
GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF TRANSPORT DEPARTEMENT VAN VERVOER

No. R. 128

22 February 2013

CIVIL AVIATION ACT, 2009 (ACT NO. 13 OF 2009)

AIRPORT SLOT COORDINATION REGULATIONS, 2012

The Minister of Transport has, in terms of section 155 of the Civil Aviation Act, 2009 (Act No. 13 of 2009), made the regulations in the Schedule.

SCHEDULE

AIRPORT SLOT COORDINATION REGULATIONS, 2012

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1. Definitions

In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act shall have that meaning and -

“**ACSA**” means the company established in terms of section 2 of the Airports Company Act, 1993 (Act No. 44 of 1993);

“**ATNS**” means the company as defined in section 1 of the Air Traffic and Navigation Services Company Act, 1993 (Act No. 45 of 1993);

“**ad hoc operation**” means the operation of an aircraft at an airport in terms of an *ad hoc* slot;

“**ad hoc slot**” means a slot that does not form part of a series of slots;

“**air service licence**” means a licence as defined in the Air Services Licensing Act, 1990 (Act No. 115 of 1990);

“**airline**” bears the meaning assigned to it in the Civil Aviation Regulations

“**aircraft operator**” means:

- (a) an air service operator;
- (b) an aviation training organisation contemplated in Part 141 of the Civil Aviation Regulations; or
- (c) a person who operates an aircraft whether or not for reward;

“**airport operator**” means, in relation to an airport, the holder of the aerodrome licence in respect of that airport issued in terms of Part 139 of the Civil Aviation Regulations;

“**appointing entity**” means an entity that is entitled to appoint a member of the committee in terms of regulation 13(2) or 13(3);

“**arrival or departure time**” means the time when the aircraft is "on blocks" or "off blocks", respectively;

“**chairperson**” means the chairperson of the committee, appointed in terms of regulation 13(2)(a);

"**Civil Aviation Regulations**" means the Civil Aviation Regulations, 2011 published under Government Notice R425 in *Government Gazette* 35398 of 1 June 2012, as amended;

"**committee**" means the Slot Coordination Committee of South Africa established by regulation 13(1);

"**coordinated airport**" means an airport designated or deemed to be designated in terms of regulation 2(1), 2(2) or 6(1);

"**coordination parameters**" means the expression in operational terms of all the capacity available for slot allocation at a coordinated or schedules facilitated airport, taking into account all technical, operational, maintenance and environmental factors that affect the capacity of the airport, including the availability of surrounding airspace;

"**coordinator**" means the entity referred to in regulation 8;

"**designated period**" means a period specified by the Director-General in terms of regulation 6(1), 6(3) or 7(1);

"**Domestic Air Services Regulations**" means the Domestic Air Services Regulations, 1991 published under Government Notice R2180 in *Government Gazette* 13507 of 30 August 1991, as amended;

"**equivalent scheduling period**" means:

- (a) in respect of a scheduling period commencing in March of a particular year, a scheduling period that commenced or commences in March of the previous or subsequent year; and
- (b) in respect of a scheduling period commencing in October of a particular year, a scheduling period that commenced or commences in October of the previous or subsequent year;

"**historic slot**" means a slot that meets the requirements of regulation 22(1) read with regulations 22(2) to 22(5);

"**initial slot allocation**" means the initial slot allocation process that takes place biannually under the auspices of the International Air Transport Association, commencing on the initial submission deadline and concluding on the last day of the scheduling conference;

“initial submission deadline” means 23h59 UTC (Coordinated Universal Time) on the date by which aircraft operators must submit their planned operations at coordinated airports, as specified from time to time by the International Air Transport Association;

"international air service" bears the meaning assigned to it in the International Air Services Act, 1993 (Act No. 60 of 1993);

“International Air Services Regulations” means the International Air Services Regulations, 1994 published under Government Notice 722 in *Government Gazette* 15633 of 15 April 1994, as amended;

“new entrant” means an airline requesting a series of slots at an airport on any day where, if the airline’s request was accepted, it would in total hold not more than 5% of the total slots available at that airport on that day;

"operating certificate" bears the meaning assigned to it in the Civil Aviation Regulations;

"repeatedly" means more than once in the past six months in respect of a particular series of slots, or more than one *ad hoc* operation in the past six months operated by an aircraft operator to or from the airport in question;

“schedules facilitated airport” means an airport designated in terms of regulation 3(1) or 6(3);

“scheduling conferences” means the international scheduling conferences of the International Air Transport Association, held biannually;

"scheduled public air transport service" bears the meaning assigned to it in the Civil Aviation Regulations;

“scheduling period” means the seven-month period commencing on the last Sunday of March or the five-month period commencing on the last Sunday of October of each year;

“series of slots” means at least five slots requested for the same time on the same day-of-the-week consecutively in the same scheduling period and allocated in that way or, if that is not possible, allocated at approximately the same time;

"**significantly**" means a difference of more than 15 minutes for domestic flights and more than 30 minutes for international flights between the actual arrival or departure time and the allocated slot time.

