Tuvalu

TUVALU CIVIL AVIATION RULE PART 2 - GENERAL OPERATING AND FLIGHT RULES

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TUVALU CIVIL AVIATION RULE PART 2 - GENERAL OPERATING AND FLIGHT RULES

MADE UNDER SECTION 5(4) OF THE CIVIL AVIATION ACT

Description

Part 2 sets out the requirements for the safe operation of aircraft within Tuvalu.

Part 2 applies to all operators of aircraft as well as passengers by establishing –

(a) General rules applicable to operators and passengers;

(b) Rules for flying aircraft including VFR (visual flight rules) and IFR (instrument flight rules) operations;

(c) Instruments and equipment requirements for aircraft

(d) Operator maintenance requirements

(e) Special flight operating requirements for remotely piloted aircraft aerobatics, air displays, towing gliders and aircraft used for parachuting;

(f) Rules for the carriage of dangerous goods.

SUBPART A — GENERAL

2.1 Purpose

(1) This Part prescribes general operating and flight rules for the operation of civil aircraft.

2.2 Compliance with crew instructions and commands

(1) A passenger shall comply with any commands given to them by the pilot-in- command pursuant to 2.25.

2.3 Portable electronic devices

(1) No person may operate, nor may any operator or pilot-in-command of an aircraft allow the operation of, any cellular phone or other portable electronic device that is designed to transmit electromagnetic energy, on any aircraft while that aircraft is operating under Instrument Flight Rules (IFR).

(2) Except as provided in paragraph (3), no person may operate, nor may any operator or pilot-in-command of an aircraft allow the operation of, any portable electronic device on any aircraft flying under IFR during an instrument approach or departure procedure or during any other critical phase of flight.

(3) Paragraph (2) does not apply to –

(a) hearing aids;

(b) heart pacemakers;

(c) portable voice recorders;

(d) electric shavers;

(e) electronic watches; or

(f) any other portable electronic device if the operator of the aircraft has determined that the portable electronic device to be operated will not cause interference with any aircraft system or equipment in the aircraft on which it is operated.

(4) In the case of –

(a) an aircraft being operated on air transport operations, the determination required by paragraph (3)(f) must be made by the operator of the aircraft on which the particular device is to be used; and

(b) any other aircraft, the determination required by paragraph (3)(f) may be made by the pilot-in-command or the operator of the aircraft on which the particular device is to be used.

2.4 Carriage and discharge of firearms

(1) Except as provided in paragraphs (3) and (5), no person may –

(a) carry a firearm in an aircraft; or

(b) cause a firearm to be carried in an aircraft; or

(c) permit a firearm to be carried in an aircraft.

(2) Except as provided in paragraph (4) no person may discharge a firearm while on board an aircraft.

(3) A firearm may be carried in an aircraft if –

(a) the firearm –

(i) is stowed in a place that is inaccessible to every person during flight; and

(ii) is disabled; or

(b) the aircraft is being used solely for the carriage of the person or group of persons associated with the firearm; and

(i) the operator permits the carriage of the firearm; and

(ii) the firearm is disabled; or

(c) the aircraft is carrying livestock and the operator considers it may be necessary to immobilise livestock for the safety of the aircraft or its occupants; or

(d) the aircraft is being used for the purpose of shooting or immobilising animals on the ground if –

(i) the firearm is not loaded until the aircraft is in the area within which the firearm is intended to be discharged; and

(ii) the aircraft carries only those persons performing an essential function associated with the operation of the aircraft or the shooting or immobilisation of animals on the ground.

(4) A firearm may be discharged –

(a) in an aircraft carrying livestock if a crew member considers it necessary to immobilise livestock for the safety of the aircraft or its occupants; or

(b) from an aircraft for the purpose of shooting or immobilising animals on the ground if –

(i) the discharge of the firearm does not pose a hazard or cause injury or damage to persons or property on the ground; and

(ii) the firearm is not discharged over any congested area of a city, town, or settlement or over any open air assembly of persons.

(5) A firearm may be carried in an aircraft by a person employed by the police, another law enforcement agency, or a military service if –

(a) the aircraft is being operated on an air transport or commercial transport operation, carrying fare paying passengers and the person carrying the firearm –

(i) is lawfully entitled to carry a firearm in the course of their duties; and

(ii) is carrying the firearm in the course of their duties; and

(iii) has been approved to carry the firearm on the aircraft by the Director under paragraph (6); and

(iv) complies with any conditions or restrictions imposed by the Director under paragraph (6); or

(b) the aircraft is being operated solely for the carriage of police officers, law enforcement officers, military personnel, and persons under the care of such officers or personnel, and the firearm is unloaded; or

(c) the aircraft is being operated for a police, law enforcement, or military operation, and only persons performing an essential function associated with the police, law enforcement, or military operation, or the operation of the aircraft, are carried in the aircraft

(6) Upon application from the Commissioner of Police, the head of any other law enforcement agency, the Director –

(a) may approve a police officer, a law enforcement officer, or a military service person to carry a firearm in an aircraft that is being operated on an air transport or commercial transport operation, carrying fare paying passengers, if the Commissioner of Police and the operator concerned consent to the carriage of firearm in the aircraft; and

(b) may impose such conditions or restrictions as the Director considers appropriate; and

(c) must advise the applicant, the operator, and the Commissioner of Police of the decision.

(7) Unless otherwise determined by the Director, an application for approval under paragraph (6) must be made, to the Director at least three working days before the air transport or commercial air transport operation is

intended to commence unless the situation is urgent and the Director agrees to reduce the timeframe.

(8) Before the commencement of an air operation where a firearm will be carried in an aircraft by a person under paragraph (5)(a), the operator must inform the pilot-in-command of the number of persons carrying firearms and their position in the aircraft.

2.5 Prohibition against interference with aircraft and aviation facilities

(1) A person must not tamper or interfere with any aircraft, any component of an aircraft, or its equipment, including, but not limited to, smoke detectors, or with fixed or mobile equipment used for the operation or navigation of any aircraft.

2.6 Aircraft noise and vibration

(1) A person shall be barred by from bringing an action for nuisance in respect of the noise or vibration caused by an aircraft or aircraft engine on an aerodrome if –

(a) the aircraft is taking off or landing; or

(b) the aircraft is manoeuvring on the ground or water; or

(c) any person is operating any engine in the aircraft, prior to take- off for the purpose of ensuring –

(i) satisfactory engine performance; or

(ii) that the instruments, accessories, or other components are in a satisfactory condition.

2.7 Fuelling of aircraft

(1) A person refuelling or defueling an aircraft must ensure that –

(a) fuelling or defueling of the aircraft is performed safely; and

(b) the aircraft is not refuelled or defueled when a person is embarking, on board, or disembarking the aircraft, or when one or more of the propulsion engines are running.

2.8 Intoxicating liquor and drugs

(1) No crew member or person working in or around aircraft while on duty shall be in a state of intoxication or in a state of health in which his or her capacity so to act would be impaired by reason of his or her having

consumed or used any intoxicant, sedative, narcotic, or stimulant drug or preparation.

2.9 Control of access

(1) Any person authorised by the Director may control or prohibit access to any area or place where the Director considers such action necessary for the purposes of carrying out the functions of the Director under the Act.

SUBPART B — OPERATING RULES

2.10 Requirement to hold recognised licence and medical

(1) A person must not act as pilot or maintain an aircraft unless

(a) the person has a current appropriate recognised personnel licence and medical issued by the Director under Rule Part 3.

(b) the aircraft is operated in accordance with an approval by the Director under Subpart G of this rule.

2.11 Aircraft airworthiness

(1) A person must not operate an aircraft unless the aircraft –

(a) has a current airworthiness certificate recognised by the Director under Rule part 3 and is in an airworthy condition; or

(b) the aircraft is operated in accordance with an approval by the Director under Subpart G of this rule.

2.12 Aircraft registration

(1) A person must not operate an aircraft unless it is registered and displays identification markings in accordance with the requirements of appropriate aeronautical authority of an ICAO Contracting State.

