

Statutory Instrument No. 18 of 2012

CIVIL AVIATION AUTHORITY ACT
(Act No. 11 of 2011)

CIVIL AVIATION (DANGEROUS GOODS) REGULATIONS, 2012
(Published on 23rd March, 2012)

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IN EXERCISE of the powers conferred on the Minister of Transport and Communications by section 89 of the Civil Aviation Act, and on the recommendation of the Civil Aviation Authority, the following Regulations are hereby made —

Part I — *Preliminary*

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| Citation | 1. These Regulations may be cited as the Civil Aviation (Dangerous Goods) Regulations, 2012. |
| Interpretation | 2. In these Regulations, unless the context otherwise requires —
“acceptance checklist” means a document used to assist in carrying out a check on the external appearance of packages of dangerous goods and their associated documents to determine that all appropriate requirements have been met;
“approval” means an authorisation issued by an appropriate national authority for —
(a) the transport of dangerous goods forbidden on passenger or cargo aircraft where the Technical Instructions state that such goods may be carried with approval; and
(b) other purposes as provided for in the Technical Instructions;
“authorised person” means an employee of the Authority or any delegated person duly authorised as such by the Authority;
“cargo aircraft” means an aircraft which carries goods or movable property but not passengers and for purposes of these Regulations, the following are not considered to be passengers —
(a) crew member;
(b) operator’s employee permitted to be carried by, and carried in accordance with the instructions contained in the operations manual;
(c) an authorised representative of the Authority; or
(d) a person with duties in respect of a particular shipment on board;
“dangerous goods” means any article or substances which are capable of posing risk to health, safety, property or the environment and are identified as such in the Technical Instructions;
“dangerous goods accident” means an occurrence associated with and related to the carriage of dangerous goods by air, which results in a fatal or serious injury to a person or major damage to property or environmental damage; |

- “dangerous goods incident” means an occurrence, other than a dangerous goods accident, which –
- (a) is associated with and related to the carriage of dangerous goods by air, not necessarily occurring on board an aircraft, which results in an injury to a person, property damage, environmental damage, fire, breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained; or
 - (b) relates to the carriage of dangerous goods which seriously jeopardises an aircraft or its occupants;
- “dangerous goods transport document” means a document specified by Technical Instructions which contains information about the dangerous goods being transported;
- “exemption” means an authorisation other than an approval granted by an appropriate national authority providing relief from the provisions of the Technical Instructions;
- “foreign operator” means an aircraft operator who holds an Air Operator’s Certificate issued otherwise than by the Authority;
- “freight container” means a transport equipment for radio active material, designed to facilitate the carriage of such material, either packaged or unpackaged, by one or more modes of transport but does not include a unit load device;
- “handling agent” means a person who performs on behalf of an operator, some or all of the functions of the operator including receiving, loading, unloading, transferring or other processing of passengers or cargo;
- “ID number” means an identification number specified in the Technical Instructions for an item of dangerous goods which has not been assigned a UN number;
- “local operator” means an aircraft operator who holds an Air Operator’s Certificate issued by the Authority;
- “operator” means the person having management of an aircraft at a particular time and includes both a local and foreign operator;
- “overpack” means an enclosure used by a single shipper to contain one or more packages to form one handling unit for convenience of handling and stowage, but does not include a unit load device;
- “package” means the complete product of the packing operation consisting of the packaging and its contents prepared for carriage;
- “packaging” means the receptacles or any other components or materials necessary for the receptacle to perform its containment function and other safety functions;
- “proper shipping name” means the name used to describe a particular article or substance in shipping documents and notifications, and where appropriate on packagings;
- “serious injury” means an injury which is sustained by a person in an accident and which –
- (a) requires hospitalisation for more than 48 hours, commencing within seven days the injury was sustained;
 - (b) results in a fracture of any bone, except simple fractures of fingers, toes or nose;
 - (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;

- (d) involves injury to an internal organ;
 - (e) involves second or third degree burns, or any burns affecting more than five per cent of the body surface; or
 - (f) involves verified exposure to infectious substances or injurious radiation;
- “shipper” means the person who consigns dangerous goods for carriage on an aircraft;
- “State of Destination” means the country in the territory of which an aircraft carrying dangerous goods ends its journey;
- “State of Origin” means the country in the territory of which the consignment was first loaded on an aircraft;
- “State of Overflight” means the country in the territory of which an aircraft carrying dangerous goods flies over, but without landing;
- “State of Transit” means the country in the territory of which an aircraft carrying dangerous goods passes through and lands but without offloading the dangerous goods;
- “Technical Instructions” means the last effective edition in the English language of the Technical Instructions for the Safe Transport of Dangerous Goods by Air, approved and published by decision of the Council of the International Civil Aviation Organization;
- “UN number” means a number assigned by the United Nations Committee of Experts on the Transport of Dangerous Goods to identify a substance; and
- “unit load device” means any type of container or pallet designed for loading onto an aircraft but does not include a freight container or an overpack.

Application

3. These Regulations shall apply to carriage of dangerous goods where Botswana is a State of Origin, State of Transit, State of Overflight or the State of Destination.

