

DEPARTMENT OF TRANSPORT  
DEPARTEMENT VAN VERVOER

No. R. 1058

27 October 2000

**DRAFT AMENDMENT OF PROCEDURES OF THE REGULATING COMMITTEE, NOTICE 639 0199  
FOR COMMENT**

The Regulating Committee hereby publishes for comment the proposed amendments to the Procedures of the Regulating Committee, Notice 639 Of 1994, as set out in the Schedules. Interested persons are invited to submit written comment on the draft regulations by no later than . . . . . October 2000. Submissions should be marked for the attention of Ms S Brits, Private Bag XI 93, Pretoria, 0001, fax no (012) 323-7007 or e-mail at [britss@ndot.pwv.gov.za](mailto:britss@ndot.pwv.gov.za).

**The procedures of the Regulating Committee is hereby replace with the following:**

**SCHEDULE 1****PROCEDURES OF THE REGULATING COMMITTEE**

It is hereby published for general notice that the Regulating Committee, established by section 11 of the Airports Company Act, 1993 (Act No, 44 of 1993), follows the procedures set out in the Schedules, in the performance of its functions and the exercise of its powers.

**M. R. Rwelamira**

Chairperson: Regulating Committee.

**PROCEDURES TO BE FOLLOWED BY THE REGULATING COMMITTEE ("THE COMMITTEE") IN THE PERFORMANCE OF ITS FUNCTIONS AND THE EXERCISE OF ITS POWERS**

1. **Copies of these procedures, as amended from time to time, will be published in the *Government Gazette*.**
2. **A Vice-chairman shall be appointed by the Minister of exercise the powers of chairman when the latter is not available, and when neither is available, the Minister shall appoint a member of the Committee to act as Chairman with regard to the Committee's functions and the exercise of its powers.**
3. (a) **Communication with the Committee shall be via the Secretariat at Private Bag XI 93, Pretoria, 0001, Tel (01 2) 309-3415, Fax (012) 323-7007**

(b) All communications other than those of a purely informal nature shall be in writing or forthwith confirmed **in writing**.

4. **No person who has knowledge of or access to any document or other information** in connection with the Committee's functions or exercise of its powers shall disclose the same to any other person save in the course of his or his principal's rights or duties under Act No. 44 of 1993 or Act No. 45 of 1993, or save with the leave of the Committee.

5. Meetings of the Committee shall be held at **such times and places as the Chairman may determine and may be adjourned from time to time**.

6. The Chairman shall determine whether or not a meeting is to be called in any particular matter.

7. (a) **Any application** to the Committee by any party **shall be in writing, setting out the name and address of the applicant**, his *locus standi* in the matter, the nature of the relief sought, the names of every party against whom the relief is sought or who has a direct and substantial interest in the subject-matter of the claim, and a summary of the particular ground of each claim;

(b) six copies of the application shall be lodged with the Committee and two copies shall be served upon every party against whom relief is claimed or who has a direct and substantial interest as aforesaid;

(c) every such party shall, within 14 working days of such service upon him, lodge and serve a summary of any answer and/or counter-claim he may wish to raise in the matter;

(d) the Chairman shall thereupon appoint a time and place for a hearing of such application and any inspection and due notice thereof shall be given to all interested parties:

PROVIDED THAT in urgent matters or for other good cause shown, the requirements of this paragraph may be dispensed with or varied by the Chairman.

8. Where only one party is involved, or there is no opposition to an application, the Committee may deal with the matter as it deems appropriate.

9. A quorum for meetings of the Committee shall be three members.

10. For the performance of its functions and the exercise of its powers, the Committee may invoke the professional expertise of its members or of its own expert, and may obtain outside information or advice, or join any person as a party in any dispute or application or summon any person to testify before the Committee or before any member thereof or to produce any book, document or other

object that may be relevant to any inquiry, investigation or other matter with which the Committee is concerned.

11. A summons for the attendance of any person before the Committee or for the production of any book, document or other object, shall be in the form and shall be served in the manner prescribed by the Committee and shall be signed by the Chairman.
12. The Chairman of the Committee or the person presiding at a hearing may at any stage require a conference with the parties with the view of reducing the issues and shortening the proceedings.
13. The decision of a majority of the members of the Committee present a meeting thereof at which there is a quorum shall constitute the decision of the Committee, and in the case of any equality of votes, the chairman shall have a casting vote in addition to his deliberative vote.
14. Any person giving information to the Committee maybe required to do so under oath or affirmation.
15. At any inquiry before the Committee legal representation may be allowed in the Committee's discretion.
16. In the case of a complaint under section 14 of Act No. 44 of 1993 or section 13 of Act No. 45 of 1993, the respective provisions of those sections shall apply to the exclusion of these procedures, which shall however continue to apply to the extent that they are not inconsistent with those sections.
17. The Committee, before making any order under section 14(3)(a) of Act No. 44 of 1993, or section 13(3)(c) of Act No. 45 of 1993, shall give notice to the company concerned of its intention to do so.
18. The Committee in the exercise of its discretion in any particular matter may require that the whole or any part of any proceedings shall be recorded,
19. The Committee may publish or order the publication of any notice or announcement in the *Gazette* or through any other from of the press media.