2.13 Aircraft flight manual

(1) No person shall operate an aircraft unless it is operated in compliance with the operating limitations specified in the aircraft flight manual.

2.14 Documents to be carried

(1) A person must not operate an aircraft unless the following documents are carried in the aircraft –

(a) the current certificate of registration for the aircraft, or a certified copy of the certificate of registration; and

(b) the aircraft flight manual or an equivalent document acceptable to the Director; and

(c) the technical log for the aircraft; and

(d) weight and balance data; and

(e) Aircraft Radio Station Equipment Approval Level; and

(f) Evidence that each flight crew member holds an applicable and current flight crew member licence and medical certificate.

2.15 Daily flight records

(1) An operator of an aircraft must keep accurate daily flight records that contain for each flight the following –

(a) the name of the operator:

(b) the name of the pilot-in-command:

(c) the names of other crew members:

(d) the registration markings of the aircraft:

(e) the date of the flight:

(f) the purpose of the flight:

(g) the time of commencement of the flight:

(h) the name of the departure aerodrome:

(i) the flight time.

(2) An operator must retain each daily flight record for a period of 12 months after the date of the flight.

2.16 Aircraft flight crew members

(1) No person shall operate an aircraft without at least the number of flight crew members required by the aircraft flight manual.

2.17 Designation of pilot-in-command

(1) No person shall operate an aircraft with more than one pilot unless, when the flight is planned, the operator designates a pilot-in-command for each period of the flight.

(2) For the purposes of this rule, operator means the person who causes or permits an aircraft to fly.

2.18 Aircraft taxiing

(1) No person other than a flight crew member shall taxi an aircraft on the movement area of an aerodrome unless that person has been duly authorised by the operator or by a maintenance organisation, and –

(a) is competent to taxi the aircraft; and

(b) is competent to use the radiotelephone if radio communications are required; and

(c) is familiar with the aerodrome layout and any procedures applicable to ground movements at that aerodrome.

2.19 Stowage of passenger service equipment

(1) No person shall taxi, take-off, or land an aircraft equipped with –

(a) any passenger food and beverage tray, or table; or

(b) any passenger serving cart; or

(c) any viewing screen that extends into the aisle— unless that equipment is secured in a stowed position.

2.20 Flight instruction

(1) No person shall give flight instruction in an aircraft unless that aircraft is equipped with –

(a) fully functioning dual controls; or

(b) pitch, roll, yaw, and engine power controls which can be operated at either crew station.

2.21 Simulated instrument flight

(1) Except as provided in paragraph (b), no person may operate an aircraft in simulated instrument flight unless –

(a) the aircraft has two pilot stations and one pilot station is occupied by a safety pilot who is the holder of a current pilot licence; and

(b) the safety pilot has –

(i) adequate vision forward and to each side of the aircraft; or

(ii) a competent observer to adequately supplement the vision of the safety pilot; and

(c) the aircraft is equipped with –

(i) fully functioning dual controls; or

(ii) pitch, roll, yaw, and engine power controls that can be operated from either pilot station.

(d) A person may operate an aircraft in simulated instrument flight that does not comply with paragraph (c) if –

(i) the simulated flight is performed outside controlled airspace; and

(ii) the means of simulating instrument flight can be removed rapidly by the pilot-in-command.

2.22 Use of Aerodromes

(1) No person may use any place as an aerodrome unless that place is suitable for the purpose of taking off or landing of the aircraft concerned.

(2) No person may operate an aircraft at an aerodrome unless –

(a) that person complies with any limitations and operational conditions on the use of the aerodrome notified by the aerodrome operator; and

(b) the runway, heliport, or water channel, is equipped with operable lighting, appropriate to that type of aircraft, when landing or taking off at night, and the lighting is activated; and

(c) that person manoeuvres the aircraft clear of any manoeuvring area or part of any manoeuvring area that has been notified or marked as unsafe for aircraft use by the aerodrome operator; and

(d) the runway, heliport, or water channel, is clear of all persons, animals, vehicles, vessels, or other obstructions during landing or take-off, other than persons, vehicles, or vessels essential to the operation.

(3) No pilot may operate an aircraft in an aerodrome traffic circuit unless the aircraft can be manoeuvred –

(a) clear of any obstructions; and

(b) without conflicting with the aerodrome traffic circuit or instrument approach procedure of any other aerodrome.

(4) In addition to fulfilling the requirements of paragraphs (1), (2), and (3), no person may operate a helicopter without ensuring that –

(a) any place used as a heliport or as a place to hover within a congested area of a city, town, or settlement has—physical characteristics; and, obstacle limitation surfaces and visual aids commensurate with the ambient light conditions and the characteristics of the helicopter being operated; and

(b) any place used as a heliport or as a place to hover that is outside a congested area of a city, town, or settlement –

(i) is suitable for the helicopter to hover clear of obstructions; and

(ii) for a heliport, has a surface area suitable for touchdown and lift-off; and

(c) unless the helicopter is a performance Class 1 helicopter, any place used as a heliport or as a place to hover has such approach and take-off paths that an autorotative landing can be conducted without causing a hazard to any persons or property on the surface.

2.23 Restricted areas

(1) The Director may designate areas of restricted airspace for:

(a) Restricting access to aircraft;

(b) Setting low flying zones for the purpose of low flying practice;

(c) Setting areas where radio broadcast of position is mandatory;

(d) Setting hazard areas

(2) The Director may set conditions on operation within designated restricted airspace in order to ensure safety, protection of cultural practices, noise management or for environmental protection.

(3) The Director must notify and consult with all affected parties of the designation of restricted airspace and any conditions placed on operation within the restricted area.

(4) A pilot may only operate in the airspace set under (1) in accordance with conditions placed by the Director.

SUBPART C — GENERAL FLIGHT RULES

2.24 Safety of aircraft

(1) A pilot-in-command of an aircraft must –

(a) before operating the aircraft, be satisfied that the aircraft is airworthy and in a condition for safe flight, after –

(i) the documents required under rule 2.14 have been inspected; and

(ii) the aircraft has been inspected; and

(b) during the flight, ensure the safe operation of the aircraft and the safety of its occupants; and

(c) on completion of the inspections required by paragraph (1), and on completion of the flight, record any aircraft defects in the technical log that are identified by the crew.

2.25 Authority of the pilot-in-command

(1) Each pilot-in-command of an aircraft shall give any commands necessary for the safety of the aircraft and of persons and property carried on the aircraft, including disembarking or refusing the carriage of –

(a) any person who appears to be under the influence of alcohol or any drug where, in the opinion of the pilot-in-command, their carriage is likely to endanger the aircraft or its occupants; and

(b) any person, or any part of the cargo, which, in the opinion of the pilot-in-command, is likely to endanger the aircraft or its occupants.

2.26 Crew members at stations

(1) Each crew member on duty during take-off and landing in an aircraft, shall –

(a) be at their crew member station unless their absence is necessary to perform duties in connection with the operation of the aircraft; and

(b) have their safety belt fastened while at the crew member station.

(2) Each crew member on duty during take-off and landing in an aircraft, shall have their shoulder harness fastened while at their crew member station, unless –

(a) the seat at the crew member station is not equipped with a shoulder harness; or

(b) the crew member would be unable to perform their duties with the shoulder harness fastened.

2.27 Wearing of restraints

(1) A pilot-in-command of an aircraft must require each passenger to occupy a seat or berth and to fasten their safety belt, restraining belt or, if equipped, shoulder harness or single diagonal shoulder belt –

(a) during each take-off and landing; and

(b) when the aircraft is flying at a height of less than 1000 feet above the surface; and

(c) at other times when the pilot-in-command considers it necessary for their safety; and

(d) during aerobatic flight; and

(e) at all times in an open cockpit aircraft.

(2) A pilot-in-command of an aircraft may permit a passenger to unfasten a shoulder harness or single diagonal shoulder belt –

(a) during take-off and landing; and

(b) when the aircraft is flying at a height of less than 1000 feet above the surface if the pilot-in-command is satisfied that such action is necessary for the passenger's performance of an essential function associated with the purpose of the flight.

