

NOTICE 1894 OF 2001
REGULATING COMMITTEE
DRAFT REGULATIONS

The draft Regulations are hereby republished for final comments. Comments must be submitted within 30 days of publication. These draft Regulations supercedes the previous draft published in the Government Gazette Number 21671 of 27 October 2000, (Notice 639 01994). 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 Regulations set out in the Schedules, in the performance of its functions and the exercise of its powers.

M. R. Rwelamira

Chairperson: Regulating Committee.

**REGULATIONS TO GOVERN PROCEEDINGS OF THE
REGULATING COMMITTEE ("THE COMMITTEE") OF THE
AIRPORTS COMPANY SOUTH AFRICA (ACSA) AND THE AIR
TRAFFIC AND NAVIGATION SERVICES COMPANY (ATNS)**

Definitions

1. In these Regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the "Acts" means that meaning.

"Acts" means the Airports Company Act, 1993 (Act No. 44 of 1993) and the Air Traffic and Navigation Services Act, 1993 (Act No. 45 of 1993);

"Company" means Airports Company South Africa Limited and the Air Traffic and Navigation Services Company Limited established in terms of Act No. 44 of 1993 and Act No. 45 of 1993 respectively.

Meetings of the Committee

1. The Chairperson shall preside over all the meetings of the Committee.
2. A Vice-chairperson shall be appointed by the Minister to exercise the powers of chairperson when the latter is not available, and when neither is available, the Minister shall appoint a member of the Committee to act as Chairperson with regard to the Committee's functions and the exercise of its powers.

4. Meetings of the Committee shall be held at such times and places as the Chairperson may determine, and may be adjourned from time to time.
5. The Chairperson shall determine whether or not a meeting is to be called in any particular matter.
6. A quorum for meetings of the Committee shall be three members.
7. The decision of a majority of the members of the Committee present at 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 Chairperson shall have a casting vote in addition to his deliberative vote.
8. 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.

Powers of the Committee

9. For the performance of its functions and the exercise of its powers, the Committee may:-
 - (1) invoke the professional expertise of its members or of outside experts;
 - (2) obtain outside information or advice;
 - (3) join any person as a party in any dispute or application; and
 - (4) 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.
10. A summons for the attendance by any person before the Committee or for the production of any book, document or other object, shall be served in the manner prescribed by the Committee and shall be signed by the Chairperson.
11. The Chairperson 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.
12. The Committee may publish or order the publication of any notice or announcement in the *Gazette* or through any other form of the press media.

Communication and procedure for lodging complaints to the Committee

13. Communication to the Committee shall be forwarded to the Secretariat at Private Bag X193, Pretoria, 0001, Tel (012) 309 -3415, Fax (012) 323 -7007
14. All communications other than those of a purely informal nature shall be in writing or forthwith confirmed in writing.
15. Any application to the Committee by any party for relief shall be in writing, or on Form RC 1 (Schedule 1) and shall set out:-
 - (1) the name and address of the applicant;
 - (2) his/her *locus standi* in the matter;
 - (3) the nature of the relief sought;
 - (4) 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
 - (5) a summary of the particular grounds of each claim.
16. 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.
17. Every such party shall, within fourteen working days of such service upon him/her, lodge and serve a summary of any answer and/or counter-claim he/she may wish to raise in the matter. Such an answer or counter claim shall include the following information:-
 - (1) name and address of the party;
 - (2) the complaint which is being answered;
 - (3) the answer to the complaint and motivation thereof and/or rebuttal of complaint; and
 - (4) details of counter-claim if any.
18. The Chairperson shall appoint a time and place for a hearing and or inspection and due notice thereof shall be given to all interested parties.
19. Where only one party is involved, or there is no opposition to an application, the Committee may proceed to deal with the matter as it deems appropriate.

Proceedings before the Committee

- 20 Any person giving information to the Committee may be required to do so under oath or affirmation.
- 21 In any proceedings before the Committee, legal representation may be allowed at the Committee's discretion.
- 22 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 Regulations, which shall however continue to apply to the extent that they are not inconsistent with those sections.
- 23 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.

Investigations and hearings

24. The Committee shall, on receipt of a complaint, investigate it, and advise the interested parties of a provisional date of completion of the investigation.
25. If additional information is required by the Committee during the investigation, it shall be provided within fourteen days of the request therefor.
26. If the Committee deems it necessary to call an inspection, all parties involved will be notified of the time and venue of the inspection.
27. The decision made by the Committee with regard to the complaint will be forwarded in writing to the parties involved.

Urgent applications

28. In case of an urgent application, the Chairperson will decide on whether the application should be handled as an urgent matter, and in such case will also determine the appropriate procedure.

Confidentiality

29. No employee of the Company or staff of the Committee who has knowledge of or access to any document or other information in the possession of a member of the Committee or a person authorised by the Committee, relating to any proceedings before the Committee, shall disclose the content of such document or information to any other person save in the course of his/her principal's rights and duties under Act 44 of 1993 or Act 45 of 1993 without the written authority of the Committee.

Offences and penalties

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

Commencement

32. These Regulations shall commence on the date determined by the Minister by notice in the Government Gazette.



SCHEDULE 1

REGULATING COMMITTEE

for Airports Company South Africa Limited and Air Traffic and Navigation Services Company Limited
c/o Private Bag X193
PRETORIA
0001

Tel: (012) 309-3415

Fax: (012) 323-7007

RC1

LODGING OF COMPLAINTS

Note:

1. Any person 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*.
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 sought 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.....
.....
(Block letters)
2. First names (if applicable).....
(Block letters)
3. Postal address.....
4. Telephone number Facsimile number.....
5. Business address.....
6. Residential address.....
7. Complaint:

Party against whom relief is sought
.....
.....
Names of other Parties with direct and substantial interest
.....
.....
.....
¹Grounds of complaint
.....
.....
.....
.....
.....
Relevant section of the Act
.....
Description
.....
.....
.....
.....
.....

8. Statement:

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

.....
(Signature of Complaint)

.....
(Date)

Grounds of complaint can be handed in as an annexure to this form.