

CPD-39



Civil Aviation Authority of Bangladesh

Civil Aviation Procedure Document on Exemptions

Issue-3
11 September 2019

CAAB HEAD QUARTERS, KURMITOLA, DHAKA-1229

BANGLADESH

Foreword

In exercise of the powers conferred by section-44 of Civil Aviation Act 2017, the Chairman of Civil Aviation Authority of Bangladesh (CAAB) is pleased to issue this Exemption Policy on Flight Safety requirements.

The purpose of this document is to define parameters on how the opinion is formed, and against what criteria, in granting exemptions from regulatory requirements of CAAB and to ensure that the exemption process is equitable to all those who come forward with a request, while simultaneously ensuring the best interests of the public are protected.

CAAB will issue exemptions only in exceptional circumstances and be granted only after a thorough analysis is conducted on the impact; the granting of the exemption may have on aviation safety. Prior to granting exemption CAAB will ensure that an equivalent level of safety is established through the development of terms and conditions that will provide alternate requirements or procedures to ensure any safety concerns are satisfied and safety is not compromised.

CAAB is committed to implement national standards and procedures for the consistent processing of exemption requests and a rationale in the development of criteria to either grant or deny exemptions from regulatory requirements.

11 September 2019


Air Vice Marshal M Mafidur Rahman
BSP, BUP, NDU, AFWC, psc

Chairman
Civil Aviation Authority of Bangladesh

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List of Amendments

SL	Issue No.	Amend. No.	Subject	Page No.	Effective Date
01.	Issue-1	01	Record of Exemptions Exemptions on DG Risk Analysis	09	18-09-2017
02.	Issue-2	-		-	24-09-2017
03.	Issue-3	02	<p>(i) In the last Paragraph Art 1.2, the words "i.e. Air Operator, individual or organization" are written as "i.e. Operators, Service Providers, individual or organization".</p> <p>(ii) In third line of Art 2.1.2, prescribe is replaced by prescribed and on fourth line within the bracket, 'as' is replaced by 'with'.</p> <p>(iii) In Art 2.1.3 (c) on the first line the word 'for' is dropped.</p> <p>(iv) In Art 2.1.7 (c) on the last line Integrated Aeronautical Information Package (IAIP) is written instead of Aeronautical Information Publication (AIP).</p> <p>(v) Following text has been incorporated as Para (6) in Art 2.1.6: "The inspector will review the request for exemption to determine whether the applicant would have other possibilities available and whether granting the exemption would not constitute an unfair competitive advantage to the applicant."</p> <p>(vi) "Provide exact section/para/clause no. of ANO against which exemption may be granted : " is added as Para 2.10 of Apendix-2</p> <p>(vii) "Provide exact section/para/clause no. of Act/Rule against which exemption may be granted : " is added as Para 2.10 of Apendix-3</p> <p>(viii) the word "Director" is added as "Team Leader" in Para 3 of Apendix 2 & 3.</p> <p>(ix) Director (Flight Safety and Regulations) is replaced by Member (Flight Standard and Regulations) in Para 5 of Apendix-2 & Apendix-3.</p>	6,7,8,9 14,15, 16	11-09-2019

1. POLICY FOR EXEMPTIONS

The provisions of the Civil Aviation Act, 2017 apply to, whole of Bangladesh, Civil Aerodromes/Heliports and to persons on, aircraft registered in Bangladesh wherever they may be and also to, and to persons on, all aircraft for the time being in or over Bangladesh except otherwise specified.

In consonance with the above, all persons/ aircraft are expected to comply with the all provisions of the Civil Aviation Act, 2017, rules, ANOs made thereunder. However, there may be situations wherein it may not be possible to comply with the regulations because of exceptional circumstances, physical constraints, non-availability of specified equipment etc. which may warrant exemptions from the Civil Aviation requirements.