(c) A pilot-in-command of an aircraft must require each passenger to place their seat in the take-off and landing configuration during take-off and landing.

(d) Paragraphs (2)(a), (b), and (c) do not apply to a child under 4 years of age if the child –

(i) is held by an adult who is occupying a seat or berth, and the child is secured by a safety belt attached to the adult's safety belt; or

(ii) occupies a seat equipped with a child restraint system, if the child does not exceed the specified weight limit for that system and is accompanied by a parent, guardian, or by an attendant designated by the child's parent or guardian to attend to the safety of the child during the flight.

(e) Paragraph (a) does not apply to passengers carried in balloons or engaged in parachute operations.

2.28 Use of oxygen equipment

(1) A pilot-in-command of an unpressurised aircraft must, during any time that the aircraft is being operated above 13 000 feet AMSL and during any period of more than 30 minutes that the aircraft is being operated between 10 000 feet and up to and including 13 000 feet AMSL, require –

(a) each crew member and each passenger to use supplemental oxygen; and

(b) each crew member to use portable oxygen equipment, including a regulator and attached oxygen mask, for any duty requiring movement from their usual station.

(2) A pilot-in-command of a pressurised aircraft must –

(a) during any time the cabin pressure altitude is above 10 000 feet AMSL, require –

(i) each crew member to use supplemental oxygen; and

(ii) each crew member to use portable oxygen equipment, including a regulator and attached oxygen mask, for any duty requiring movement from their usual station; and

(b) during any time the aircraft is being operated from flight level 350 up to and including flight level 410, require –

(i) one pilot at a pilot station to wear and use an oxygen mask that either supplies supplemental oxygen at all times or automatically supplies supplemental oxygen whenever the cabin pressure altitude exceeds 13 000 feet AMSL; or

(ii) two pilots to be at their pilot stations and each pilot to have access to an oxygen mask that can be placed on the face and supplying oxygen within 5 seconds; and

(c) during any time the aircraft is being operated above flight level 410, require one pilot at a pilot station to wear and use a demand oxygen mask at all times.

(3) A pilot-in-command of a pressurised aircraft must, following pressurisation failure, require each passenger to use supplemental oxygen during any time that the cabin pressure is above 14 000 feet AMSL, unless the aircraft can descend to 14 000 feet AMSL or below within 4 minutes.

2.29 Passenger briefing

(1) A person operating an aircraft carrying passengers must ensure that each passenger has been briefed on –

(a) the conditions under which smoking is permitted; and

(b) the stowage of passenger services and carry-on baggage in accordance with rule 2.19 and 2.30; and

(c) the wearing restraints in accordance with rule 2.27; and

(d) the location and means for opening the passenger entry doors and emergency exits; and

(e) when required to be carried by this Part –

(i) the location of survival and emergency equipment for passenger use; and

(ii) the use of flotation equipment required in accordance with rule 2.69(2) for a flight over water; and

(f) the normal and emergency use of oxygen equipment installed in the aircraft for passenger use; and

(g) procedures in the case of an emergency landing; and

(h) the use of portable electronic devices in accordance with rule 2.3.

(2) The briefing required under paragraph (1) –

(a) must be given by the pilot-in-command, a member of the crew, a person nominated by the operator, or by a recorded presentation; and

(b) must, for flights above FL 250, include a demonstration on the use of supplemental oxygen equipment; and

(c) must include a demonstration on the use of life preservers when required to be carried by this Part; and

(d) must include a statement, as appropriate, that Civil Aviation Rules require passenger compliance with lighted passenger signs and crew member instructions; and

(e) may be supplemented by printed cards for the use of each passenger containing –

(i) diagrams of, and methods of operating the emergency exits; and

(ii) other instructions necessary for the use of emergency equipment intended for use by passengers; and

(f) is not required if the pilot-in-command determines that all the passengers are familiar with the contents of the briefing.

(3) Where printed cards are used in accordance with paragraph (2)(e), the operator must place them in convenient locations on the aircraft for the use of each passenger and ensure that they contain information that is pertinent only to the type and model of aircraft on which they are carried.

2.30 Carry-on baggage

(1) A person operating an aircraft, other than a balloon, must ensure that, before take-off or landing, all passenger baggage aboard the aircraft is stowed away –

(a) in a baggage locker; or

(b) under a passenger seat in such a way that it cannot –

(i) slide forward under crash impact; or

(ii) hinder evacuation of the aircraft in the event of an emergency.

2.31 Carriage of cargo

(1) An operator must not permit cargo to be carried in an aircraft unless it is –

(a) carried on a seat, in a cargo rack or bin, or in a cargo or baggage compartment; and

(b) properly secured by a safety belt or other restraining device having enough strength to ensure that the cargo does not shift under all normally anticipated flight and ground conditions; and

(c) packaged and covered to avoid injury to passengers.

(2) An operator who permits the carriage of cargo in an aircraft must not permit cargo –

(a) to exceed the load limitation for the aircraft, berths, or floor structure as prescribed by the aircraft flight manual, or by placards; or

(b) to be located in a position that restricts the access to or use of any required emergency exit, or the use of the aisle between the crew and the passenger compartments.

2.32 Pre-flight action

(1) Before commencing a flight, a pilot-in-command of an aircraft must obtain and become familiar with all information concerning that flight including –

(a) where practicable, the current meteorological information; and

(b) the fuel requirements; and

(c) the alternatives available if the planned flight cannot be completed; and

(d) any known or likely traffic delays

(e) the status of the communication and navigation facilities intended to be used; and

(f) the current conditions of the aerodrome and runway lengths at aerodromes of intended use; and

(g) any take-off and landing distance data contained in the aircraft flight manual; and

(h) in the case of aircraft powered by two or more engines –

(i) engine inoperative procedures; and

(ii) one engine inoperative performance data.

2.33 Familiarity with operating limitations and emergency equipment

(1) Each pilot of an aircraft shall, before beginning a flight, be familiar with –

(a) the aircraft flight manual for that aircraft; and

(b) any placards, listings, instrument markings, or any combination thereof, containing any operating limitation prescribed for that aircraft by the manufacturer or the Director; and

(c) the emergency equipment installed on the aircraft; and

(d) which crew member is assigned to operate the emergency equipment; and

(e) the procedures to be followed for the use of the emergency equipment in an emergency situation.

2.34 Flying equipment and operating information

(1) A pilot-in-command of an aircraft must ensure that the following equipment and information, in current and appropriate form, is accessible to every flight crew member of the aircraft:

(a) an accurate means of indicating the time:

(b) appropriate aeronautical charts:

(c) for IFR operations, every appropriate navigational enroute, terminal area, approach, and instrument approach and departure chart:

(d) for night operations, an operable electric torch for every flight crew member.

(2) In addition to paragraph (a), a pilot-in-command of an aircraft in excess of 5700 kg MCTOW, or having a certificated seating capacity of 10 passengers or more, must ensure that every flight crew member uses a cockpit checklist covering the normal and emergency procedures for the operation of the aircraft in accordance with the aircraft flight manual.

2.35 Operating on and in the vicinity of an aerodrome

(1) Except as provided in paragraph (2), a pilot of an aeroplane operating on or in the vicinity of an aerodrome must –

(a) observe other aerodrome traffic for the purpose of avoiding a collision; and

(b) Conform to the aerodrome circuit pattern and direction specified in the relevant AIP.

(2) Where there is no aerodrome circuit pattern specified in the relevant AIP, all turns in the circuit must be left hand.

(3) Paragraphs (1) and (2) do not apply to the pilot-in- command of an aircraft operating at an aviation event in accordance with a permit issued under Subpart G.

(4) Subject to paragraphs (2) and (3), a pilot-in-command of a helicopter operating on or in the vicinity of an aerodrome must comply with paragraph (a) or avoid the aerodrome traffic circuit being used by an aeroplane operating on or in the vicinity of the aerodrome.