PART II – Requirements for Carriage of Dangerous Goods

Approval or certificate required to carry dangerous goods

- 4.** (1) An operator shall not operate an aircraft carrying or loaded with dangerous goods unless —
- (a) the operator holds a certificate or approval to carry dangerous goods issued by the Authority; and
 - (b) dangerous goods are carried or loaded in accordance with any conditions to which such certificate or approval may be subject and in accordance with the Technical Instructions.

(2) Any person who contravenes Sub-regulation (1) commits an offence and is liable to a fine not exceeding P5 000 000, or imprisonment for a term not exceeding 10 years, or to both.

Application for certificate to carry dangerous goods

5. (1) An operator who holds a valid Air Operator’s Certificate may apply to the Authority for a certificate to operate an aircraft carrying or loaded with dangerous goods in Form 1 set out in Schedule 1.

(2) Where the Authority is satisfied that the local operator is competent to carry dangerous goods safely and meets the requirements of these Regulations, it shall on payment of a fee specified in Schedule 2, issue the operator with a certificate to carry dangerous goods as set out in Form 2 of Schedule 1, subject to such conditions as the Authority may think fit.

(3) An operator who violates any condition to which the certificate is issued, commits an offence and is liable to a fine not exceeding P10 000, or imprisonment for a term not exceeding two years, or to both.

(4) An operator who provides false or forged information on an application under Sub-regulation (1) commits an offence and is liable to a fine not exceeding P30 000, or imprisonment for a term not exceeding six years, or to both.

(5) A certificate to carry dangerous goods shall be valid for a period of 12 months from the date of issue.

6. (1) An operator who wishes to operate an aircraft carrying or loaded with dangerous goods on ad-hoc basis shall apply to the Authority for an approval to carry dangerous goods in Form 3 set out in Schedule 1, and shall provide such information as the Authority may require and, in particular —

(a) details of the dangerous goods to be carried; and

(b) date on which dangerous goods are to be carried, destination and the type of aircraft to be used.

(2) An application under Sub-regulation (1) shall be accompanied by a fee specified in Schedule 2.

(3) Where the Authority is satisfied that the operator is competent to carry dangerous goods safely and meets the requirements of these Regulations, it shall on payment of a fee specified in Schedule 2, issue the operator with an approval to carry dangerous goods as set out in Form 4 of Schedule 1, subject to such conditions as the Authority may think fit.

(4) An operator who violates any condition to which the approval is issued, commits an offence and is liable to a fine not exceeding P10 000, or imprisonment for a term not exceeding two years, or to both.

(5) An operator who provides false or forged information on an application under Sub-regulation (1) commits an offence and is liable to a fine not exceeding P30 000, or imprisonment for a term not exceeding six years, or to both.

(6) An approval to carry dangerous goods shall be valid for a stipulated in the approval document.

(7) Notwithstanding Sub-regulation (6), an operator can apply for extension of the validity of their approval to carry dangerous goods, provided it is for the same consignment, by filling in the applicable parts in Form 3 set out in Schedule 1.

7. (1) A certificate to carry dangerous goods may be renewed by filling in the applicable parts in Form 1 set out in Schedule 1 for a further period of 12 months from the date of its expiry.

(2) An application for renewal in terms of Sub-regulation (1) shall be —

(a) made at least 30 days before the expiry of the certificate; and

(b) accompanied by a renewal fee specified in Schedule 2.

(3) Where an application complies with Sub-regulation (2), the Authority shall issue a new certificate to carry dangerous goods in Form 2 of Schedule 1 and may attach any conditions to the renewal as it may consider necessary.

(4) The Authority may refuse to renew a certificate where —

(a) the conditions of the certificate have not been complied with;

(b) the provisions of these Regulations have not been complied with;

(c) the operator is convicted of an offence under these Regulations; or

(d) it is in the public interest not to renew the certificate.

8. (1) An operator whose certificate to carry dangerous goods is lost, destroyed or mutilated may, by application made to the Authority, and on payment of a fee specified in Schedule 2, obtain a duplicate certificate.

(2) Where a certificate which has been lost and replaced is recovered, the operator shall immediately return the duplicate certificate to the Authority.

Application
for approval
to carry
dangerous
goods

Renewal of
certificate to
carry
dangerous
goods

Issue of
duplicate
certificate

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Revocation of certificate or approval to carry dangerous goods

9. The Authority may revoke a certificate or an approval to carry dangerous goods where after any time the certificate or an approval to carry dangerous goods has been issued, the operator violates any of the conditions imposed by the Authority, and such operator shall return to the Authority, the certificate or approval to carry dangerous goods.

Variation of certificate to carry dangerous goods

10. (1) Any operator who wishes to have his certificate to carry dangerous goods varied may apply to the Authority by filling out the applicable parts in Form 1 set out in Schedule 1 giving reasons why a variation is required.

(2) Where the Authority determines that safety in commercial air transport and the public interest allows for a variation, the Authority may vary the operator's certificate to carry dangerous goods.

(3) An application for variation shall be made at least 30 days prior to the intended date of any operation under that variation accompanied by a variation fee specified in Schedule 2.

Validation of foreign certificate or approval

11. The Authority may on application by a foreign operator, validate a foreign certificate or an approval issued in the handling dangerous goods to be conveyed by air, where the holder of such foreign certificate submits documentary proof that —

- (a) the foreign certificate has been obtained from an approved foreign training organisation; and
- (b) the dangerous goods transport document complies with the Technical Instructions.