"**slot**" means the permission given by the coordinator in accordance with these regulations to use the full range of airport infrastructure necessary to operate an aircraft at a coordinated airport on a specific date and time for the purpose of landing or take-off. Subject to regulation 29(4), a slot is specific to a particular aircraft type and series, configuration, route and flight number;

"**slot pool**" means the pool of slots referred to in regulation 21(2)(d);

"**special event**" means an event, including a sporting, cultural, religious, political or business event, which is likely to place significant additional strain on the capacity of one or more airports;

"**special event airport**" means an airport that is designated for purposes of a special event in terms of regulation 7(1);

"**the Act**" means the Civil Aviation Act, 2009 (Act No. 13 of 2009).

2. **Designation of coordinated airports**

- (1) Subject to this regulation, the Minister may designate an airport as a coordinated airport by notice in the *Gazette*.
- (2) O. R. Tambo International Airport, Cape Town International Airport and King Shaka International Airport shall be deemed to be designated in terms of sub-regulation (1), unless the Minister withdraws the designation of these airports in terms of regulation 4 or relaxes the designation in terms of regulation 5.
- (3) Subject to sub-regulation (6), the Minister may only designate airports in terms of sub-regulation (1) if the airport operator in writing requests such designation.
- (4) The Minister shall only designate an airport in terms of sub-regulation (1) if he or she is satisfied that:
 - (a) demand for airport infrastructure at that airport exceeds, or is in the short-term expected to exceed, the airport's capacity at certain periods during the day;

- (b) expansion of airport infrastructure to meet demand is not possible in the short-term;
 - (c) attempts to resolve the lack, or expected lack, of capacity through voluntary schedule adjustments have failed or are likely to be ineffective; and
 - (d) a process of slot allocation is desirable at the airport.
- (5) A request referred to in sub-regulation (3) shall be accompanied by a report reflecting the results of a thorough demand and capacity analysis undertaken by the airport operator at its own cost. This analysis shall:
- (a) assess any shortfall, or expected shortfall, in capacity, taking into account environmental constraints at the relevant airport; and
 - (b) consider the possibilities for overcoming the shortfall, or expected shortfall, through mechanisms such as new or modified infrastructure, operational or other changes and the likely timeframe for such mechanisms.
- (6) If the Minister is of the opinion, after consultation with the committee and the airport operator, that the airport operator of a non-coordinated airport is failing to maximise capacity at that airport and that such failure is resulting in, or contributing to, a shortage of airspace capacity in the surrounding area, the Minister may:
- (a) instruct the airport operator, at its own cost, to conduct an analysis and prepare and submit a report contemplated sub-regulation (5); and
 - (b) notwithstanding sub-regulation (3), designate that airport in terms of sub-regulation (1), if the Minister is satisfied that the circumstances in sub-regulations (4)(a) to (c) exist and that a process of slot allocation is necessary at the airport.
- (7) Prior to making a designation in terms of sub-regulation (1), and after receipt of the report referred to in sub-regulation (5), the Minister shall consult on the capacity situation at the relevant airport with the committee, the airport operator, the aircraft operators that use the airport regularly or their representatives and the relevant air navigation service provider.

- (8) The notice referred to in sub-regulation (1) must be published at least seven months prior to the commencement of the scheduling period in which the coordination of the airport will come into effect.

3. **Designation of schedules facilitated airports**

- (1) Subject to this regulation, the Minister may designate an airport that is not a coordinated airport as a schedules facilitated airport by notice in the *Gazette*.
- (2) The Minister may only designate an airport in terms of sub-regulation (1) if:
- (a) the airport operator in writing requests such designation; and
 - (b) the Minister is satisfied that there is potential for congestion during some periods of the day, week or scheduling period, which can be resolved through voluntary cooperation between aircraft operators.
- (3) The provisions of regulations 2(5), 2(7) and 2(8) apply, with the changes required by the context, to a designation in terms of sub-regulation (1).

4. **Withdrawal of designation of a coordinated or a schedules facilitated airport**

- (1) The Minister may, by notice in the *Gazette*, withdraw the designation of a coordinated or schedules facilitated airport, provided that:
- (a) the airport operator of that airport has in writing requested such withdrawal;
 - (b) the request is accompanied by a report referred to in regulation 2(5); and
 - (c) the Minister follows the process referred to in regulation 2(7).
- (2) The Minister may only withdraw the designation of an airport as a coordinated airport if he or she is satisfied that the circumstances envisaged in regulation 2(4)(a) no longer apply to that airport.
- (3) The Minister may only withdraw the designation of an airport as a schedules facilitated airport if he or she is satisfied that there is no longer potential for congestion during some periods of the day, week or scheduling period at that airport.
- (4) The provisions of regulation 2(8), with the changes required by the context, apply to the withdrawal of a designation in terms of sub-regulation (1).

5. Relaxation of the designation of an airport

- (1) The Minister may, by notice in the *Gazette*, change the designation of an airport from a coordinated airport to a schedules facilitated airport, provided that:
 - (a) the airport operator of that airport has in writing requested such change;
 - (b) the request is accompanied by a report referred to in regulation 2(5); and
 - (c) the Minister follows the process referred to in regulation 2(7).
- (2) The Minister may only change the designation of an airport as contemplated in sub-regulation (1) if he or she is satisfied that:
 - (a) the circumstances envisaged in regulation 2(4)(a) no longer apply to that airport; and
 - (b) the circumstances envisaged in regulation 3(2)(b) apply to that airport.
- (3) The provisions of regulation 2(8), with the changes required by the context, apply to the change of a designation in terms of sub-regulation (1).