To cater such circumstances, Section 44 (1) of Civil Aviation Act, 2017, provides the power to the Government to exempt in public interest, by notification through official Gazette, any aircraft or classes of aircraft, person or an organization from the operation of the provisions Act or rules, either wholly or partially, subject to such conditions, if any, as may be specified in such notification. On the other hand, Section 44 (2) of Civil Aviation Act, 2017, provides the power to the Chairman to exempt in public interest, through notification, any aircraft or classes of aircraft, person or an organization from the operation of the conditions specified in ANOs. In both the cases before granting exemption, it shall be ascertained that an equivalent level of safety is maintained.

1.1 EXEMPTIONS UNDER CIVIL AVIATION ACT, 2017 AND RULES MADE BY THE GOVERNMENT

Exemptions under Section 44 (1) of Civil Aviation Act, 2017, can only be granted by the Government of Bangladesh.

Exemptions granted by the Government shall be published in the Government Official gazette.

1.2 EXEMPTIONS UNDER SECTION 44 (2) OF CIVIL AVIATION ACT, 2017

Exemptions under Section 44 (2) of Civil Aviation Act, 2017 shall be granted by the Chairman, CAAB.

CAAB shall carry out a technical evaluation of the application for granting of exemption. The exemption, if granted, shall contain conditions/ limitations for the person/ organization to follow while operating under the exemption. In all cases, before granting exemption, it shall be ascertained that an equivalent level of safety is maintained.

Exemptions shall be reviewed by CAAB with respect to the conditions or mitigation measures.

Holder of exemption (i.e. Operators, Service Providers, individual or organization) shall have to carry copy of exemption document while in operation.

Note: The term "exemptions" also includes exceptions, deviations and prolongs extensions.

2. PROCEDURE FOR GRANTING OR REFUSAL OF EXEMPTIONS

Chairman, CAAB shall possess the discretionary power to grant or refuse of the application of exemptions and the following basic steps shall be followed in connection to the aforementioned exemptions:

2.1 REQUIREMENTS FOR APPLICATION

2.1.1 GENERAL

2.1.2 Applications for an exemption should be submitted at least 20 days in advance of the proposed effective date, to obtain timely review. In case of seeking exemption, person / organization shall submit an application in prescribed form (Form-CAAB Exmpt-1) to CAAB. (The form is stipulated with "**Appendix-1**" of this document).

- (a) The request must contain the applicant's:
 - (1) Name
 - (2) Street address and mailing address, if different.
 - (3) Telephone number
 - (4) Fax number if available.
 - (5) Email address if available.
 - (6) Agent for all purposes related to the application.
- (b) If the applicant is not a citizen or legal resident of Bangladesh, the application must specify a Bangladeshi agent for service.

2.1.3 SUBSTANCE OF THE REQUEST FOR EXEMPTION

- (a) The application for exemption shall clearly state-
 - (1) The reasons for seeking exemption;
 - (2) Risk assessments report (s), Analysis, aeronautical studies, etc. as appropriate which may deemed fit, along with the means of mitigation and indication as to when compliance can be expected.
- (b) Applications must contain the following:
 - (1) A citation of the specific requirement from which the applicant seeks relief;
 - (2) Description of the type of operations to be conducted under the proposed exemption;
 - (3) The proposed duration of the exemption;
 - (4) An explanation of how the exemption would be in the public interest, that is, benefit the public as a whole.
 - (5) The category under which exemption sought (temporary/ permanent) and justifiable reasons why the applicant needs the exemption. The reasons provided should be detailed and self-explanatory.