Prohibition of carriage of dangerous goods

12. (1) Subject to Sub-regulations (2) and (3), a person shall not —

- (a) deliver or cause to be delivered for carriage in; or
- (b) carry or load or cause to be carried in, an aircraft any dangerous goods which he or she knows, ought to know or suspects to be goods capable of posing risk to the health and safety of any person, property or any damage to the environment when carried by air.

(2) Notwithstanding Sub-regulation (1), dangerous goods may be delivered or caused to be delivered for carriage by air or be carried or loaded on board an aircraft where they are —

- (a) for the proper navigation or safety of flight;
- (b) to provide, during flight, medical aid to a patient;
- (c) to provide, during flight, veterinary aid or a humane killer for an animal;
- (d) to provide, during flight, aid in connection with search and rescue operations;
- (e) permitted for carriage by passengers or crew members; or
- (f) intended for use or sale during the flight.

(3) The dangerous goods specified in Sub-regulation (2) shall be carried in an aircraft provided they comply with Part 8 and the applicable provisions in the Technical Instructions, and with the following —

- (a) the goods specified in Sub-regulation (2) (a) shall only be carried if —
 - (i) they are required to be carried on an aircraft by or under these Regulations or are otherwise intended for use on an aircraft for the purpose of the good order of the flight in accordance with the normal practice whether or not, in either case, such goods are required to be carried or intended to be used on that particular flight, or
 - (ii) they are intended as replacements or have been removed for replacement, and they comply with applicable provisions of Part 1 of the Technical Instructions;

- (b) the goods specified in Sub-regulation 2 (b) and (c) shall only be carried if —
 - (i) they may be required for use during the flight,
 - (ii) they are or may be required for use during a subsequent flight by the same aircraft and it may not be practicable to load the goods onto the aircraft in the intervening period before the commencement of that subsequent flight, or
 - (iii) they were used or might have been required for use during a previous flight by the same aircraft and it has not been practicable to unload them from the aircraft since that flight;
- (c) the goods specified in Sub-regulation 2 (e) shall be carried by passengers or crew members if they comply with the provisions of Part 8 of the Technical Instructions; and
- (d) the goods specified in Sub-regulation 2 (f) shall be carried if the Technical Instructions identify them as being items for sale or use during a flight, or are intended as replacements for such items or have been removed for replacement, they are carried in accordance with Part 1 of the Technical Instructions.

PART III — *Operator's Obligations*

13. (1) An operator of an aircraft flying for the purposes of commercial air transport shall ensure that all appropriate manuals, including the operations manual contain information about dangerous goods carried on the aircraft so that ground staff and crew members can carry out their responsibilities in regard to the carriage of dangerous goods, and the action to be taken in the event of any emergency involving dangerous goods, and where applicable the information should also be given to the handling agent.

Provision of information by operator to crew, etc.

(2) An operator of an aircraft in which dangerous goods are to be carried as cargo shall provide or cause to be provided to the Pilot-in-command of the aircraft, before the flight begins —

- (a) written information about the dangerous goods as specified in the applicable provisions of Part 7 of the Technical Instructions; and
- (b) information for use in responding to an in-flight emergency as specified in the applicable provisions of Part 7 of the Technical Instructions.

(3) An operator of an aircraft which is involved —

- (a) in an accident whilst carrying any dangerous goods as cargo on the aircraft; or
- (b) in a serious incident in which, in the reasonable opinion of the operator, dangerous goods carried as cargo on the aircraft may be involved, shall notify the Authority and a police officer for the area where the accident or serious incident occurred.

14. (1) An operator of an aircraft in which dangerous goods are to be carried as cargo, shall ensure that no package, overpack or freight container which contains dangerous goods is accepted for carriage in an aircraft until such package, overpack or freight container has been inspected to determine that the —

Acceptance of dangerous goods by operator

- (a) dangerous goods are not forbidden for carriage by air in any circumstance by the provisions of the Technical Instructions;
- (b) dangerous goods are classified and packed as required by the Technical Instructions;

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	<p>(c) the package, overpack or freight container marked and labelled in accordance with the provisions of Chapters 2 and 3 of Part 5 of the Technical Instructions; and</p> <p>(d) the package, overpack or freight container is not leaking or damaged before being loaded on an aircraft or placed in a unit load device.</p> <p>(2) Unless otherwise provided for in the Technical Instructions, an operator of an aircraft in which dangerous goods are to be carried shall ensure that no package, overpack or freight container which contains dangerous goods is accepted for carriage in that aircraft unless it is accompanied by a dangerous goods transport document, and shall inspect such document to ensure that it complies with the Technical Instructions.</p> <p>(3) An inspection under Sub-regulation (2), shall be in accordance with an acceptance checklist, in Form 5 set out in Schedule 1, and the result of such inspection shall be recorded.</p>
Exemption	<p>15. (1) The Authority may, upon application by an operator or a shipper, and on a payment of a fee specified in Schedule 2, exempt such operator or shipper from the provisions of regulation 14 (1) (a) where —</p> <p>(a) there is extreme urgency;</p> <p>(b) other forms of conveyance are inappropriate; or</p> <p>(c) full compliance with the this Part will be contrary to the public interest.</p> <p>(2) The Authority may grant an exemption from the provisions of the Technical Instructions where in all instances every effort is made to achieve an overall level of safety in transport of the dangerous goods which is equivalent to the level of safety provided for in the Technical Instructions.</p> <p>(3) Where the Authority grants an exemption for a period exceeding 90 days, the Authority shall, within 30 days from the date on which an exemption was granted, publish the full particulars of such exemption in the <i>Gazette</i>.</p>
Method of loading by operator	<p>16. (1) An operator of an aircraft in which dangerous goods are to be carried as cargo shall ensure that dangerous goods are not carried in any compartment occupied by passengers or on the flight deck, except where permissible under Part 7 of the Technical Instructions.</p> <p>(2) An operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods is loaded, segregated, stowed and secured on an aircraft in Chapter 2 of Part 7 of the Technical Instructions.</p> <p>(3) An operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container bearing an indication that they can only be carried on a cargo aircraft are loaded and stowed in accordance with Part 7 of the Technical Instructions and are not loaded on an aircraft carrying passengers.</p> <p>(4) An operator of an aircraft in which radioactive materials are to be carried as cargo shall ensure that the radioactive materials are loaded and stowed in freight containers in accordance with Part 2 of the Technical Instructions.</p>
Inspections by operator for damages, leakage or contamination	<p>17. (1) An operator of an aircraft in which dangerous goods are to be carried shall ensure that a unit load device containing dangerous goods is not loaded unless it has been inspected and is free from any evidence of leakage or damage to the packages, overpacks or freight containers contained in it.</p>