6. Temporary designation of an airport

- (1) Notwithstanding the provisions of regulation 2, the Director-General may, by notice in the *Gazette*, temporarily designate an airport as a coordinated airport for a specified period in which the airport is likely to experience a temporary increase in demand, whether as a result of a special event or otherwise, or a temporary shortage of capacity such that the circumstances envisaged in regulation 2(4)(a) are likely to apply to that airport.
- (2) The Minister may, by notice in the *Gazette* and after consultation with the committee and the airport operator, determine specific rules for the effective coordination of an airport contemplated in sub-regulation (1).
- (3) Notwithstanding the provisions of regulation 3, the Director-General may, by notice in the *Gazette*, temporarily designate an airport as a schedules facilitated airport for a specified period in which the airport is likely to experience a temporary increase in demand, whether as a result of a special event or otherwise, or a temporary shortage of capacity such that the circumstances envisaged in regulation 3(2)(b) are likely to apply to that airport.

- (4) Prior to making a designation in terms of sub-regulation (1) or (2), the Director-General shall consult with the committee and the airport operator.
- (5) An airport designated in terms of sub-regulation (1) or (3) shall, for the duration of the designated period, constitute a coordinated airport or a schedules facilitated airport, respectively.
- (6) The designated period contemplated in sub-regulations (1) and (3) shall not exceed six months.
- (7) The notice referred to in sub-regulation (1) must be published at least three months prior to the commencement of the relevant designated period, unless a shorter notice period is justified in the circumstances.

7. Coordinated airports and special events

- (1) The Director-General may, by notice in the *Gazette* and for a specified period, designate a coordinated airport for purposes of a special event, if such event is likely to place significant additional strain on the capacity of that airport.
- (2) The Minister may by notice in the *Gazette*, and after consultation with the committee and the airport operator, determine specific rules for the effective coordination of an airport contemplated in sub-regulation (1).
- (3) The provisions of regulation 6(4) and 6(7) apply, with the changes required by the context, to a designation in terms of sub-regulation (1).

8. Appointment of the coordinator

ATNS is hereby appointed as the coordinator.

9. Functions of the coordinator

- (1) The coordinator shall be responsible for:
 - (a) allocating slots at coordinated airports;
 - (b) monitoring and enforcing the use of slots at coordinated airports;
 - (c) facilitating the scheduling of slots at schedules facilitated airports; and
 - (d) ensuring that the capacities of coordinated airports are not exceeded.

- (2) The coordinator shall perform any other function allocated to it in these regulations.
- (3) The coordinator shall perform its functions in an independent, neutral, efficient, non-discriminatory and transparent manner.
- (4) The coordinator shall optimise the utilisation of slots in the interests of all stakeholders and in the national interest.
- (5) The coordinator shall participate in such scheduling conferences as are necessary to perform its functions in terms of these regulations.

10. **The schedules facilitation function**

- (1) The coordinator shall facilitate the process of voluntary schedules adjustments by aircraft operators so as to avoid exceeding the coordination parameters of schedules facilitated airports.
- (2) The coordinator shall advise aircraft operators when congestion is likely to occur at a schedules facilitated airport, and shall recommend alternative arrival or departure times in order to minimise congestion at such airports.
- (3) The coordinator shall, with the assistance of the airport operator, monitor the conformity of aircraft operators with the schedules recommended to them.

11. **Directives**

- (1) The coordinator may issue written directives to an aircraft operator, an airport operator or an air navigation service provider for the purpose of preventing the misuse of slots referred to in regulation 31.
- (2) Prior to issuing a directive in terms of sub-regulation (1), the coordinator shall give written notice to the affected aircraft operator, airport operator or air traffic navigation service provider:
 - (a) indicating the intention to issue the directive;
 - (b) setting out the reasons why it is considering issuing the directive; and
 - (c) affording such person a reasonable opportunity to make representations as to why the directive should be altered or should not be issued.

12. Prohibition on acting as a coordinator or schedules facilitator

Save as provided in regulation 20(3), no person other than the coordinator shall act as a coordinator for a coordinated airport or as a schedules facilitator for a schedules facilitated airport.

13. Appointment of the Slot Coordination Committee of South Africa

- (1) There is hereby established a committee, known as the Slot Coordination Committee of South Africa.
- (2) The following entities shall each be entitled to appoint one member, and one alternate member, of the committee:
 - (a) the Department;
 - (b) ACSA;
 - (c) the South African Civil Aviation Authority;
 - (d) ATNS, in its capacity as a provider of an air traffic service;
 - (e) the Airlines Association of Southern Africa;
 - (f) the Board of Airlines Representatives of South Africa;
 - (g) the Commercial Aviation Association of Southern Africa; and
 - (h) the Aircraft Owners and Pilots Association of South Africa.
- (3) If an airport which is not operated by ACSA, is designated as:
 - (a) a coordinated airport in terms of regulation 2; or
 - (b) a schedules facilitated airport in terms of regulation 3,the airport operator of that airport shall be entitled to appoint one member, and one alternate member, to the committee, provided that no airport operator shall be entitled to appoint more than one member and one alternate member to the committee.
- (4) The member appointed in terms of sub-regulation (2)(a) shall be the chairperson of the committee.