## 20. COMPLAINTS PROCEDURE

### 20.1 *Lodging of complaints*

The following procedure shall be followed in the lodging of complaints:

- 20.1.1 The complaint shall be made on the form REGULATING COMMITTEE 2 (or a reasonable facsimile) obtainable from the secretariat of the Committee, at the above address and must

include the following information:

- ▷ **Name and address of the complaint;**
- ▷ *locus standi* of the complaint;
- ▷ **names of every party with a direct and substantial interest in the matter;**
- ▷ a summary of the grounds for each claim; and
- ▷ proof of the Company's failure to comply with the provisions of the relevant Acts, on each complaint,

20.1.2 Six copies of the application must be lodged with the Secretary of the Regulating Committee at the above address.

20.1.3 Two copies of the application must be served on every party against whom relief is sought as well as every party with a direct and substantial interest in the matter.

## 20.2 *Answers to complaints*

If any party wishes to answer a complaint, the following procedures shall be followed:

20.2.1 The answer to the complaint must be in writing and must include the following information:

- ▷ Name and address of the party;
- ▷ the complaint which is being answered;
- ▷ the answer to **the** complaint and motivation thereof and/or rebuttal of complaint; and
- ▷ details of counter-claim if any.

20.2.2 Any answer to the complaint must be filed and served within 14 days of receipt thereof.

20.2.3 Six copies of the answer shall be provided to the Secretary of the Regulating Committee at the above address.

20.2.4 Two copies of the answer must be provided to every party with a direct and substantial interest in the matter.

## 21. INVESTIGATIONS AND HEARINGS

21.1 The Committee shall, on receipt of a complaint, investigate it, and advise the interested parties of a provisional date of completion of the investigation.

21.2 If additional information is required by the Committee during the investigation, it shall be provided with 14 days of the request therefor.

21.3 Should the Committee deem it necessary to call an inspection, all parties involved will be notified of the time and venue of the inspection.

21.4 The decision made by the Committee with regard to the complaint will be forwarded in writing to the parties involved,

## 22. MATTERS OF URGENCY

22.1 In the case of an urgent matter, the following procedures shall be followed:

22.1.1 Same as set out in 2.1.1., but motivation of the urgency to resolve the matter expeditiously must be included.

22.1.2 Same as set out in 2.1.2.

22.1.3 The Chairman will judge whether the complaint should be handled as an urgent matter, and in such case will also determine the subsequent procedure.

## 23. AMENDMENT TO PERMISSION

Provision is made [Act 44, 1933, subsection 12 (11)]<sup>1</sup> for the Regulating Committee to amend any condition of a permission with the approval of the Minister.

## 24. CONFIDENTIALITY

No person who has knowledge of or access to any document or other information in the possession of a member of the Committee or a person authorized by the Committee during any proceedings shall disclose the content of such document or information to any other person without the written authority of the Committee.

## 25. OFFENCES AND PENALTIES

25.1 Any person who fails to comply with a direction in a summons or any other direction made in terms of these regulations or with regulation 24 shall be guilty of an offence.

25.2 Any person convicted of an offence in terms of these regulations shall be liable to a fine or imprisonment for a period not exceeding six months or both such fine and such imprisonment.

26. COMMENCEMENT



These regulations shall commence on the  
the Government Gazette.

date determined by the Minister by notice in

**SCHEDULE 2**

**REGULATING COMMITTEE**

for Airports Company and ATNS

Company

c/o Private Bag XI 93

PRETORIA

0001

Tel: (01 2) 290-9111

Fax: (01 2324-3486

RC2

**LOGGING OF COMPLAINTS**

**Note:**

1. Any person who feels aggrieved by the failure of the Airports Company or the ATNS Company to comply with any provision of sections 5(2), 12(1) or 12(12) of the relevant Acts may lodge a complaint with the committee on this *pro forma*, which shall be accompanied by proof of the failure.
2. Six copies of the application must be forwarded to the above mentioned address.
3. Two copies thereof must be forwarded to every party against whom relief is claimed as well as to every party with a direct and substantial interest in the matter.

1. Surname and title of complainant or name of company .....

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(Block letters)

- 2. First names (if applicable) .....  
(Block letters)
- 3. Postal address .....
- 4. Telephone number ..... Facsimile number .....
- 5. Residential address: .....
- 6. Complaint:

<b>Party against whom relief is sought</b>
..... .....
<b>Names of other Parties with direct and substantial interest</b>
..... ..... .....
<b>'Grounds of complaint</b>
..... ..... ..... .....
<b>'Proof of failure</b>
<b>Relevant Act</b>
.....
<b>Description</b>

<sup>1</sup> Grounds of complaint can be handed in as an annexure to this form.

<sup>2</sup> Proof of failure can be handed in as an annexure to this form.

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7. Statement:

I declare that all information as included above is to be best of my knowledge true and just.

.....  
(Signature of Complaint)

.....  
(Date)