, 2003;
“Authority” means Tanzania Civil Aviation Authority;
“Board” means the Board of Directors of the Authority referred to in section 7 of the Act;
“Chairman” means the Chairman of the Inquiry Panel as provided in rule 4;
“concerned person” means a person who the inquiry directly relates to either being a complainant or otherwise;
“inquiry” means an inquiry instituted under section 19 of the Act and to which these Rules apply;
“licence with an exclusivity period” as specified by section 19(2)(a) of

the Act means a licence issued to a particular organisation to operate or do business as a sole provider of a particular kind of service(s), at a particular location(s) or between particular locations for a specific period of time;

“licence with universal service obligation” as specified by section 19(2)(a) of the Act, means a license issued to a service provider with obligation imposed upon that provider to take, in respect of the services it is licensed to provide, all necessary measures to ensure the provision of that service meets fixed standards of continuity, regularity, capacity and pricing, standards of which the service provider would not assume if it were solely considering its commercial interest;

“pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously;

“statement of case” means a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry, and a list of any documents which that person intends to refer to or put in evidence. “acceptable” means the Authority has reviewed the method, procedure, or policy and has neither objected to nor approved its proposed use or implementation;

Application of Rules

3. These Rules shall apply in relation to any inquiry which is caused by the Authority pursuant to sections 19(1) and 19(2) of the Act as well as to any inquiry caused by the Minister to be conducted on any specified subject matter pursuant to section 19(3) of the Act.

Composition of the Inquiry Panel

4.-(1) (1) Members of the inquiry shall be nominated for each particular inquiry by the Board amongst its members and employees of the Authority composed of:

(a) two Board members nominated by the Board amongst itself, one of whom shall be the Chairman of the Panel if the Board Chairman or Vice Chairman is not a member of the Panel;

(b) three employees of the Authority, two of whom shall be knowledgeable and have appropriate experience in relation to the

subject matter under inquiry and one of whom shall be a lawyer who shall be the secretary of the Panel.

(2) The Inquiry Panel may co-opt such other members as necessary.

Preliminary
action by the
Authority

5. (1) Where the Authority intends to cause an inquiry to be conducted whether at the Minister's direction or by its own initiative, it shall send written notice, with details specified in subparagraph (2), to the concerned person and to such other persons or classes of persons as it may decide, including all those specified in section 19(5)(b) of the Act, and shall publish the notice in the Authority Public Register, the *Gazette* and in a daily newspaper circulating generally in Tanzania.

(2) The notice shall specify the purpose of the inquiry, the time within which submissions may be made to the Authority, the form in which submissions should be made, the matters the Authority would like the submissions to deal with and, in the case of an inquiry conducted at the direction of the Minister, the Minister's terms of reference.

(3) The notice shall make reference to section 9 of the Act and these Rules.

Service of
statement of case

6. Within a period not exceeding 14 days from the date of the notice publication in the Authority Public Register, the *Gazette* and the daily newspapers, the Authority shall serve a statement of case on each person on whom the relevant notice was served.

Service of
submissions

7.-(1) Any person including those specified in rule 5(1) may serve to the Authority submissions not later than 6 weeks after the date of publication of the notice and the Authority shall not later than 7 days after receipt of the submissions send a copy of such submissions to each other person on whom the notice was served.

(2) Where the person serving the submission is not a person on whom the notice was served, the Authority shall also send a copy of its statement of case to such person within 7 days of receipt of that person's submission or if it thinks fit give notice in writing to such person within such period stating the times and places at which he may inspect the

statement of case and where practicable take copies of it.

(3) The Authority may require any person who has served a submission in accordance with this rule to provide such further information about the matters concerned in the submission as it may specify.

(4) Any person serving a submission shall serve with it a copy of any document, or of the relevant part of any document, referred to in the written submission.

Preliminary
examination
and inquiry
timetable

8. -(1) The Inquiry Panel may hold a pre-inquiry meeting, or if appropriate more than one meeting, where it consider it desirable.

(2) The Chairman shall determine the matters to be discussed and the procedure to be followed.