(2) An operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods and is leaking or damaged in an aircraft is removed and that other cargo or baggage loaded on that aircraft is in a fit state for carriage by air and is not contaminated.

(3) An operator of an aircraft in which dangerous goods are carried as cargo shall ensure after unloading that all packages, overpacks or freight containers which contain dangerous goods are inspected for signs of damage or leakage, and if there is such evidence, shall ensure that any part of the aircraft where the package, overpack or freight container was stowed or any sling or other apparatus which has been used to suspend goods beneath the aircraft is inspected for damage or contamination and shall record the event and report it as an incident.

18. (1) An operator of an aircraft in which dangerous goods are carried shall ensure that any contamination found as a result of leaking or damaged packages, overpacks or freight containers is removed without delay.

Removal of
contamination

(2) An operator of an aircraft shall ensure that an aircraft is not permitted to fly if it is known or suspected that radioactive materials have leaked in or contaminated the aircraft, unless the radiation level resulting from the fixed contamination at any accessible surface and the non-fixed contamination are not more than the values specified in Part 7 of the Technical Instructions.

(3) An operator who contravenes Sub-regulation (1) commits an offence and is liable to a fine not exceeding P5 000 000, or imprisonment for a term not exceeding 10 years, or to both.

19. (1) An operator of an aircraft in which dangerous goods are to be carried as cargo shall, before the flight begins, provide the pilot-in-command of the aircraft with written information specifying the matters required by Part 5 of the Technical Instructions and shall preserve a copy of that information for a period of not less than six months.

Provision of
information
and training
programmes

(2) An operator of an aircraft or any agent thereof shall inform any of his or her employees whose duties include a function connected with the carriage of passengers or cargo by air of the Technical Instructions, and shall for this purpose establish and undertake training programmes as required by Chapter 4 of Part 1 of the Technical Instructions, which shall be submitted to the Authority for approval.

20. (1) An airport operator or operator of an aircraft flying the purpose of commercial air transport of passengers or his or her agent shall ensure that persons who are or may become passengers are warned about the type of dangerous goods which are forbidden from being carried on an aircraft as checked baggage or carry-on luggage —

Provision of
information
to passengers

- (a) by displaying notices sufficient in number and prominence for this purpose at —
 - (i) the places at an airport and outside the airport where tickets are issued,
 - (ii) the areas at an airport maintained to assemble passengers to board an aircraft,
 - (iii) any place where flight accommodation is offered, and
 - (iv) any location where a passenger may be checked in; and
- (b) by providing information with each passenger ticket or some other appropriate means, sufficient in prominence for this purpose.

(2) An airport operator or operator of an aircraft flying for purposes of commercial air transport who fails to provide information required under Sub-regulation (1) commits an offence and is liable to a fine not exceeding P5 000 or imprisonment for a term not exceeding one year, or to both and a fine of P1 000 for each day that the offence continues.

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Provision of information in respect of cargo

21. (1) An operator of an aircraft in which cargo is to be carried and any agent thereof shall ensure that notices giving information about the carriage of dangerous goods are displayed in sufficient number and prominence for this purpose at places where cargo is accepted for carriage.

(2) An operator who fails to provide information as required under Sub-regulation (1) commits an offence and is liable to a fine not exceeding P5 000 or imprisonment for a term not exceeding six years, or to both and a fine of P1 000 for each day that the offence continues.

PART IV — *Shipper's Responsibilities*

Shipper's responsibilities

22. A shipper shall, before consigning any dangerous goods for carriage by air, ensure that —

- (a) the goods are not the type forbidden for carriage by under Part 1 of the Technical Instructions;
- (b) if the goods the type forbidden for carriage by air without approval, all such approvals are obtained from the Authority where the Technical Instructions indicate that it is the responsibility of the shipper to obtain them;
- (c) the goods are classified in accordance with classification criteria contained in Part 2 of the Technical Instructions;
- (d) the goods are packed in accordance with Part 1, Part 2, Chapters 2 and 3, Part 3 and Part 4 of Technical Instructions, and the packaging used is in accordance with these provisions and Part 6 of the Technical Instructions as applicable to those goods;
- (e) the package is marked and labelled in English in addition to any other language required by the State of Origin as specified for those goods under Part 3, Chapters 2 and 3 of Part 5 and Chapter 2 of Part 6 of the Technical Instructions;
- (f) the package is in a fit condition for carriage by air; and
- (g) when one or more packages are placed in an overpack, the overpack only contains packages of goods permissible to be carried by Part 5 of the Technical Instructions and the overpack is marked and labelled in accordance with Part 5 of the Technical Instructions.