2.36 Operations at aerodromes with air traffic services

(1) A pilot-in-command of an aircraft on or in the vicinity of an aerodrome with an air traffic control service in operation must –

(a) maintain two-way radio communications with that service on the prescribed frequency; and

(b) comply with all instructions from Air Traffic Control during all phases of flight and taxi.

(2) A pilot-in-command of an aircraft on or in the vicinity of an aerodrome with an aerodrome flight information service in operation must –

(a) if the aircraft is equipped with radio, maintain two-way radio communications with that service on the prescribed frequency; and

(b) advise that service of the intended use of that aerodrome before –

(i) taxiing on any portion of the manoeuvring area; or

(ii) landing at or taking-off from any runway or heliport at that aerodrome; or

(iii) entering the aerodrome traffic circuit at that aerodrome.

(3) A pilot-in-command of an aircraft that is not equipped with radio and that is on or in the vicinity of an aerodrome with an aerodrome flight information service in operation must advise that service of the intended use of the aerodrome before –

(a) taxiing on to any portion of the manoeuvring area; and

(b) entering the aerodrome traffic circuit at that aerodrome.

2.37 Operating near other aircraft

(1) A pilot must not operate an aircraft –

(a) so close to another aircraft as to create a collision hazard; or

(b) in formation flight except by prior arrangement with the pilot-in-command of each aircraft in the formation; or

(c) in formation flight while carrying passengers for hire or reward unless the requirements of paragraph (b) are met and the pilot is performing a parachute-drop aircraft operation.

2.38 Right-of-way rules

(1) A pilot of an aircraft –

(a) must, when weather conditions permit, regardless of whether the flight is performed under IFR or under VFR, maintain a visual lookout so as to see and avoid other aircraft; and

(b) that has the right of way, must maintain heading and speed, but is not relieved from the responsibility of taking such action, including collision-avoidance manoeuvres based on resolution advisories provided by ACAS, that will best avert collision; and

(c) that is obliged to give way to another aircraft, must avoid passing over, under, or in front of the other aircraft, unless passing well clear of the aircraft, taking into account the effect of wake turbulence.

(2) A pilot of an aircraft must, when approaching another aircraft head-on, or nearly so, alter heading to the right.

(3) A pilot of an aircraft that is converging at approximately the same altitude with another aircraft that is to its right, must give way, except that the pilot operating –

(a) a power-driven heavier-than-air aircraft must give way to airships, gliders, and balloons; and

(b) an airship must give way to gliders and balloons; and

(c) a glider must give way to balloons; and

(d) a power-driven aircraft must give way to aircraft that are towing other aircraft or objects; and

(e) all aircraft must give way to parachutes.

(4) A pilot of an aircraft that is overtaking another aircraft must, if a turn is necessary to avoid that aircraft, alter heading to the right, until the overtaking aircraft is entirely past and clear of the other aircraft.

(5) For the purpose of paragraph (4), an overtaking aircraft is an aircraft that approaches another from the rear on a line forming less than 70 degrees with the plane of symmetry of the latter.

(6) A pilot of an aircraft in flight or on the surface must –

(a) give way to any aircraft that is in the final stages of an approach to land or is landing; and

(b) when the aircraft is one of 2 or more heavier-than-air aircraft approaching an aerodrome for the purpose of landing, give way to the aircraft at the lower altitude; and

(c) not take advantage of right-of-way under subparagraph (6)(b) to pass in front of another aircraft, which is on final approach to land, or overtake that aircraft.

(7) A pilot of an aircraft must not take off if there is an apparent risk of collision with another aircraft.

(8) A pilot of an aircraft taxiing on the manoeuvring area of an aerodrome must –

(a) give way to aircraft landing, taking off, or about to take off; and

(b) when 2 aircraft are approaching head on, or nearly so, stop or, where practicable, alter course to the right so as to keep well clear of the other aircraft; and

(c) when 2 aircraft are on a converging course, give way to other aircraft on the pilot's right; and

(d) when overtaking another aircraft, give way and keep well clear of the aircraft being overtaken.

(9) A pilot of an aircraft must give way to any aircraft that is in distress.

2.39 Right-of-way rules - water operations

(1) Each pilot of an aircraft on the water shall comply with the requirements of the International Regulations for Preventing Collisions at Sea.

2.40 Aircraft lights

(1) A pilot of an aircraft must not –

(a) operate an aircraft at night unless it has lighted position lights; or

(b) moor or move an aircraft at night on a water aerodrome unless the aircraft complies with the lighting requirement of the International Regulations for Preventing Collisions at Sea; or

(2) A person must not park or move an aircraft at night on a manoeuvring area of an aerodrome that is in use for aircraft operations unless the aircraft –

(a) is clearly illuminated; or

(b) has lighted position lights; or

(c) is in an area that is marked by obstruction lights.

(d) Notwithstanding paragraph (1)(c), a pilot of an aircraft is not required to operate the anti-collision light system if the pilot determines that, because of operating conditions, it is in the best interest of safety to turn the system off.

2.41 Dropping of objects

(1) A pilot of an aircraft shall not allow any object to be dropped from that aircraft in flight unless the pilot has taken reasonable precautions to ensure the dropping of the object does not endanger persons or property.

2.42 Altimeter settings

(1) A pilot of an aircraft must maintain the cruising altitude or flight level of the aircraft by reference to an altimeter that is set in accordance with the following:

(a) when operating at or above flight level 150, set altimeter to 1013.2 hPa:

(b) when operating at or below 13 000 feet, set altimeter to the appropriate area QNH zone setting or aerodrome QNH altimeter setting:

(c) when operating between 13 000 feet and flight level 150, set altimeter to the appropriate area QNH zone setting as advised by an ATC unit.

(2) A pilot of an aircraft that is ascending or descending must set the altimeter in accordance with the following:

(a) when ascending above 13 000 feet, set altimeter to 1013.2 hPa

(b) when descending through flight level 150, set altimeter to the appropriate area QNH zone setting or aerodrome QNH altimeter setting.

2.43 Use of transponder and altitude reporting equipment

(1) All aircraft operating in Tuvalu must be equipped with an ADS-B transponder that complies with rule 2.45

(2) Except as provided for in rule 2.44, a pilot-in-command of an aircraft must operate the transponder at all times using the unique Mode S code assigned by the State of registry.

(3) The pilot-in-command must set the transponder SSR code in the event of an in-flight emergency, loss of radio communications, or an act of unlawful interference, set the transponder to the appropriate code in accordance with Table 1.

Table 1. Emergency SSR Codes

Occurrence	SSR Code
Unlawful interference	7500
Loss of radio communication	7600
In flight emergency when no code has been allocated by ATC	7700

2.44 Operation of aircraft without ADS-B for discreet operations

(1) Despite rule 2.43 a person may operate an aircraft without transmitting ADS-B data in the prescribed airspace referred to in that rule if the person is carrying out a discreet operation –

(a) for national defence or security purposes; or

(b) for intelligence or law enforcement purposes; or

(c) for any other suitable purpose approved by the Director where the transmitting of ADS-B data would compromise the security of the operation or pose a safety risk to the aircraft, crew or people and property in the air or on the ground.

(2) An operator must ensure that a discreet operation is not carried out unless –

(a) for a flight under IFR, information submitted in the flight plan includes that the proposed operation is a discreet operation; and

(b) the appropriate Flight Information Service unit is notified of the operation as soon as practicable before the operation is to occur; and

(c) the appropriate Flight Information Service unit approves the carrying out of the operation.

(3) A person referred to in paragraph (1)(a) and (1)(b) must inform the Director of the details of the discreet operation within 14 days of completing the operation unless the person is required to report an accident or incident involving the discreet operation as required under rule part 5.