(3) The Chairman shall provide a timetable for the proceedings at any pre-inquiry meeting held pursuant to paragraph (1) or, where no such meeting is held, at any other time.

(4) The Chairman shall notify the timetable to the persons entitled to appear at the inquiry and may at any time vary the timetable but shall take in consideration a timeframe directed by the Minister as per section 19(4) of the Act.

Appearance at
the inquiry

9. -(1) All those persons on whom notice of the inquiry has been served under rule 5 or who served submissions to the Authority under rule 6 shall have the right to appear at the inquiry.

(2) Nothing in paragraph (1) shall prevent the Chairman from permitting any other person to appear at the inquiry, and such permission shall not be unreasonably withheld.

(3) Any person entitled or permitted to appear may do so on his own behalf or be represented by a lawyer or any other person.

(4) The Chairman may allow one or more persons to appear for

the benefit of some or all of any persons having a similar interest in the matter under inquiry.

Procedures at
inquiry

10.-(1) Except as otherwise provided in these Rules, the Chairman shall determine the procedure at the inquiry.

(2) The place where the inquiry is held shall be open to the public so far as the same can conveniently contain them:

Provided that the Chairman, if he thinks fit, may at any stage of the inquiry exclude the public generally or any particular person.

(3) At the opening of the inquiry the Authority shall have the right to begin presentation of the matter under inquiry and the other persons entitled or permitted to appear shall be heard in such order as the Chairman may determine.

(4) A person entitled to appear at an inquiry shall be entitled to call evidence and the others entitled to appear at the Inquiry, shall be entitled to cross-examine any person giving evidence, but, subject to paragraphs (3) and (5) the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the Chairman's discretion.

(5) The Chairman may refuse to permit:

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he so refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any written evidence or other matter in writing before the close of the inquiry.

(6) The Chairman may direct that persons appearing at an inquiry be afforded or permitted to make copies of documentary evidence open to public inspection.

(7) The Chairman may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return, or may permit him to

return only on such conditions as he may specify; but any such person may submit to him any evidence or other matter in writing before the close of the inquiry.

(8) The Chairman may allow any person to alter or add to a statement of submission served under rule 7 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give any other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(9) The Chairman may proceed with an inquiry in the absence of any person entitled to appear before it.

(10) The Chairman may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided that he discloses it at the inquiry.

(11) The Chairman may from time to time adjourn the inquiry and, if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice shall be required.

Site inspection

11. - (1) The Inquiry Panel may make an unaccompanied or accompanied inspection of any premises referred to in any statement of case or submission served under rules 6 and 7 before or during an inquiry.

(2) In the case of accompanied inspection, the accompanying person may include the owner, or his representative, of the premises or the submitter of the statement of case or submission that referred to that premises.

Records of the inquiry

12.-(1) The proceedings of the inquiry shall be recorded.

(2) The record, including the inquiry's findings and recommendations, may, by decision of the Board or Minister, if he caused the inquiry, be published in the Authority's Public Register.

Findings

13. -(1) After the close of an inquiry, the Inquiry Panel shall sit

in camera and consider all the facts presented.

(2) The Chairman shall make a report in writing to the Board, within seven days of the inquiry close, which shall include the inquiry's findings and recommendations.

(3) The Authority shall forward the inquiry findings and recommendations to the Minister, if he caused the inquiry, within fourteen days of the inquiry close.

(4) The Board or the Minister as the case may be shall make a decision basing on the inquiry findings but they shall not be bound by the inquiry's recommendations. In any case the decision taken shall include reasons for it.

Notification of
decision

14.-(1) The Board or the Minister shall notify their decision and the reasons for it in writing to all persons entitled to appear at the inquiry who did appear at it and to any other person who, having appeared at the inquiry, has asked to be notified of the decision within twenty one days after receipt of the inquiry report.

(2) The decisions and reasons for it required in paragraph (1) shall be published in the Authority's Public Register.

Dar es Salaam,
.....2007

ANDREW CHENGE
Minister for Infrastructure Development