- (5) A member of the committee serves in a part-time capacity and acts as a representative of the appointing entity that appointed him or her in terms of sub-regulation (2) or (3).
- (6) Each of the appointing entities referred to in sub-regulations (2) and 3 shall, in writing and within one month of the date on which these regulations come into effect, notify the Department of the name of the member and alternate member whom it appoints to the committee in terms of that sub-regulation.
- (7) An appointing entity may change its member or alternate member of the committee from time to time by written notice to the Department.
- (8) If, for any reason, a member appointed by an appointing entity is unable to attend a meeting of the committee, the alternate member of that entity shall attend. An alternate member shall be regarded as a member of the committee for purposes of such meeting.
- (9) A representative of the coordinator shall attend all meetings of the committee as an observer.
- (10) The chairperson may invite any other person to attend meetings of the committee as an observer, where the chairperson believes that such person may assist in the performance of the committee's functions.
- (11) The Department shall provide secretarial and administrative support to the committee.

14. Removal of members of the committee

- (1) The Director-General may remove a member or an alternate member of the committee from office on account of:
 - (a) misconduct;
 - (b) inability or repeated failure to perform his or her office efficiently;
 - (c) absence from three consecutive meetings of the committee without the written permission of the chairperson, except on good cause shown; or
 - (d) the fact that he or she is or has been convicted, whether in the Republic of elsewhere, of–

- (i) theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (insofar as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any other offence involving dishonesty; or
 - (ii) an offence under the Act;
- (e) the fact that he or she has been sentenced, after the commencement of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), to a period of imprisonment of not less than one year without the option of a fine; or
- (f) the fact that he or she has at any time been removed from an office of trust on account of misconduct.
- (2) If the Director-General removes a member or alternate member of the committee from office in terms of sub-regulation (1), the relevant appointing entity shall replace that member by written notice to the Department within 14 days of such removal.

15. Functions of the committee

- (1) The functions of the committee are to –
- (a) advise the Director-General on the coordination parameters contemplated in regulation 18; and
 - (b) make proposals to, or advise, the coordinator, the Director-General or the Minister on:
 - (i) possibilities for increasing the capacities of coordinated airports or for improving their usage by aircraft operators;
 - (ii) improvements to aircraft traffic conditions prevailing at coordinated airports, including environmental issues relating to aircraft traffic;
 - (iii) local rules and local guidelines for the allocation of slots, which rules or guidelines are specific to a particular airport;

- (v) methods of monitoring the use of slots;
 - (vi) serious problems encountered by new entrants in accessing coordinated airports;
 - (vii) any other issues relating to capacity, slot allocation and monitoring of the use of slots at coordinated airports; and
 - (viii) the designation of coordinated airports and schedules facilitated airports, the withdrawal of designations, the relaxation of designations and the designation of special event airports in terms of regulations 2 to 7.
- (2) The committee shall promote the optimisation of the utilisation of slots in the interests of all stakeholders and in the national interest.
- (3) The coordinator shall cooperate with and assist the committee and shall provide relevant information to the committee on request.

16. **Meetings of the committee**

- (1) The committee must meet as often as necessary for the proper performance of its functions, and at least twice a year.
- (2) The chairperson convenes meetings of the committee, whenever the work of the committee so requires or whenever he or she is requested in writing to do so by two or more other members of the committee, on 14 days' written notice to the members of the committee.
- (3) In the event of the temporary absence of the chairperson, the chairperson shall appoint a member of the committee to act as chairperson during the period of absence.
- (4) Subject to this regulation and such written rules of procedure that may be adopted by the committee, the chairperson shall determine the procedure to be adopted at meetings of the committee.
- (5) The committee must cause a record of its proceedings to be kept.

17. Sub-committees

- (1) The committee may establish sub-committees consisting of members of the committee and, where necessary, selected experts, to assist the committee in carrying out its functions in accordance with the terms of reference determined by the committee.
- (2) The provisions of regulation 16, with the necessary changes, shall apply to a sub-committee established in terms of sub-regulation (1).

18. The determination of coordination parameters

- (1) The airport operator of a coordinated airport or a schedules facilitated airport must, at least eight months prior to the commencement of the relevant scheduling period and after consultation with the air navigation service provider for that airport, provide the coordination parameters for that airport for the relevant period, to the Director-General and the committee.
- (2) Notwithstanding sub-regulation (1), the airport operator of a coordinated airport or a scheduled facilitated airport designated in terms of regulation 6(1) or 6(3) shall provide the coordination parameters for that airport for the designated period within such period as the Director-General specifies in writing.
- (3) In determining the proposed coordination parameters referred to in sub-regulations (1) and (2), the airport operator shall have regard to:
 - (a) all relevant technical, operational and environmental constraints on the airport;
 - (b) the different types of aircraft traffic at the airport; and
 - (c) the infrastructure capacity of the airport.
- (4) If the Director-General, after consultation with the committee and the relevant airport operator and the relevant air navigation service provider, is satisfied that the airport does not face airspace capacity constraints that affect the coordination parameters, the Director-General shall approve the parameters provided in terms of sub-regulation (1) or (2) as the coordination parameters of the airport.
- (5) If the Director-General, after consultation with the committee and the relevant airport operator, is of the opinion that the airport faces airspace capacity

constraints that affect the coordination parameters and that those constraints are not to be addressed by an increase in airspace capacity, the Director-General shall determine the coordination parameters for the airport by adjusting the parameters provided in terms of sub-regulation (1) or (2) so as to take account of those constraints.