2.45 ADS-B system performance standards and requirements

(1) An ADS-B system must meet the following minimum requirements –

(a) include a 1090 MHz Mode S Extended Squitter transponder, or any other suitable transponder determined by the Director;

(b) include a GNSS position source that is compatible with the 1090 MHz Mode S Extended Squitter transponder, or any other suitable transponder referred to in paragraph (1);

(c) include a barometric altitude pressure system and any related equipment;

(d) transmit an ADS-B OUT message set determined by the Director;

(e) meet performance standards regarding ADS-B systems determined by the Director;

(f) meet the testing and power requirements determined by the Director.

2.46 A Prohibited transmission of misleading ADS-B data

(1) A person operating an aircraft must not allow the transmission of misleading data from an aircraft ADS-B system.

2.47 Aircraft callsigns

(1) A pilot-in-command of an aircraft must use 1 of the following radiotelephony callsigns –

(a) the telephony designator of the aircraft operating agency as approved by the Director, followed by the flight identification; or

(b) the telephony designator of the aircraft operating agency as approved by the Director followed by the last 3 letters of the aircraft registration marking; or

(c) the name of the aircraft manufacturer, or the aircraft model, and the last 3 letters of the aircraft registration marking.

(2) Notwithstanding paragraph (1)(c) the pilot-in-command may, after establishing two-way communication with an appropriate Flight Information Service unit, use an abbreviated callsign consisting of the last 3 letters of the aircraft registration marking.

(3) The Director may only approve the callsigns prescribed in paragraphs (1)(a) and (b) for the use of –

(a) the holder of a recognised air operator certificate issued under Part 3; or

(b) a search and rescue flight; or

(c) a medical transfer or medical emergency flight; and

(d) aircraft being flown on a police operation that is authorised by the Commissioner of Police

(4) An applicant for the approval of a telephony designator must submit to the Director in writing the name of the aircraft operating agency and a payment of the appropriate application fee.

2.48 Time-in-service recorder operation

(1) A person must not tamper with the operation of an automatic time-in-service recorder that is installed in an aircraft.

SUBPART D — VISUAL FLIGHT RULES

2.49 VFR meteorological minima

(1) A pilot in command of an aircraft must operate clear of Cloud.

(2) Except as provided for in (3) a pilot- in-command must not operate an aircraft under VFR –

(a) when the flight visibility is less than –

(i) 8 km at or above 10,000 feet AMSL; or

(ii) 5 km below 10,000 feet AMSL.

(b) When the cloud base above ground level is less than 1000 ft.

(3) A pilot-in-command of –

(a) a helicopter may operate with a flight visibility of less than 5 km if manoeuvred at a speed that gives adequate opportunity to observe other traffic or any obstructions in order to avoid collisions; and

(b) an aircraft performing flight instruction may operate within a low flying zone designated by the Director with a flight visibility of less than 5 km but not less than 1500 m.

2.50 Fuel requirements for flight under VFR

(1) A pilot-in-command of an aeroplane must not begin a flight under VFR unless, in the forecast weather conditions, the aeroplane has enough fuel to fly to the first point of intended landing at the planned normal cruising speed and to fly after that point of intended landing for at least –

(a) a further 30 minutes during the day; or

(b) a further 45 minutes at night; or

(2) A pilot-in-command of a helicopter must not begin a flight under VFR unless, in the forecast weather conditions, the helicopter has enough fuel to fly to the first point of intended landing at the planned cruising speed, and to fly after that point of intended landing for at least –

(a) a further 20 minutes; or

(b) for flights of less than 20 minutes duration, for a further period equal to the anticipated flight time.

2.51 VFR flight plan

(1) A pilot-in-command of an aircraft must submit a VFR flight plan to an appropriate Flight Information Service unit before starting any flight conducted under VFR if –

(a) the pilot-in-command plans to proceed more than 50 NM from shore; or

(b) the pilot-in-command requires an alerting service.

(2) In addition to the requirement in paragraph (1), a pilot-in-command of an aircraft may submit a VFR flight plan to an appropriate Flight Information Service unit for any other flight conducted under VFR.

(3) A VFR flight plan referred to in paragraphs (a) or (b) must include the following information:

(a) the aircraft registration and callsign:

(b) the type of aircraft to be used:

(c) the route including, if practicable for each route segment, aerodromes of departure and intended landing, estimated elapsed times, and time on the ground at each intermediate aerodrome:

(d) the SARTIME:

(e) fuel endurance:

(f) the total number of persons in the aircraft:

(g) the name and telephone contact details of the pilot-in- command:

(h) the name of the aircraft owner or operator:

(i) any additional information that may assist search and rescue operations.

(4) If a VFR flight plan has been submitted to a Flight Information Service unit the pilot-in-command must –

(a) inform an appropriate Flight Information Service unit of any change to the details in the flight plan and of any change to the flight plan SARTIME before the expiry of that SARTIME; and

(b) terminate the flight plan by advising an appropriate Flight Information Service unit before the flight plan SARTIME.

2.52 Position reports

(1) Each pilot-in-command of an aircraft on a VFR flight shall, when operating in controlled airspace, report the position of the aircraft to ATC at the times or reporting points required by ATC.

2.53 Minimum heights for VFR flights

(1) A pilot-in-command of an aircraft must not operate the aircraft under VFR –

(a) over any congested area of a city, town, or settlement, or over any open air assembly of persons at a height of less than 1000 feet above the surface or any obstacle that is within a horizontal radius of 600 metres from the point immediately below the aircraft; or

(b) over any other area –

(i) at a height of less than 500 feet above the surface; or

(ii) at a height of less than 500 feet above any obstacle, person, vehicle, vessel, or structure that is within a horizontal radius of 150 metres from the point immediately below the aircraft; and

(c) for any operation, at a height less than that required to execute an emergency landing in the event of engine failure without hazard to persons or property on the surface.

(d) Paragraph (a) does not apply to a pilot-in-command of an aircraft –

(i) conducting a take-off or landing; or

(ii) conducting a balked landing or discontinued approach; or

(iii) taxiing.

(2) Paragraph (1)(b) does not apply to a pilot-in-command of an aircraft if the bona fide purpose of the flight requires the aircraft to be flown at a height lower than that prescribed in paragraph (1)(b) but only if –

(a) the flight is performed without hazard to persons or property on the surface; and

(b) only persons performing an essential function associated with the flight are carried on the aircraft; and

(c) the aircraft is not flown at a height lower than that required for the purpose of the flight; and

(d) the horizontal distance that the aircraft is flown from any obstacle, person, vessel, vehicle, or structure is not less than that necessary for the purpose of the flight, except that in the case of an aeroplane, the aeroplane remains outside a horizontal radius of 150 metres from any person, vessel, vehicle, or structure that is not associated with the operation.

(3) Paragraph (1)(b) does not apply to a pilot-in-command –

(a) who is conducting flight training or practice flights consisting of –

(i) simulated engine failure after take-off commencing below 1000 feet above the surface; or

(ii) simulated engine failure commencing above 1000 feet above the surface provided that descent below 500 feet above the surface is conducted within a low flying zone designated by the Director under Subpart G; or

(iii) operating an aircraft within a low flying zone designated by the Director under Subpart G; or

(iv) operating an aircraft at an aviation event in accordance with a permit issued by the Director under Subpart G.

2.54 VFR cruising altitude and flight level

(1) A pilot-in-command of an aircraft operating within the Tuvalu FIR under VFR in level cruising flight at more than 3000 feet AMSL or 1000 feet AGL (whichever is the higher) must, unless otherwise authorised by an ATC unit, maintain the following altitudes or flight levels:

(a) when operating at or below 13 000 feet AMSL and –

(i) on a magnetic track of 270° clockwise to 089°, any odd thousand foot altitude AMSL plus 500 feet; or

(ii) on a magnetic track of 090° clockwise to 269°, any even thousand foot altitude AMSL plus 500 feet:

(b) when operating at or above flight level 150, up to and including flight level 275 and –

(i) on a magnetic track of 270° clockwise to 089°, any odd flight level plus 500 feet beginning at and including flight level 155; or

(ii) on a magnetic track of 090° clockwise to 269°, any even flight level plus 500 feet beginning at and including flight level 165.