Dangerous goods transport document

23. (1) A shipper shall, before consigning any dangerous goods for carriage by air, ensure that the dangerous goods transport document —

- (a) is completed in English in addition to any other language required by the State of Origin in accordance with Part 5 of the Technical Instructions; and
- (b) contains a declaration signed by or on behalf of the shipper in Form 6 set out in Schedule 1, stating that the Technical Instructions have been complied with and that the dangerous goods are —
 - (i) fully and accurately described,
 - (ii) correctly classified, packed, marked and labelled, and
 - (iii) in proper condition for carriage by air.

(2) A shipper shall ensure that an operator of the aircraft is furnished with the dangerous goods transport document required by Sub-regulation (1) and such other documents in respect of dangerous goods as are required by Part 4 and Part 5 of the Technical Instructions.

24. A shipper and any agent thereof shall ensure that before consignment of dangerous goods is offered to him or her for carriage by air, any person involved in its preparation has received training as specified in Chapter 4 of Part 1 of the Technical Instructions, to enable the person to carry out their responsibilities with regard to carriage of dangerous goods by air.

Provision of training

PART V — Documents, Records and Enforcement Powers

25. (1) An operator of an aircraft carrying dangerous goods as cargo shall ensure that the written information to the pilot-in-command required by regulation 19 (1) a copy of the dangerous goods transport document required by regulation 23 (2) and kept and are accessible until after the period of the flight on which dangerous goods were carried.

Keeping of documents and records

(2) An operator of an aircraft carrying dangerous goods shall preserve for a period of not less than three months —

- (a) the written information to the pilot-in-command as required by regulation 19 (1);
- (b) any dangerous goods transport document or other document in respect of dangerous goods which has been furnished to him or her by the shipper in accordance with regulation 23 (2); and
- (c) the record of any acceptance check list completed in accordance with regulation 15 (3).

(3) The record referred to in Sub-regulation 2 (b) shall be in a legible form.

(4) An operator who fails to preserve records specified under Sub-regulation (2) commits an offence and is liable to a fine not exceeding P5 000 000, or imprisonment for a term not exceeding 10 years, or to both.

26. (1) An operator of an aircraft on which dangerous goods are to be or have been carried and any agent thereof shall, within a reasonable time after being requested to do so by an authorised person, produce or cause to be produced to that person the following documents as may have been requested by that person —

Production of documents and records

- (a) the written approval referred to in regulation 6 (3);
- (b) a copy of the written information provided to the pilot-in-command of the aircraft in respect of any dangerous goods referred to in regulation 19 (1);
- (c) the dangerous goods transport document, or other document in respect of dangerous goods referred to in regulation 23 (2); and
- (d) the completed acceptance check list in a legible form in respect of any dangerous goods, referred to in regulation 15 (3).

(2) An operator of an aircraft, shipper and any agent thereof shall, within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person any document which relates to goods which the authorised person has reasonable grounds to suspect may be dangerous goods in respect of which the provisions of these Regulations have not been complied with.

(3) An operator, shipper and any agent thereof who fails without reasonable excuse to produce documents referred to in Sub-regulation (1) when requested to do so, commits an offence and is liable to a fine not exceeding P5 000 000, or imprisonment for a term not exceeding 10 years, or to both.

(4) The Authority may authorise, in writing, any person to inspect and make a copy of any certificate or approval or record required to be kept under these Regulations.

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Power of seizure and examination

27. (1) An authorised person may examine, take samples of, and seize any goods which he or she has reasonable grounds to suspect may be dangerous goods in respect of which the provisions of these Regulations have not been complied with.

(2) An authorised person may open or require to be opened any baggage or package which he or she has reasonable grounds to suspect may contain dangerous goods in respect of which the provisions of these Regulations have not been complied with.

(3) Subject to Sub-regulation (6), any sample taken or goods seized by the authorised person under this regulation shall be retained or kept for as long as the Authority considers it necessary in all circumstances for forensic examination, for investigation in connection with an offence or for use as evidence at a trial for an offence and shall be disposed of in such manner as the Authority considers appropriate.

(4) A person from whom any goods have been seized may make an application in writing accompanied by evidence of ownership, to the Authority to have the goods released to him or her.

(5) Where the Authority is satisfied that —

- (a) the goods seized were not dangerous goods;
- (b) the applicant is the owner of the goods seized; and
- (c) further retention of the goods is not necessary for purposes of any criminal proceedings, the Authority shall arrange for the goods concerned to be released to the applicant.

(6) Where further retention of the goods is, in the opinion of the Authority, no longer necessary, and no application has been made under Sub-regulation (4), or any such application has not been successful, the goods shall be destroyed or otherwise disposed of in accordance with the directions of the Authority.