- (6) A detailed description of the alternative means by which the applicant will ensure a level of safety equivalent to that established by the Regulation in question;
 - (7) A review and discussion of any known safety concerns with the requirement, including information about any relevant accidents or incidents of which the applicant is aware;
 - (8) If the applicant seeks to operate under the proposed exemption outside of Bangladesh airspace, the application must also indicate whether the exemption would contravene any provision of the Standards and Recommended Practices of the International Civil Aviation Organisation (ICAO).
- (c) The action plan for rectification and review of temporary exemption, including the mitigation measures adopted for ensuring the safety during the exemption period.
 - (d) If a permanent exemption is sought, the applicant has to indicate the mitigation measures adopted to reduce the risk arising due to non-compliance after carrying out a safety assessment.
 - (e) Undertaking by the person/ organization that he shall annually review the conditions or mitigation measures and any other resultant non-compliance in particular when any significant changes in the activity are proposed.
 - (f) The applicant should provide adequate information in the prescribed proforma for consideration for granting exemptions with supporting documents. Failure to provide adequate information may delay processing/ refusal of the application.
 - (g) If the applicant seeks emergency processing, the application must contain supporting facts and reasons that the application was not timely filed, and the reasons it is an emergency. The Authority may deny an application if the Authority finds that the applicant has not justified the failure to apply in a timely fashion.

2.1.4 REVIEW, PUBLICATION, AND ISSUE OR DENIAL OF THE EXEMPTION

2.1.5 INITIAL REVIEW BY THE AUTHORITY

- (a) The Authority will review the application for accuracy and compliance with the requirements of 2.1.2 & 2.1.3. The Authority Review exemption request material to ensure all necessary documentation has been provided. If not, await its provision before proceeding with the assessment.
- (b) If the application appears on its face to satisfy the provisions of 2.1.3 and the Authority determines that a review of its merits is justified, the Authority will publish a detailed summary of the application for comment and specify the date by which comments must be received by the Authority for consideration.
- (c) If the filing requirements of 2.1.3 have not been met, the Authority will notify the applicant and take no further action until the applicant complies with the requirements of 2.1.3.

2.1.6 EVALUATION OF THE REQUEST

- (a) After initial review, if the filing requirements have been satisfied, the Authority shall conduct an evaluation through a coordination meeting for analyzing the risk to include:
- (1) A determination of whether an exemption would be in the public interest;
 - (2) A determination, after a technical evaluation, of whether the applicant's proposal would provide a level of safety equivalent to that established by the Regulation;
 - (i) If it appears to the Authority that a technical evaluation of the request would impose a significant burden on the Authority's technical resources, the Authority may deny the exemption on that basis.
 - (3) A determination, if the applicant seeks to operate under the exemption outside of Bangladesh airspace, of whether a grant of the exemption would contravene the applicable ICAO Standards and Recommended Practices.
 - (4) An evaluation of comments received from interested parties concerning the proposed exemption.
 - (5) A recommendation, based on the preceding elements, of whether the request should be granted or denied, and of any conditions or limitations that should be part of the exemption.
 - (6) The inspector will review the request for exemption to determine whether the applicant would have other possibilities available and whether granting the exemption would not constitute an unfair competitive advantage to the applicant.

2.1.7 NOTIFICATION OF DETERMINATION

- (a) The Authority shall notify the applicant by letter a detailed summary of its evaluation and decision to grant or deny the request of exemption to the operator. The summary shall specify the duration of the exemption and any conditions or limitations to the exemption.
- (b) If the request is for emergency relief, the Authority will publish the application and/or the Authority's decision as soon as possible after processing the application.
- (c) If the exemption affects a significant population of the aviation community of Bangladesh, the Authority shall also publish the summary in its Integrated Aeronautical Information Package (IAIP).
- (d) All records shall be retained in concerned files.

2.1.8 EXTENSION OF THE EXEMPTION TO OTHER INTERESTED PARTIES

- (a) If the Authority determines that an exemption should be granted, other persons or organisations may apply to the Authority to be included in the relief granted.
- (b) Such applications shall be in accordance with the requirements of 2.1.3.
- (c) If the Authority determines that the request merits extension of the exemption to the applicant, it shall notify the applicant by letter, specifying the duration of the exemption, and listing any additional conditions that may pertain to the applicant that are not addressed in the underlying exemption.