(2) A pilot-in-command of an aircraft operating within the Tuvalu FIR under VFR must not maintain level cruising flight –

(a) at any level between 13 000 feet AMSL and flight level 150 unless otherwise authorised by an ATC unit for flights in controlled airspace; and

(b) at any flight level below flight level 160 when an area QNH zone setting is 980 hPa or less.

2.55 Radio Communication requirements under VFR

(1) A person must not conduct an aircraft operation under VFR that requires two-way radio communications under this Part unless at least one flight crew member on the aircraft is able to conduct two-way radio communications in the English language and is on duty during the operation.

SUBPART E — INSTRUMENT FLIGHT RULES

2.56 Minimum flight crew

(1) A pilot-in-command shall not operate an aircraft under IFR without another pilot, unless –

(a) the aircraft flight manual authorises operation of the aircraft with one pilot; and

(b) the aircraft is equipped with communication equipment that can be operated by the pilot without releasing the aircraft flight controls.

2.57 Fuel requirements for flights under IFR

(1) A pilot-in-command shall not operate an aircraft under IFR unless the aircraft carries sufficient fuel, taking into account weather reports and forecasts and weather conditions, to complete the flight to the aerodrome of intended landing and –

(a) when an alternate aerodrome is not required –

(i) for non-turbine-powered aeroplanes, fly after that for 45 minutes at holding speed at a height of 1500 feet above the aerodrome; or

(ii) for turbine-powered aeroplanes and helicopters, fly after that for 30 minutes at holding speed at a height of 1500 feet above the aerodrome.

(b) when an alternate is required by rule 2.58 fly from the aerodrome of intended landing to the alternate aerodrome and –

(i) for non-turbine-powered aeroplanes, fly after that for 45 minutes at holding speed at a height of 1500 feet above the aerodrome; or

(ii) for turbine-powered aeroplanes and helicopters, fly after that for 30 minutes at holding speed at a height of 1500 feet above the aerodrome.

2.58 IFR alternate aerodrome requirement

(1) A pilot-in-command of an aircraft operating under IFR must list at least 1 alternate aerodrome in the flight plan unless –

(a) the aerodrome of intended landing has a standard instrument approach procedure published in the applicable AIP; and

(b) at the time of submitting the flight plan, the meteorological forecasts indicate, for at least 1 hour before and 1 hour after the estimated time of arrival at the aerodrome of intended landing, that –

(i) the ceiling at the aerodrome will be at least 1000 feet above the minimum published in the applicable AIP for the instrument procedure likely to be used; and

(ii) visibility will be at least 5 km, or 2 km more than the minimum published in the applicable AIP, whichever is the greater.

(2) A pilot-in-command of an aircraft must not list any aerodrome as an alternate on the IFR flight plan under paragraph (a) unless the meteorological forecasts at the time of submitting the flight plan indicate that, at the estimated time of arrival at the alternate aerodrome, the ceiling and visibility at that aerodrome will be at or above the following meteorological minima –

(a) if an instrument approach procedure with alternate minima has been published in the applicable AIP for the aerodrome, the specified alternate aerodrome minima for that instrument approach procedure; or

(b) for a precision approach procedure, a ceiling of 600 feet, or 200 feet above DA/DH, whichever is the higher, and a visibility of 3000 metres, or 1000 metres more than the prescribed minimum, whichever is the greater; or

(c) for a non-precision approach procedure, a ceiling of 800 feet, or 200 feet above MDA/MDH, whichever is the higher, and a visibility of 4000 metres, or 1500 metres more than the prescribed minimum, whichever is the greater; or

(d) if an instrument approach procedure has not been published in the applicable AIP for the alternate aerodrome, the ceiling and visibility minima prescribed under part 2.49.

2.59 IFR flight plan

(1) A pilot-in-command of an aircraft must –

(a) submit a flight plan to an appropriate Flight Information Service unit prior to any flight under IFR; and

(b) unless otherwise authorised by Flight Information Service, submit the flight plan at least 30 minutes prior to the beginning of the flight; and

(c) unless otherwise authorised by Flight Information Service, include the following information in the flight plan –

(i) the identification of the aircraft to be used; and

(ii) the type of aircraft to be used, and its wake turbulence category; and

(iii) the radio communications equipment, and the navigation and approach aid equipment in the aircraft to be used; and

(iv) the departure aerodrome and time of departure; and

(v) the cruising speed, altitude, and route; and

(vi) the aerodrome of destination, total EET, and any alternate aerodrome required by rule 2.58 and

(vii) any additional information required for Flight Information Service purposes; and

(viii) the fuel endurance; and

(ix) total number of persons carried in the aircraft; and

(x) emergency and survival equipment carried in the aircraft; and

(d) advise the appropriate Flight Information Service unit, as soon as possible, of any delay exceeding 30 minutes in beginning the flight or departing from any aerodrome of intended landing; and

(e) terminate the flight plan as soon as practicable on completion of any flight at an aerodrome without Flight Information Service.

(2) For the purpose of this rule, aircraft wake turbulence categories are defined in ICAO Doc 8643 as amended.

2.60 Adherence to flight plan

(1) A pilot-in-command of an aircraft must, when an IFR flight plan has been submitted, adhere to that flight plan or the applicable portion of the flight plan, unless –

(a) a request for change has been made and clearance obtained from an appropriate ATC unit; or

(b) an emergency situation arises which necessitates immediate action to deviate from the flight plan.

(2) A pilot-in-command of an aircraft operating under IFR must, where practicable –

(a) when on a route published in the applicable AIP, operate along the defined centre line of the route; or

(b) when on any other route, operate directly between the navigation facilities and points defining the route; or

(c) when on an area navigation route or parallel offset route, operate along the centreline of the route specified by Flight Information Service.

(3) If a deviation from a flight plan is made under rule 2.59 the pilot-in-command must notify an appropriate Flight Information Service unit as soon as practicable.

2.61 Inadvertent change to flight plan

(1) A pilot-in-command of an aircraft operating under IFR, must in the event of an inadvertent departure from the current flight plan advise an appropriate Flight Information Service unit of –

(a) any deviation from track; and

(b) any variation of 5% or more of the true airspeed or any variation of 0.02 or more of the Mach number given in the flight plan; and

(c) a revised ETA when the estimated ETA to the next reporting point notified to the Flight Information Service unit is found to be in error by more than two minutes; and regain track as soon as practicable.

2.62 Take-off and landing under IFR

(1) When an instrument approach procedure to an aerodrome is necessary, a pilot-in-command of an aircraft operating under IFR must use a standard instrument approach procedure for the aerodrome published in the applicable AIP.

(2) When the instrument approach procedure required by paragraph (a) provides for and requires the use of a DA, DH, or MDA, a pilot-in-command must use the DA, DH, or MDA that is the highest of the following –

(a) the DA, DH, or MDA prescribed by the instrument approach procedure; or

(b) the DA, DH, or MDA prescribed for the pilot-in-command; or

(c) the DA, DH, or MDA for which the aircraft is equipped.

(3) Where a DA, DH, or MDA is applicable, a pilot-in-command must not operate an aircraft at any aerodrome below the MDA, or continue an instrument approach procedure below the DA or DH prescribed in paragraph (2) unless –

(a) the aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal manoeuvres that allows touchdown to occur within the touchdown zone of the runway of intended landing; and

(b) the flight visibility is not less than the visibility published in the applicable AIP for the instrument approach procedure being used; and

(c) except for a Category II or Category III precision approach procedure published in the applicable AIP for the aerodrome that includes any necessary visual reference requirements, at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot –

(i) the approach lighting system; or

(ii) the threshold markings; or

(iii) the threshold lights; or

(iv) the runway-end identification lights; or

(v) the visual approach slope indicator; or

(vi) the touchdown zone or touchdown zone markings; or

(vii) the touchdown zone lights; or

(viii) the runway or runway markings; or

(ix) the runway lights.