PART VI — *General*

Occurrence reporting

28. (1) A local operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or mis-declared dangerous goods in cargo or passenger's baggage, wherever it occurs, is reported to the Authority in Form 7 set out in the First Schedule.

(2) A foreign operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or mis-declared dangerous goods in cargo or passenger's baggage, which occurred in Botswana, is reported to the Authority.

(3) A report required under Sub-regulations (1) and (2) shall contain such of the following information as is appropriate to the occurrence —

- (a) the date and location of the occurrence;
- (b) the flight number and flight date;
- (c) the description of the goods and the reference number of the air way bill, pouch baggage tag and ticket;
- (d) the proper shipping name, including the technical name if applicable;
- (e) the UN or ID number;
- (f) the class or division in accordance with the Technical Instructions and any subsidiary risks;
- (g) the type of packaging and packaging specification marking;

- (h) the quantity of dangerous goods;
- (i) the name and address of the shipper or passenger;
- (j) the suspected cause of the occurrence, action taken and any other action taken;
- (k) the name, title, address and contact number of the reporter; and
- (l) any other relevant details.

(4) A report referred to in Sub-regulation (3) shall be in writing, or such other form as the Authority may approve provided that it is confirmed in writing within 24 hours by the person making the report, and shall be delivered to the Authority by the quickest available means within 72 hours of the occurrence coming to the knowledge of the reporter.

(5) An operator who fails to report a dangerous goods accident, dangerous goods incident or the finding of undeclared or mis-declared dangerous goods commits an offence and is liable to a fine not exceeding P5 000 000, or imprisonment for a term not exceeding 10 years, or to both.

29. (1) A pilot-in-command of an aircraft carrying dangerous goods as cargo shall, in the event of an in-flight emergency and as soon as the situation permits, inform the appropriate air traffic services unit of those dangerous goods in detail or as a summary or by reference to the location from where the detailed information can be obtained immediately.

Pilot-in-command's duty to inform air traffic services

(2) A pilot-in-command who fails in the event of an in-flight emergency, without reasonable excuse, to inform air traffic services unit of dangerous goods carried as cargo shall be guilty of an offence and liable to a fine not exceeding P5 000, or imprisonment for a term not exceeding one year, or to both.

30. Subject to the provisions of regulation 6(1), nothing contained in these Regulations shall apply to any aircraft flying solely for the purpose of agriculture, horticulture, forestry or pollution control.

Flying for agricultural, horticultural, forestry, etc.

SCHEDULE 1
Form 1

APPLICATION FOR CERTIFICATE TO CARRY DANGEROUS GOODS
(Reg. 5 (1), Reg. 7 (1), Reg. 10)

Please tick where applicable

Initial Renewal Variation

I. Applicant Information:

Airline/Operator Name:.....

Full Address:.....

Tel. No:..... Fax No.:.....

E-mail :..... Web:.....

II. Aircraft to be used (attach separate paper if necessary)

Aircraft type:Registration MarksMaximum All Up Weight

III. Applicant Undertaking:

We/ I undertake the following:

1. To train and maintain competency of personnel handling Dangerous Goods in accordance with the Civil Aviation (Dangerous Goods) Regulations.
2. To ensure that the goods will be packed, marked, labelled and handled in accordance with ICAO Annex 18: Safe Transport of Dangerous Goods by Air, and the requirements of the ICAO Technical Instructions.
3. To ensure that required Dangerous Goods Procedures, including Reporting of occurrences and Accidents/ Incidents, are complied with in accordance with the Civil Aviation (Dangerous Goods) Regulations and the Civil Aviation (Air Operator Certification and Administration) Regulations.

Authorized Signature:..... Date:

Name and Title:

FOR CAAB USE ONLY

The above application is hereby approved from:..... to
on condition that the provisions of ICAO Technical Instructions and the Civil Aviation (Dangerous Goods) Regulations are complied with.

Authorized Signature:

Date :Stamp:.....

Notes on Completion of the Form:

1. The Operator (Airline) is required to complete the form providing all details in BLOCK PRINT.
2. The completed application (original form) must be delivered to the Civil Aviation Authority of Botswana:
3. Operator (Airline) must ensure that the goods are within the limitations of the Dangerous Goods Regulations and are packed, marked, labelled and documented in accordance with the Technical Instructions.

Form 2

CERTIFICATE FOR THE CARRIAGE OF DANGEROUS GOODS BY AIR
(Reg. 5 (3))

This is to certify that:

[OPERATOR]

has satisfactorily complied with all the requirements stipulated in the Civil Aviation (Dangerous Goods) Regulations of Botswana and the Standards contained in the Annex – 18 to the Convention on International Civil Aviation and its Technical Instructions in respect of the carriage of Dangerous Goods by Air. Hence [] has been authorized to handle / transport Dangerous Goods by Air into, out of, over or within Botswana.

This Certificate remains valid for a period of [] from the date of issue unless sooner suspended, revoked or withdrawn.

The validity of this certificate is dependent on the certificate holder's continued compliance with the initial certification requirements.