- (6) The coordination parameters shall be approved or determined in terms of sub-regulations (4) or (5), and communicated to the coordinator, the committee and the airport operator, at least seven months prior to the commencement of the relevant scheduling period.
- (7) The time period specified in sub-regulation (6) shall not apply in respect of an airport designated in terms of regulation 6(1) or 6(3).

19. Prohibition on using a coordinated airport without a slot

- (1) Subject to sub-regulation (2), no aircraft operator may operate at a coordinated airport without a slot allocated by the coordinator in terms of these regulations.
- (2) The prohibition in sub-regulation (1) shall not apply to military, police or medical emergencies, humanitarian flights, the use of an aircraft in connection with natural disasters or search and rescue operations, or to in-flight emergencies relating to the operation of the aircraft.

20. Requests for the allocation of slots

- (1) An aircraft operator shall request the allocation of a slot, or a series of slots, in the form as published from time to time by the coordinator in the *Gazette* and on the coordinator's web site.
- (2) Requests for slots may be made at any time during the coordinator's office hours.
- (3) Notwithstanding sub-regulation (2), an *ad hoc* slot may be requested after hours from the airport operator, provided that the slot falls within the 24-hour period immediately following the request. In such circumstances, the airport operator may perform the functions of the coordinator in respect of that slot request.
- (4) No slots shall be allocated for a scheduling period prior to the initial slot allocation in respect of that period.

- (5) A request for a series of slots shall only be considered as part of the initial slot allocation for a scheduling period if it is submitted to the coordinator by the initial submission deadline for that period.
- (6) *Ad hoc* slots may not be requested as part of the initial slot allocation, provided that an operator of a scheduled public air transport service may, as part of the initial slot allocation, request an *ad hoc* slot falling within the first or last seven days of a scheduling period to accommodate either:
- (a) a change occasioned by daylight savings; or
 - (b) a slot to be allocated to an aircraft operator in the first week of a scheduling period at the same time and day-of-the-week as a series of slots allocated to that operator and that ends in the last week of the previous scheduling period; or
 - (c) a slot to be allocated to an aircraft operator in the last week of a scheduling period at the same time and day-of-the-week as a series of slots allocated to that operator and that commences in the first week of the following scheduling period.
- (7) Requests for *ad hoc* slots, other than slots referred to in sub-regulations (6)(a), (6)(b) and (6)(c), may only be made from:
- (a) 16 January for the scheduling period commencing in March of the same year; or
 - (b) 16 August for the scheduling period commencing in October of the same year.
- (8) The coordinator shall consider slot requests, and make slot allocations, in accordance with the coordination parameters of the relevant airport.
- (9) An aircraft operator which does not hold a valid air service licence and operating certificate (or the equivalent thereof) may not request, be allocated or hold an *ad hoc* slot or any slot that falls within a designated period.
- (10) Subject to sub-regulation (9), an aircraft operator which does not hold an air service licence and an operating certificate (or the equivalent thereof) may apply for, be allocated and hold a series of slots, provided that:

- (a) the aircraft operator has applied for such licence and certificate and neither has been refused;
- (b) the aircraft operator informs the coordinator, at the time of applying for the slot, that it does not hold such a licence and certificate; and
- (c) the application for a series of slots is made prior to:
 - (i) 15 January for the scheduling period commencing in March of the same year; or
 - (ii) 15 August for the scheduling period commencing in October of the same year.

21. Preferences in the allocation of slots

- (1) This regulation (regulation 21) applies only to the initial slot allocation for a particular scheduling period.
- (2) The coordinator shall allocate slots according to the following order of priority:
 - (a) the first priority is for historic slots;
 - (b) a change to a historic slot which does not involve a change to the time of the slot, shall have second priority;
 - (c) a change to a historic slot which involves a change to the time of the slot, shall have third priority;
 - (d) all remaining slots, including all new slot capacity provided for in the coordination parameters, shall form part of the slot pool.
- (3) A change to an historic slot shall only enjoy the priority referred to in sub-regulation (2)(b) or (c) if the change involves the replacement of one series of slots with another series of slots.
- (4) 50% of the slots contained in the slot pool at the initial slot allocation must be allocated to new entrants, unless the slot requests by new entrants are less than 50% of the available slots in which case the slots allocated to new entrants must equal the total number of slots requested by new entrants.