2.2 Exemption on Dangerous GOODS (DG)

Exemptions on DG shall be accorded as per ICAO Technical Instructions on DG.

2.3 Suo-Moto Exemption

If any deficiency is found during any inspection which is impossible to fulfill through corrective actions within a reasonable time frame, inspectors may request to the operator or service provider to apply for seeking exemptions on that specific requirements. In case of public interest or if it appears to the inspector that the aforesaid deficiency should fall under the purview of exemption immediately and be addressed by the Authority without any delay then the inspector may recommend for exemption which might be accorded suo-moto by the Chairman.

2.4 Exemption on Act or Rules

If the Chairman finds that the exemption sought is under the purview of any provisions of CA Act, 2017 or Rules thereunder then the Chairman shall forward the application for approval to the Government along with his recommendations after technical evaluation of the application by CAAB. The recommendation for allowing exemptions may contain conditions/ limitations for the person/organization to follow while operating under the exemption. In all cases, before recommending exemption, it shall be ascertained that an equivalent level of safety is maintained and/or the factors related to Public Interest can be demonstrated.

The format of Recommendation is attached as Appendix-3 of this document.

APPENDIX – 1

FORM-CAAB EXMPT(1)

APPLICATION FOR SEEKING EXEMPTION

(In duplicate)

1. DETAILS OF APPLICANT

- 1.1 Name of Applicant/ Organization and Address
- 1.2 License/ Certificate/ Approval Number

2. DETAILS OF EXEMPTION SOUGHT

- 2.1 Relevant provisions of Act/Rule/ANO for which exemption is sought.
- 2.2 Reasons why the exemption is needed.
(The reasons provided should be detailed and self-explanatory)
- 2.3 Nature of exemption (Temporary/ Permanent)
- 2.4 Period for which exemption is required.
- 2.5 If the exemption will affect a particular kind of operation, the details thereof
- 2.6 For temporary exemption, the action plan for rectification and review of non-compliance, including the mitigation measures adopted for ensuring the safety during the exemption period.
- 2.7 For permanent exemption, the mitigation measures adopted to ensure safety of aircraft operation. Complete safety assessment report shall be enclosed.
- 2.8 What factors were considered in the determination of Public Interest? Identify criteria:
 - a)
 - b)
 - c)
 - d)

Are conditions related to Public Interest required?
If required additional page(s) may be included.

2.9 What factors were considered to ensure equivalent level of Safety? Identify criteria and formulate as conditions of the exemption:

- a)
- b)
- c)
- d)

If required additional page(s) may be included.

I hereby certify that the forgoing information is correct in every respect and no relevant information has been withheld. I also undertake the responsibility for annually reviewing the conditions or mitigation measures.

SIGNATURE OF APPLICANT

DATE.....

NAME.....

(in capital letters)

POSITION HELD.....

(With official seal)

Note:

- i It is an offence to make any false representation with the intent to deceive, for the purpose of procuring exemption.*
- ii Application not completed in all respect and not accompanied with relevant enclosures is likely to be rejected.*

APPENDIX – 2

FORM- CAAB EXMPT(2)

ASSESSMENT FORM FOR GRANTING/REJECTION OF EXEMPTION (For ANO)

(In duplicate)

1. DETAILS OF APPLICANT

1.1 Name of Applicant/ Organization

1.2 License/ Certificate/Approval Number

2. DETAILS OF EXEMPTION SOUGHT

2.1 Relevant provisions of ANO for which exemption is sought.

 Satisfactory Not Satisfactory

2.2 Reasons why the exemption is needed.

 Justified Not Justified

2.3 Nature of exemption applied for

 Temporary Permanent

2.4 If the exemption will affect a particular kind of operation, the details there of

2.5 For temporary exemption, the action plan for rectification and review of non-compliance, including the mitigation measures adopted for ensuring the safety during the exemption period.

