

PROPOSAL FOR THE AMENDMENT OF PART 187 OF THE SOUTH AFRICAN CIVIL AVIATION REGULATIONS, 2011

PROPOSER

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PROPOSER'S INTEREST

This proposer has been established in terms of the Civil Aviation Act, 2009 (Act No. 13 of 2009), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

GENERAL EXPLANATORY NOTE

Words in **[bold and square brackets]** indicate deletions from the existing regulations.
Words underlined with a solid line indicate insertions in the existing regulations.

1. PROPOSAL FOR THE INSERTION OF REGULATION 187.03.1

1.1 It is hereby proposed to insert the following regulation after regulation 187.02.3:

“Opening of trust account

187.03. 1 (1) A person or organisation that collects any money, fees, charges or levies on behalf of the Authority shall establish a trust account where money, fees, charges, or levies shall be kept for transferal or transmission to the Authority.

- (2) A trust account established in terms of subregulation (1) shall be maintained as a separate account with a commercial bank that is registered in the Republic in terms of Banks Act, 1990 (Act No. 94 of 1990).
- (3) A person or organisation referred to in subregulation (1) shall deposit the money, fees, charges, or levies into a trust account within 10 business days of collecting such money, fees, charges, or levies.
- (4) The money, fees, charges, or levies collected in terms of subregulation (3), excluding the passenger safety charge, shall be paid or transmitted to the Authority, within 21 days from the end of the month during which such money, fees, charges, or levies are deposited into a trust account.
- (5) In the case of a passenger safety charge, the money collected in terms of subregulation (3) shall be paid or transmitted to the Authority within 21 days from the end of the month during which a passenger has departed on a flight for which a passenger safety charge is payable.
- (6) A trust account established in terms of subregulation (2) shall bear the name or description which include the words "SACAA Trust" for easy identification of a trust account.
- (7) Failure to deposit the money, fees, charges, or levies in terms of subregulation (3) into a trust account or failure to pay or transmit such money, fees, charges, or levies collected to the Authority as provided in terms of this regulation, shall constitute an offence in terms of regulation 185.01.2 and the Authority may:
 - (a) impose a penalty of 10% on the value of the money collected or due to the Authority after the expiry of 21 days referred to in subregulation (4) and (5); and
 - (b) institute civil action in a competent court to recover such money, fees, charges, or levies from such person or organization together with any further administrative penalty and action imposed as provided for in section 144 of the Act.
- (8) The money, fees, charges or levies paid to the Authority in this regulation, shall be paid free of interest and bank charges.

- (9) A person or organisation referred to in subregulation(1) shall not invest or utilise any money, fees, charges, or levies collected on behalf of the Authority, for any other purpose than stipulated in this regulation.
- (10) A monthly bank statement as well as a monthly reconciliation of a trust account shall be submitted to the Authority within 21 days after the last day of every month and such reconciliation shall contain, but not be limited to, the following:
- (a) opening balance;
 - (b) receipts;
 - (c) refunds;
 - (d) interest received;
 - (e) bank charges;
 - (f) payments made to Authority ;and
 - (g) closing balance.
- (11) A trust account opened and operated by any persons or organisation referred to subregulation (1) shall be subjected to an audit by the Authority or nominee of the Authority from time to time.”.

MOTIVATION

This proposal emanates from the Civil Aviation Amendment Act, (Act 21 of 2022) (CAAA) which was assented into law by the State President in March 2022. In order for the CAAA to be proclaimed and to come into operation, certain provisions of our Regulations must be amended and be aligned to the CAAA. This proposal seeks to provide for the opening of trust bank account by persons or organisations who collect money, fees, charges or levies on behalf of the Authority as prescribed in section 155(1) (ww) of the CAAA for onward transferal of such money, fees, charges or levies to the Authority.