- (5) In considering changes to historic slots, allocating slots amongst new entrants and other allocations from the slot pool, a request to extend an existing operation so as to operate on a year-round basis shall have priority over a new slot request.
- (6) For purposes of sub-regulation (5), an operation on a “year-round basis” means an operation that uses the same series of slots in one scheduling period and in the immediately following scheduling period. In considering whether an operation is to be extended on a year-round basis, the coordinator shall allow for flexibility on timings from one scheduling period to another, such as changes in timings due to daylight savings or other seasonal changes.
- (7) The coordinator shall allocate slots in the slot pool, including allocating slots amongst new entrants:
- (a) giving first preference to scheduled public air transport services; and
 - (b) having regard to all relevant circumstances, including the following factors:
 - (i) schedules that will be effective for a longer period of operation in the scheduling period should generally be given preference;
 - (ii) the mix of different types of air services at, and the markets (domestic, regional and long-haul) served by, the relevant airport;
 - (iii) the development of the relevant airport’s route network;
 - (iv) the promotion of competition between aircraft operators;
 - (v) the need to minimise the effect of temporary capacity constraints at another airport on those aircraft operators which are adversely affected by those constraints;
 - (vi) the needs of the travelling public and shippers of goods by air so as to maximise the benefit to the greatest number of airport users; and
 - (vii) any local guidelines that apply to the relevant airport as published from time to time by the coordinator in the *Gazette* and on the coordinator’s web site.
- (8) For purposes of sub-regulation (7), the Minister may direct the coordinator, in relation to the allocation of slots in respect of an international air service, to have regard to the fact that a foreign state specified by the Minister failed or fails to

allocate slots in that state in accordance with the principles of fair and equal opportunity and reciprocity to a person designated by the Republic in terms of an air transport service agreement contemplated in section 35 of the International Air Services Act, 1993 (Act No. 60 of 1993).

22. Historic slots

- (1) An aircraft operator is only eligible for a historic slot if:
 - (a) the operator requests the relevant slot as part of a series of slots;
 - (b) the operator can demonstrate, to the satisfaction of the coordinator, that the operator operated a series of slots of which the slot forms part for at least 80% of the time during the previous equivalent scheduling period;
 - (c) the series of slots referred to in paragraph (a) is the same as, or is a subset of, the series of slots referred to in paragraph (b); and
 - (d) the operator requests the series of slots referred to in paragraph (a) by the initial submission deadline for the relevant scheduling period.
- (2) In respect of the first two scheduling periods of a coordinated airport that has been newly designated in terms of regulation 2(1), the term “slots” in sub-regulation (1)(b) should be read as referring to the times that the airport operator allocated to an aircraft operator for the use of the airport’s infrastructure for purposes of landing or take-off in respect of the previous equivalent scheduling period, and “series of slots” shall have a corresponding meaning.
- (3) Slots allocated to an aircraft operator before:
 - (a) 15 January for the scheduling period commencing in March of the same year, but returned to the coordinator for reallocation prior to that 15 January;
or
 - (b) 15 August for the scheduling period commencing in October of the same year, but returned to the coordinator for reallocation prior to that 15 August,shall not be taken into account for purposes of the usage calculation in sub-regulation (1)(b).

- (4) The non-utilisation of slots shall not be taken into account for purposes of the usage calculation in sub-regulation (1)(b) where the aircraft operator demonstrates that such non-utilisation resulted from:
- (a) unforeseeable and unavoidable circumstances beyond the control of the aircraft operator which led to:
 - (i) grounding of the aircraft type generally used for the air service in question;
 - (ii) closure of the relevant airport or airspace; or
 - (iii) serious disturbance of the operations of the relevant airport;
 - (b) the interruption of aircraft operations due to action intended to affect those operations and which rendered it practically or technically impossible for the aircraft operator to carry out the operations as planned.
- (5) The coordinator may regard a slot as having been operated for purposes of sub-regulation (1)(b) where the deviation between the slot time and the arrival or departure time is, in the coordinator's opinion, insignificant.
- (6) The coordinator may publish guidelines as the circumstances in which a slot is to be regarded as having been operated for purposes of sub-regulation (1)(b), including a permissible margin of deviation between the time of the slot and the actual arrival or departure time of the aircraft.
- (7) If the 80% usage of the series of slots cannot be demonstrated as contemplated in sub-regulation (1)(b) read with sub-regulations (2) to (5), all slots constituting the relevant series of slots shall be placed in the slot pool for allocation in the next equivalent scheduling period.
- (8) An aircraft operator that wishes to change a historic slot for the next equivalent scheduling period may request the change to the historic slot as well as conditionally requesting the historic slot. In such event:
- (a) if the coordinator approves the request to change the slot, the operator shall lose the historic slot; and
 - (b) if the coordinator refuses the request to change the slot, the operator shall, subject to sub-regulation (1), retain the historic slot.

23. Slot requests submitted after the initial submission deadline

A request for a slot or a series of slots submitted after the initial submission deadline shall:

- (a) not form part of the initial slot allocation; and
- (b) be considered on a first-come-first-served basis after the initial slot allocation has been finalised.

24. Waiting list

- (1) Subject to sub-regulation (2):
 - (a) all unsuccessful requests for slots made as part of the initial slot allocation shall be placed on a waiting list maintained by the coordinator; and
 - (b) all other unsuccessful requests for slots shall be placed on the waiting list maintained by the coordinator upon the written request of the relevant aircraft operator.
- (2) The aircraft operator which made an unsuccessful request for a slot may at any time inform the coordinator in writing that the relevant request may be removed from the waiting list.
- (3) If an allocated slot becomes available, preference in the allocation of that slot shall be given in accordance with the waiting list, with preference being given in accordance with the order in which the slot requests were made to the coordinator.