 Satisfactory Not Satisfactory

2.6 For permanent exemption, the mitigation measures adopted to ensure safety of aircraft operation. Complete safety assessment report shall be enclosed.

 Satisfactory Not Satisfactory

2.7 What factors were considered by the applicant in the determination of Public Interest?

- e)
- f)
- g)
- h)

If required additional page(s) may be included.

Are conditions related to Public Interest required?

 Satisfactory Not Satisfactory

2.8 What factors were considered by the applicant to ensure equivalent level of Safety? Identify criteria and formulate as conditions of the exemption:

- e)
- f)
- g)
- h)

If required additional page(s) may be included.

2.9 The justified period of exemptions: Days

2.10 Provide exact section/para/clause no. of Act/Rule against which exemption may be granted :

3. NAME (S) OF THE CAAB TEAM MEMBER(S) ASSESSING THE EXEMPTIONS APPLICATION SUBMITTED BY THE OPERATOR:

S/N	Name of the official(s)	Area	Signature
01.	Director	Team Leader	
02.			
03.			
04.			

4. The application has been examined and forwarded for granting/denial of exemptions application: (In case of denial explain the reason in separate Page (s))

5. Forwarded:

DATE.....

**MEMBER
FLIGHT STANDARD AND REGULATIONS
CIVIL AVIATION AUTHORITY OF BANGLADESH
(official seal)**

6. RECOMMENDATION:

DATE.....

**CHAIRMAN
CIVIL AVIATION AUTHORITY OF BANGLADESH
(official seal)**

2.9 The justified period of exemptions: Days

2.10 Provide exact section/para/clause no. of ANO against which exemption may be granted :

3. NAME (S) OF THE CAAB TEAM MEMBER(S) ASSESSING THE EXEMPTIONS APPLICATION SUBMITTED BY THE OPERATOR:

S/N	Name of the official(s)	Area	Signature
01.	Director	Team Leader	
02.			
03.			
04.			

4. The application has been examined and forwarded for granting/denial of exemptions application: (In case of denial explain the reason in separate Page (s))

5. RECOMMENDATION:

The exemptions- may be granted forDays.
 may not be granted.

DATE.....

**Member
 FLIGHT STANDARD AND REGULATIONS**

(official seal)

5. APPROVAL:

The exemption is hereby granted.

DATE.....

**CHAIRMAN
 CIVIL AVIATION AUTHORITY OF BANGLADESH**

(official seal)

APPENDIX – 3

FORM- CAAB EXMPT (3)

FORM OF RECOMMENDATION GRANTING OF EXEMPTION (For Act/Rules)

(In duplicate)

1. DETAILS OF APPLICANT

1.1. Name of Applicant/ Organization

1.2 License/ Certificate/Approval Number

2. DETAILS OF EXEMPTION SOUGHT

2.1 Relevant provisions of Act or Rule for which exemption is sought.

Satisfactory Not Satisfactory

2.2 Reasons why the exemption is needed.

Justified Not Justified

2.3 Nature of exemption applied for

Temporary Permanent

2.4 If the exemption will affect a particular kind of operation, the details there of

2.5 For temporary exemption, the action plan for rectification and review of non-compliance, including the mitigation measures adopted for ensuring the safety during the exemption period.

Satisfactory Not Satisfactory

2.6 For permanent exemption, the mitigation measures adopted to ensure safety of aircraft operation. Complete safety assessment report shall be enclosed.

Satisfactory Not Satisfactory

2.7 What factors were considered by the applicant in the determination of Public Interest?

- a)
- b)
- c)
- d)

If required additional page(s) may be included.

Are conditions related to Public Interest required?

Satisfactory Not Satisfactory

2.8 What factors were considered by the applicant to ensure equivalent level of Safety?

Identify criteria and formulate as conditions of the exemption:

- a)
- b)
- c)
- d)

If required additional page(s) may be included.