Date

Signature

Civil Aviation Authority of Botswana

C.208

Form 3

APPLICATION FOR AN APPROVAL TO CARRY DANGEROUS GOODS BY AIR
Reg. 6 (2), Reg. 6 (7)

Initial Application: <input type="checkbox"/>	<input type="checkbox"/> Extension:
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PART A – THE DANGEROUS GOODS						
Proper Shipping Name, include technical name for n.o.s entries	UN Number	Hazard Class/ Division (subsidiary classes in brackets)	Packing Group	NEQ (Class 1) or TI (Class 7)	Packing Instruction Used (if applicable)	Quantity per Package and Number of Packages
How does the proposed shipment not comply with the ICAO Annex 18 and the ICAO Technical Instructions, or for which Special Provision, is approval/exemption being sought? Give full details.						
Is UN approved packing material being used – is it applicable to these dangerous goods? What remedial packing/ modification is proposed to achieve an equivalent level of safety?						
Why are other modes of transport impractical? Why is it essential that the article/substance be carried by air? How is carriage in the public interest?						
Are there any special handling requirements or special emergency response information? Attach a copy if necessary.						

PART B – THE CONSIGNOR or SHIPPER – Complete all details and sign where indicated.
Applicant's name – please provide Legal Entity and Trading Name if necessary.
Contact person (if different from above):
Address: Tel: Email:
Who is responsible for packing the dangerous goods?
Do the people responsible hold a current and valid dangerous goods training certificate? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, give details of training organization and date of training or attach a copy of their qualification.

C.210

Aircraft type: _____	Registration Marks: _____	
Aircraft Category: Cargo Only: _____	Cargo and Passenger: _____	Aerial Work: _____
Point/country of departure: _____	Point/country of Destination: _____	
Point/country of Transit: _____	Point/country of Over flight: _____	
Anticipated start date: _____	Anticipated end date: _____	
FOR CAAB USE ONLY		
The above application is hereby approved from: _____ to _____		
on condition that the provisions of ICAO Technical Instructions and the Civil Aviation (Dangerous Goods) Regulations are complied with.		
Authorized Signature: _____		
Date : _____	Stamp: _____	

Notes on Completion of the Form:

1. The Operator (Airline) is required to complete the form providing all details in BLOCK PRINT.
2. The completed application (original form) must be delivered to the Civil Aviation Authority of Botswana.
3. The Operator (Airline) must ensure that the goods are within the limitations of the Dangerous Goods Regulations and are packed, marked, labelled and documented in accordance with the Technical Instructions.

Form 4

APPROVAL FOR THE CARRIAGE OF DANGEROUS GOODS BY AIR
Reg. 6 (3)

This is to certify that,

[OPERATOR]

[] is authorised to transport the following Dangerous Goods by Air into, out of, over or within Botswana:

On the following flight(s):

has satisfactorily complied with all the requirements stipulated in the Civil Aviation (Dangerous Goods) Regulations of Botswana and the Standards contained in the Annex – 18 to the Convention on International Civil Aviation and its Technical Instructions in respect of carriage of Dangerous Goods by Air. Hence [] has been authorized to handle/transport Dangerous Goods by Air into, out of, over or within Botswana.

This Approval remains valid until the completion of the intended carriage but not later than one month from the date of issue.

Conditions applicable (if any);

The validity of this approval is dependent on the approval holder's continued compliance with the initial certification requirements.

Date

.....
Signature

.....
Civil Aviation Authority of Botswana

C.212

Form 5

ACCEPTANCE CHECKLIST
(Reg. 15 (3))

ACCEPTANCE CHECKLIST FOR NON-RADIOACTIVE SHIPMENT

This checklist is intended to verify shipment at origin.
Never accept or refuse a shipment before all items have been checked.
Is the following information correct for each entry? Tick the appropriate.

SHIPERS DECLARATION FOR DANGEROUS GOODS (DGD)	YES	NO	N/A
1. Two copies in English and in the IATA format			
2. Full name and address of shipper and consignee			
3. If the Air Way bill number is not shown, enter it			
4. The number of pages shown			
5. The non applicable aircraft type deleted			
6. If full name of airport or city of departure and or destination is not entered, enter it			
7. The word "Non-Radio Active" deleted			
IDENTIFICATION			
8. UN Number, preceded by prefix "UN"			
8. UN Number, preceded by prefix "UN"			
9. Proper shipping name and the technical name in brackets for asterisked entries			
10. Class or Division number, and for class 1, the compatibility group			
11. Subsidiary risk in parentheses, immediately following class or division			
12. Packing Group			
QUANTITY AND TYPE OF PACKING			
13. Number and Type of Packages			
14. Quantity and unit of measure (Net or Gross followed by "G", as applicable) within per package measure			
15. When different dangerous goods are packed in one outer packaging, the following rules are complied with: •"All packed in one (type of packaging)" •Calculating of "Q" value must not exceed 1			
16. Overpack •Wording "Overpack" used			
PACKING INSTRUCTIONS			
17. Packing instruction number			