(4) A pilot-in-command must not land an aircraft when the flight visibility is less than the visibility published in the applicable AIP for the instrument approach procedure used.

(5) A pilot-in-command must immediately execute the missed approach procedure published in the applicable AIP if –

(a) the requirements of paragraph (3) are not met at either of the following times:

(i) when the aircraft is being operated below MDA; or

(ii) upon arrival at the missed approach point, including a DA or DH where a DA or DH is specified and its use is required, and any time after that until touchdown; or

(iii) an identifiable part of the aerodrome is not distinctly visible to the pilot during a circling manoeuvre at or above MDA, unlessthe inability to see an identifiable part of the aerodrome results only from normal manoeuvring of the aircraft during approach.

(6) Except as provided in paragraph (7), a pilot-in- command of an aircraft must not take off from an aerodrome under IFR unless weather conditions are –

(a) at or above the weather minima for IFR take-off published in the applicable AIP for the aerodrome; or

(b) if weather minima for IFR take-off are not published in the applicable AIP for a particular aerodrome, a ceiling of at least 300 feet and more than 1500 m visibility.

(7) A pilot-in-command of an aircraft may take off under IFR at an aerodrome at a take-off minima of zero cloud ceiling and visibility at or above 800 m if –

(a) the runway to be used has centre-line marking or centre-line lighting; and

(b) the take-off weather visibility is confirmed by the pilot-in-command by observing the runway centre-line marking or centre-line lighting; and

(c) reduced take-off minima on the runway to be used are published in the applicable AIP; and

(d) any obstacles in the take-off flight path are taken into account; and

(e) if the aircraft is a 2 engine propeller-driven aeroplane, the aircraft is equipped with an operative auto-feather or auto-coarse system.

2.63 Operating in icing conditions

(1) Except as provided in paragraph (2), a pilot-in-command operating an aircraft under IFR shall not –

(a) perform a take-off in an aircraft that has –

(i) snow, ice, or frost adhering to any propeller, windscreen, or power plant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system; or

(ii) snow, ice, or frost adhering to the wings, stabilisers, or control surfaces; and

(b) fly an aircraft into known or forecast icing conditions unless the aircraft is certificated with ice protection equipment for flight in the type of known icing conditions.

(2) A pilot-in-command may perform a take-off in an aircraft that has snow, ice, or frost, adhering to the aircraft if the take-off is performed in accordance with the aircraft flight manual, or instructions and data provided by the aircraft manufacturer, for take-off in such conditions.

(3) If weather reports and briefing information immediately prior to the flight indicate to the pilot-in-command that the forecast icing conditions that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions, the restrictions in paragraph (1)(b) based on forecast conditions shall not apply.

2.64 Minimum altitudes for IFR flights

(1) Except when necessary for take-off or landing, a pilot-in-command must not operate an aircraft under IFR below –

(a) the applicable minimum altitudes published in the applicable AIP; or

(b) if an applicable minimum altitude is not published in the applicable AIP –

(i) for operations over a mountainous zone designated under Part 71 or applicable AIP, a height of 2000 feet above the highest obstacle within a horizontal radius of 5 NM from the position of the aircraft; or

(ii) a height of 1000 feet above the highest obstacle within a horizontal radius of 5 NM from the position of the aircraft.

2.65 IFR cruising altitude or flight level

(1) A pilot-in-command of an aircraft within the Tuvalu FIR operating under IFR in level cruising flight must, unless otherwise authorised by an ATC unit for flights in controlled airspace, maintain the following altitude or flight levels:

(a) when operating at or below 13 000 feet AMSL and –

(i) on a magnetic track of 270° clockwise to 089°, any odd thousand foot altitude AMSL; or

(ii) on a magnetic track of 090° clockwise to 269°, any even thousand foot altitude AMSL:

(b) when operating at or above flight level 150 up to and including flight level 410 and –

(i) on a magnetic track of 270° clockwise to 089°, any odd flight level beginning at and including flight level 150; or

(ii) on a magnetic track of 090° clockwise to 269°, any even flight level beginning at and including flight level 160:

(c) when operating above flight level 410 and –

(i) on a magnetic track of 270° clockwise to 089°, any odd flight level, at 4000 foot intervals beginning at and including flight level 450; or

(ii) on a magnetic track of 090° clockwise to 269°, any odd flight level at 4000 foot intervals beginning at and including flight level 430.

(2) Except as provided in paragraph (c), a pilot-in-command of an aircraft within the Tuvalu FIR operating under IFR must not maintain level cruising flight –

(a) at any level between 13 000 feet AMSL and flight level 150, unless authorised to do so by an ATC unit for flights in controlled airspace; and

(b) at any flight level below flight level 160 when the area QNH zone setting is 980 hPa or less.

(3) A pilot-in-command of an aircraft within the Tuvalu FIR operating under IFR outside controlled airspace may maintain level cruising flight between 13 000 feet AMSL and flight level 150 if the pilot-in- command –

(a) is unable to operate the aircraft in level cruising flight at or below 13 000 feet AMSL or at or above flight level 150; and

(b) as established that there is no conflict with other aircraft at the altitude to be flown; and

(c) has given to the relevant Flight Information Service unit prior notification of the altitude to be flown.

2.66 IFR radio communications

(1) A person must not operate an aircraft under IFR unless –

(a) the aircraft is equipped with radio equipment allowing two-way radio communications with a Flight Information Service and a navigation system which will enable the aircraft to proceed in accordance with its flight plan; and

(b) the person piloting the aircraft –

(i) holds a current instrument rating issued by the country of that aircraft's registry; and

(ii) is familiar with the Tuvalu IFR enroute, holding, and approach procedures published in the applicable AIP; and

(c) at least one flight crew member of the aircraft is able to conduct two-way radio telephone communications in the English language and the flight crew member is on duty while the aircraft is operating under IFR.

(2) Each pilot-in-command of an aircraft operating under IFR shall, unless otherwise authorised by a Flight Information Service –

(a) maintain a continuous listening watch on the appropriate frequency; and

(b) report as soon as possible to an appropriate Flight Information Service unit –

(i) the time and altitude of passing each designated reporting point, or the reporting points or the times specified by the Flight Information Service; and

(ii) any other information relating to the safety of the flight.

2.67 IFR operations - radio communications failure

(1) A pilot-in-command of an aircraft that has radio communications failure when operating under IFR in VMC, or if VMC are encountered after the failure, must continue the flight under VFR and land as soon as practicable at the nearest suitable aerodrome.

(2) A pilot-in-command of an aircraft, that has radio communication failure when operating under IFR in IMC or, that is operating in VMC where the maintenance of such conditions is uncertain, must continue the flight in accordance with the flight plan, and;

(a) if the communication failure occurs during departure, maintain the last assigned level to the point specified then continue the flight in accordance with the flight plan;

(b) if the communication failure occurs during departure in the course of radar vectoring, maintain the last assigned vector for 2 minutes while maintaining terrain clearance, then continue the flight is in accordance with the flight plan;

(c) if the communication failure occurs during the en route phase of the flight –

(i) track to the aid or fix for the anticipated instrument approach procedure, at the last assigned level; and

(ii) if necessary at or after the estimated time of arrival or expected approach time, descend in the holding pattern then commence the instrument approach procedure;

(d) if the communication failure occurs on initial approach continue the procedure, if necessary, descending in the holding pattern to the last assigned altitude, maintaining that altitude until established on final approach then continue the instrument approach procedure;

(e) if the communication failure occurs while the aircraft is being operated in a holding pattern and the weather is below instrument approach minima or the aerodrome is closed for any reason –

(i) continue in the holding pattern until the divert time identified in flight planning

(ii) fly to the alternate aerodrome specified in the flight plan; and

(iii) conduct an instrument approach procedure to land at that aerodrome;

(f) if the communication failure occurs during the operation of the aircraft in a missed approach procedure, conduct further instrument approaches up to a period of 30 minutes past expected approach time or estimated time of arrival, whichever is the later; and if the aircraft is unable to land within that 30 minute period, proceed to an alternate aerodrome specified in the flight plan and conduct an instrument approach procedure to that aerodrome.