25. Allocation of slots in respect of a designated period

- (1) In the event of the temporary designation of an airport as a coordinated airport in terms of regulation 6(1), any times that the airport operator has, prior to the date of the notice contemplated in that regulation, allocated to an aircraft operator for the use of the airport's infrastructure for purposes of landing or take-off shall be deemed to be slots allocated by the coordinator.
- (2) Subject to sub-regulation (1) and notwithstanding the provisions of regulations 21 to 24 , in the event of:

- (a) a temporary designation of an airport as a coordinated airport in terms of regulation 6(1); or
- (b) the designation of a coordinated airport as a special event airport in terms of regulation 7(1),

the Minister may, after consultation with the airport operator and the committee, by notice in the *Gazette* determine the manner in which slot allocations shall be prioritised for that airport in respect of the designated period.

- (3) In the absence of a determination by the Minister in terms of sub-regulation (2), slots in respect of a designated period contemplated in regulation 6(1) shall be allocated on a first-come-first-served basis.

26. Rules and guidelines on slot allocation

Subject to the provisions of these regulations, the coordinator may publish rules on the procedure for slot allocation and guidelines on the allocation of slots, by notice in the *Gazette* and on its web site.

27. Provision of information on slot allocation

- (1) The coordinator shall, on a date to be determined by the committee, make available the following information to members of the committee:
 - (a) the historic slots of each aircraft operator;
 - (b) the slots requested by each aircraft operator;
 - (c) the allocated slots, and outstanding slot requests, of each aircraft operator;
 - (d) the remaining slots available for the relevant scheduling period;
 - (e) the coordination parameters; and
 - (f) the criteria used in the allocation of slots.
- (2) In the event that an aircraft operator's request for the allocation of a slot has been refused, the coordinator shall, within 14 days of receiving a request for the reasons for such decision, furnish that operator with:
 - (a) written reasons for such refusal; and

- (b) details of other slots similar to the refused slot that are available.

28. The nature of slots

- (1) An aircraft operator to whom a slot has been allocated:
 - (a) shall not enjoy any right of ownership in relation to that slot;
 - (b) may not pledge or otherwise encumber that slot; and
 - (c) may not sell that slot or otherwise transfer that slot other than as contemplated in sub-regulation (2).
- (2) Aircraft operators may, with the prior written approval of the coordinator, exchange allocated slots on a one for one basis, provided that no consideration is paid in respect of such an exchange.
- (3) Notwithstanding the provisions of these regulations, the allocation of a slot to an aircraft operator does not affect the obligations owed by that operator to the relevant airport operator whether arising in contract or otherwise.

29. Other conditions of use

- (1) Subject to sub-regulation (2), an aircraft operator that holds an *ad hoc* slot must, at least 48 hours prior to the date of such slot, submit to the airport operator:
 - (a) written confirmations that:
 - (i) fuel has been procured from the relevant fuel retailer at the airport;
 - (ii) all necessary ground handling arrangements have been confirmed with the relevant ground handlers at the airport; and
 - (iii) the *ad hoc* slot will be used in the manner specified in the request for the slot or permitted by the coordinator in terms of sub-regulation (4); and
 - (b) the following information:
 - (i) the identity and contact details of the aircraft operator;

- (ii) in respect of the aircraft to be operated in the relevant slot, the aircraft type, aircraft registration certificate, noise certificate and maximum take-off weight.
- (2) An aircraft operator that is allocated an *ad hoc* slot less than 48 hours prior to the date of the slot shall submit the written confirmations and information referred to in sub-regulation (1) within five hours of the operator's receipt of the allocation of the slot and prior to the time of use of the slot.
- (3) Notwithstanding the provisions of sub-regulations (1) and (2), in the event of:
 - (a) a temporary designation of an airport as a coordinated airport in terms of regulation 6(1); or
 - (b) the designation of a coordinated airport as a special event airport in terms of regulation 7,an aircraft operator which holds an *ad hoc* slot that falls within the designated period, must submit the confirmations and information listed in sub-regulation (1) to the airport operator:
 - (i) at least 30 days prior to the date of such slot, if the slot was allocated more than 30 days prior to the date of the slot; or
 - (ii) at the time of applying for the slot, if the slot is to be allocated within 30 days of the date of such slot.
- (4) An aircraft operator shall not, without the prior written permission of the coordinator which must be requested within a reasonable period prior to the use of the slot, use a slot for an aircraft type or series, aircraft configuration, route or flight number that differs from that which the operator furnished to the coordinator at the time of requesting the slot.
- (5) The coordinator may, by notice in the *Gazette* and on its web site, publish additional conditions for the use of slots, including conditions that are specific to a particular airport.

30. Changes to *ad hoc* slots

The coordinator may change an allocated *ad hoc* slot to the closest available slot if the allocated slot is required for a series of slots requested by another aircraft operator,

provided that the coordinator notifies the holder of the allocated *ad hoc* slot of the change, in writing, at least 30 days prior to the date of that slot.

31. Types of misuse of slots

- (1) Subject to sub-regulation (2), an aircraft operator misuses a slot if it:
 - (a) repeatedly fails to make use of slots allocated by the coordinator;
 - (b) repeatedly operates an aircraft at times significantly different from the allocated slots;
 - (c) requests new slots that the aircraft operator does not intend to operate;
 - (d) repeatedly uses slots in a manner that is contrary to regulation 29(4);
 - (e) operates an aircraft without an allocated slot;
 - (f) publishes a flight schedule that differs from the slot that has been allocated;
 - (g) fails to inform the coordinator as soon as reasonably possible when the aircraft operator becomes aware that it will not use an allocated slot or that it will use a slot at a significantly different time; or
 - (h) fails to comply with the rules contemplated in regulation 6(2) or 7(2) or a directive contemplated in regulation 11(1).
- (2) A misuse of slots by an aircraft operator does not arise if the act or omission referred to in sub-regulation (1) is caused by exceptional weather conditions, industrial action, air traffic control delays, operational disruptions at the airport or other circumstances beyond the reasonable control of the aircraft operator, provided that the failure of the aircraft operator's agent to furnish timely and accurate information to the operator relating to the allocation of slots is not beyond the reasonable control of the operator.