2.68 Notification of facility malfunctions

(1) Each pilot-in-command of an aircraft operating under IFR shall notify a Flight Information Service as soon as practicable after a malfunction of any aeronautical telecommunication facility during flight.

(2) The notification required by paragraph (a), shall include the –

(a) aircraft type; and

(b) aircraft registration and, if applicable, the flight number; and

(c) name of pilot-in-command; and

(d) name of the operator; and

(e) aircraft position and altitude; and

(f) phase of flight; and

(g) facility affected; and

(h) brief details of the malfunction; and

(i) effect on the flight.

SUBPART F — INSTRUMENT AND EQUIPMENT AND MAINTENANCE REQUIREMENTS

2.69 Instrument and equipment Requirement

(1) A person must not operate an aircraft unless –

(a) the aircraft is equipped with the type and number of instruments and equipment required –

(i) in order to maintain the currency of the recognised aircraft certificate of airworthiness; and

(ii) in compliance with instrument and equipment rules set out by the State that the aircraft is registered to; and

(iii) if applicable, to operate a recognised Part 3 Foreign Air Operation.

(b) the instruments and equipment installed in the aircraft have been installed in accordance with the aircraft manufacturer's instructions or other equivalent instructions approved by the State that the aircraft is registered to; and

(c) Except as provided for in a Minimum Equipment List approved by the State that the aircraft is registered to, instruments and equipment installed in the aircraft are in an operable condition.

(2) An aircraft that is operated on a flight over water must be equipped –

(a) One life preserver for each person on board and stowed in a position that is readily accessible from the seat or berth occupied by the person

(b) If the aircraft is operating with passengers for hire and reward –

(i) enough life-rafts with buoyancy and rated capacity to accommodate all the occupants of the aircraft

(ii) a survival locator light on each life-raft;

(iii) a survival kit, appropriately equipped for the route to be flown, attached to each life-raft; and

(iv) at least 1 pyrotechnic signalling device on each life-raft; and

(v) 1 ELT or 1 EPIRB

2.70 Maintenance requirements

(1) A person must not operate an aircraft unless the aircraft has been maintained in compliance with the maintenance rules set out by the State that the aircraft is registered to.

SUBPART G — SPECIAL FLIGHT OPERATIONS AND ITINERANT VISITORS

2.71 Special flight operation approval

(1) No person shall conduct the following special flight operations without the approval of the Director –

(a) Remotely Piloted Aircraft operations;

(b) Autonomous aircraft operations;

(c) Aerobatic operations;

(d) Aviation events;

(e) Parachute operations;

(f) Glider tow operations;

(g) Flights to maintenance where the aircraft is not airworthy;

(h) Any other operation determined by the Director to be a special flight operation.

(2) A person wishing to conduct a special flight operation must apply to the Director for approval using the applicable form.

(3) An application for approval must include –

(a) a description of the operation, including date time and position of the operation;

(b) contact details of the applicant and key personnel involved in the operation;

(c) a risk assessment of the proposed operation;

(d) proposed mitigations to address identified risks.

(4) In assessing the application, the Director –

(a) must review the submitted risk assessment;

(b) may review international standards and requirements that are relevant to the operation;

(c) may consult technical experts;

(d) may request further information from the applicant.

(5) After conducting the review of the risk assessment the Director may, through the issue of a letter to the applicant –

(a) Approve the operation without conditions;

(b) Approve the operation with conditions or requirements to mitigate the risks if the Director considers that this is required to ensure safety and security;

(c) Decline the operation if the Director considers it is in the interests of safety and security to do so.

(6) A person conducting an approved special flight operation must comply with any conditions or requirements set by the Director under paragraph (6).

2.72 Itinerant Visitor Permit

(1) Itinerant foreign registered aircraft operators must apply for landing permit from the Director.

(2) An itinerant foreign aircraft operator must apply to the Director for approval using the applicable form and include –

(a) a description of the operation, including date, time and intentions for the operation;

(b) contact details of the applicant and key personnel involved in the operation.

(3) In assessing an application for an itinerant visitor permit, the Director –

(a) must notify the CEO of the Ministry of Transport;

(b) may charge a fee for issue of the permit;

(c) may request further information from the applicant.

(4) The Director may –

(a) issue the permit without conditions;

(b) issue the permit with conditions, if the Director considers that this is required to ensure Tuvalu safety and security;

(c) decline to issue the permit, if the Director considers it is in the interests of Tuvalu safety and security to do so.

(5) A person who has been issued with an itinerant visitor permit must comply with any conditions or requirements set by the Director, and with all applicable Tuvalu Civil Aviation Rules while operating in the Tuvalu FIR.

SUBPART H — CARRIAGE OF DANGEROUS GOODS BY AIR

2.73 Application of this Subpart

(1) This Subpart does not apply to articles or substances that are –

(a) specifically excluded in the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284); or

(b) required to be aboard an aircraft in accordance with the airworthiness or operational requirements of the Civil Aviation Rules.

2.74 General prohibition on Carriage of Dangerous Goods by Air

(1) Except as provided for 2.73 and in (2) and (3), person shall not carry dangerous goods or cause or permit dangerous goods to be carried aboard an aircraft in checked or carry-on baggage or on their person.

(2) An operator may –

(a) permit a passenger or crew member to carry dangerous goods or radioactive material in checked or carry-on baggage or on their person if permitted to do so under the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284);

(b) if performing a domestic operation, carry the following dangerous goods in the cargo compartment of a passenger cabin –

(i) Class 1, Division 1.4 Compatibility Group S explosives:

(ii) Class 2, Division 2.2, non-flammable, non-toxic gas:

(iii) Class 3, flammable liquids, Packing Group III:

(iv) Class 4, Division 4.1, flammable solids, Packing Group III:

(v) Class 5, Division 5.1, oxidising substances, Packing Group III:

(vi) Class 6, Division 6.1, poisonous substances, Packing Group III:

(vii) Class 7, radioactive materials loaded in compliance with the minimum separation distances:

(viii) Class 8, Packing Group III substances:

(ix) Class 9, miscellaneous goods.

(3) A member of the Police may carry dangerous goods in an aircraft in the course of that person's duties without complying with this Part if the aircraft is performing an operation solely for Police purposes.

(4) If dangerous goods are carried on board the aircraft under paragraph (3) the aircraft operator must –

(a) make a record of the type, amount and location of the dangerous goods on board; and

(b) in the event of an emergency, provide information about the dangerous goods on board to emergency response personnel as soon as practicable.

2.75 Dangerous Goods Declaration

(1) Each person who offers an article or substance for carriage by air shall provide the operator with a signed document that states that the article or substance is not a dangerous good.

2.76 Information to passengers on Dangerous Goods

(1) An operator of an aircraft must inform a passenger of the type of goods that he or she is prohibited from carrying aboard an aircraft.

(2) The information required by paragraph (1) must be provided –

(a) by notices sufficient in number and prominently displayed –

(i) at each location where tickets are issued and baggage checked; and

(ii) in each aircraft boarding area; and

(iii) with the passenger ticket, or if no physical ticket is issued, as part of the booking confirmation.

2.77 Training requirements

(1) Each operator must ensure that check in and cargo handling personnel are able to recognize prohibited dangerous goods, the hazards presented by dangerous goods, safe handling and emergency response procedures;

2.78 Personnel records

(1) Each person to whom this Subpart applies shall retain a record of training on recognition of dangerous goods for the duration of the person's employment.

(2) The record required to be retained under paragraph (a) shall identify for each person –

(a) the initial training programme and last recurrent training undertaken; and

(b) when it was undertaken; and

(c) the identity of the person and organisation that conducted the training; and

(d) the result and competence achieved.

Made under my hand this 25th day of February, 2022.

HON. NIELU MAISAKE

Minister for Transport, Energy and Tourism

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DR. TAPUGAO FALEFOU

Secretary to Government