32. Misuse of slots

- (1) If an aircraft operator intentionally or negligently misuses slots as contemplated in regulation 31 at an airport, the coordinator may impose one or more of the following penalties:

- (a) withdrawing one or more allocated series of slots or allocated *ad hoc* slots at that airport;
 - (b) withdrawing the aircraft operator's eligibility for historic slots at that airport for one or two subsequent scheduling periods;
 - (c) withdrawing the aircraft operator's eligibility to be allocated a series of slots for a period not exceeding two subsequent scheduling periods;
 - (d) de-prioritising the aircraft operator's requests for slots at that airport for a period not exceeding two subsequent scheduling periods.
- (2) Prior to imposing a penalty in terms of sub-regulation (1), the coordinator must give written notice to the affected aircraft operator:
- (a) indicating the intention to impose a penalty and the nature of the proposed penalty;
 - (b) setting out the reasons why it is considering imposing the penalty; and
 - (c) affording the operator a reasonable opportunity to make representations as to why the penalty should not be imposed.

33. **Publication of a penalty**

The coordinator may publish any penalty imposed in terms of regulation 32 on its website.

34. **The withdrawal of slots**

- (1) The coordinator may withdraw an allocated series of slots or an allocated *ad hoc* slot if:
- (a) the aircraft operator ceases operations or suspends operations for a period of 30 days or more;
 - (b) the aircraft operator's applicable air service licence or equivalent has been cancelled or suspended for a period of 30 days or more;
 - (c) the aircraft operator's operating certificate or equivalent has been cancelled or suspended for a period of 30 days or more;

- (d) the aircraft operator is, or itself takes any steps to be, liquidated, whether provisionally or finally and whether compulsorily or voluntarily; or
 - (e) the slot was allocated to an aircraft operator in the circumstances contemplated in regulation 20(10) and the operator does not hold both an air service licence and an operating certificate (or the equivalent thereof) by:
 - (i) 31 January for the scheduling period commencing in March of the same year; or
 - (ii) 31 August for the scheduling period commencing in October of the same year.
- (2) The coordinator may withdraw an allocated series of slots, or the remainder of the series of slots, if slots forming part of that series have not been utilised for a period of 30 days, provided that the non-utilisation of slots shall not be taken into account for purposes of this sub-regulation where the aircraft operator demonstrates that such non-utilisation resulted from the circumstances contemplated in regulation 22(4).
- (3) The coordinator may withdraw an allocated series of slots for the remainder of a scheduling period if the rate of slot usage in that period renders it impossible for the airport operator to achieve the 80% usage rate referred to in regulation 22(1)(b) read with regulations 22(3) to 22(5) in respect of that period.
- (4) The coordinator may withdraw an allocated *ad hoc* slot if:
- (a) the aircraft operator fails to provide the confirmations and information referred to in regulation 29(1) in respect of that slot by the applicable deadline referred to in regulation 29; or
 - (b) any of the confirmations or information provided in respect of that slot is inaccurate in any material respect.
- (5) Prior to withdrawing a slot in terms of sub-regulations (1), (2), (3) or (4), the coordinator shall give written notice to the affected aircraft operator:
- (a) indicating the intention to withdraw the slot;
 - (b) setting out the reasons why it is considering withdrawing the slot; and

(c) affording the operator a reasonable opportunity to make representations as to why the slot should not be withdrawn.

(6) Any slot withdrawn in terms of sub-regulations (1) to (4) or any other provision of these regulations shall form part of the slot pool.

(7) Slots may be withdrawn in the circumstances set out in this regulation (regulation 34) irrespective of whether or not the relevant aircraft operator is under business rescue as contemplated in Chapter 6 of the Companies Act, 2008 (Act No. 71 of 2008).

35. Provision of information to the coordinator

(1) Aircraft operators operating or intending to operate at a coordinated airport or a schedules facilitated airport shall submit to the coordinator all relevant information requested by the coordinator.

(2) An airport operator shall, on written request, provide the coordinator with any information in its possession relating to the planned services of aircraft operators at that operator's airport.

(3) The information requested in terms of sub-regulations (1) and (2) shall be provided to the coordinator in the format and within the time period specified by the coordinator.

36. Exchange of information

The coordinator, the committee, airport operators and air navigation service providers, shall exchange all information that is required for the exercise of their respective functions and duties.

37. Exclusion of liability

Neither the coordinator nor a member or alternate member of the committee is liable for any loss or damage caused by anything done or omitted by the coordinator, the committee or a member or alternate member of the committee in good faith whilst performing any function in terms of these regulations.

38. Short title and commencement

These Regulations are called the Airport Slot Coordination Regulations, 2012, and shall come into operation on the date of publication.