AUTHORIZATIONS			
18. Wording “Limited Quantity” or “Ltd. Qty.” if “Y” packing instruction is used			
19. Confirm application of relevant special provisions, the Special Provisions number if A1, A2, A51, A81 or A109			
20. Indication that governmental authorization is attached, including a copy in English if any other language was used.			
Additional approvals for other items			
ADDITIONAL HANDLING INFORMATION			
21. The mandatory statement shown for self-reactive and related substances of Division 4.1 and organic peroxides of Division 5.2 or samples thereof			
22. Name and telephone number of a responsible person for Division 6.2 Infectious Substances shipment			
23. The Air Transport statement included			
24. Name and title (or Department) of signatory, place and date intended			
25. Signature of shipper			
26. Amendment or alteration signed by shipper			
AIR WAYBILL – HANDLING INFORMATION			
27. The statement :”Dangerous goods as per attached Shipper’s Declaration” or “Dangerous goods as per attached DGD”			
28. “Cargo aircraft only” or “CAO” if applicable			
29. Where non-dangerous goods are included, the number of dangerous goods shown			
PACKAGE(S) AND OVERPACK			
30. Packing conforms with packing instruction and is free from damage or leakage			
31. Same number and types of packaging’s and overpack delivered as shown in the DGD			
MARKINGS			
32. UN Specification packaging , marked according to the TI’s <ul style="list-style-type: none"> • Symbol and specification code • X,Y or Z meets or exceeds packing group/packing instruction requirements • Gross weight within limits (solids or inner packaging) • Infectious substances package marking 			
33. The UN or ID number(s).			

C.214

34. The proper shipping name(s) including technical name where required			
35. The full name(s) and address(es) of shipper and consignees			
36. The net quantity of explosives and gross weight of the package for Class 1 items			
37. For consignments of one or more packages of Classes 2 to 6 and 8 the net quantity, or gross weight followed by "G", as applicable, unless contents are identical, marked on the packages			
38. Carbon Dioxide, Solid (Dry-ice), the net quantity marked on the packages			
39. The name and telephone number of a responsible person for Division 6.2 Infectious Substances shipment			
40. The Special Markings requirements shown for Packing Instructions			
41. Limited Quantity packaging marked "LIMITED QUANTITY" or "LTD. QTY"			
LABELLING			
42. The label(s) identifying the Primary risk as identified in the TI's			
43. The label(s) identifying the Subsidiary risk next to the Primary risk label(s) as identified in the TI's			
44. Cargo Aircraft only label on the same surface NEAR THE Hazard Label(s)			
45. "Orientation" label(s) if applicable			
46. "Magnetized Material" label, if applicable			
47. "cryogenic Liquid" label(s) if applicable			
48. "keep away from Heat" label(s) if applicable			
49. All above labels correctly affixed and all irrelevant marks and labels removed			
FOR OVERPACKS			
50. Packaging use markings and Hazard and Handling labels, as required must be clearly visible or reproduced on the outside of the overpack			
51. The word "Overpack" marked if all markings and labels are not visible.			
52. If more than one overpack is used, identification marks shown and total quantity of dangerous goods			
53. "Cargo Aircraft Only" restrictions			
GENERAL			
54. State and Operator variations complied with			
55. Cargo Aircraft Only shipments, a cargo aircraft operates on all sectors			

Comments:			
Checked by:			
Place: _____ Signature: _____			
Date: _____ Time: _____			
IF ANY BOX IS CHECKED "NO", DO NOT ACCEPT THE SHIPMENT AND GIVE A DUPLICATE COPY OF THIS COMPLETED FORM TO THE SHIPPER.			

C.216

Form 6

DECLARATION BY SHIPPER
(Reg. 23 (1) (b))

Shipper:		Air Waybill no.: Page ____ of ____ Pages Shipper's reference No. (optional)				
Consignee:		For optional use Company logo, name & address				
Two completed and signed copies of this Declaration Form must be handed to the operator		WARNING Failure to comply in all respects with the applicable Dangerous Goods Regulations may be in breach of the applicable law, subject to legal penalties.				
TRANSPORT DETAILS This shipment is within the limitations prescribed for;(delete non-applicable)		Airport of Departure:				
Passenger and cargo aircraft	Cargo aircraft only					
Airport of Destination:		Shipment type: (delete non-applicable)				
		Non-radioactive		Radioactive		
NATURE AND QUANTITY OF DANGEROUS GOODS						
UN or ID No.	Proper Shipping Name	Class or Division (subsidiary risk)	Packing Group	Quantity and Type of Packing	Packing Inst.	Authorization
Additional handling information:						
I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable International and National Governmental Regulations. I declare that all of the applicable air transport requirements have been met.				Name and Title of signatory: Place and Date: Signature: (see warning above)		

Form 7

DANGEROUS GOODS ACCIDENT/INCIDENT REPORT
(Reg. 28 (1))

Tick type of occurrence: Accident _____ Incident _____ Other Occurrence _____

Operator:		Date of Occurrence:		Local time of Occurrence:	
Flight Date:		Flight Number:			
Departure Airport:		Destination Airport:			
Aircraft Type:		Aircraft Registration:			
Location of Occurrence:		Origin of the Goods:			
Description of the occurrence, including details of injury, damage, etc. (if necessary continue on the next page)					
Proper Shipping Name (including the technical name):				UN/ID no.	
Class/Division (when known):	Subsidiary risk:	Packing group:		Category, (class 7 only):	
Type of packaging:	Packing specification marking:	No. of packages:		Quantity (or transport index, if applicable):	
Reference no. of Air Waybill:					
Reference no. of courier pouch, baggage, tag or passenger ticket:					
Name and address of shipper, agent, passenger, etc:					
Other relevant information (including a suspected cause, any action taken):					
Name and title of person reporting:				Telephone no.:	
Company/dept. code, E-mail address:				Reporter Ref.:	

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Address:	Date and signature:
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Description of the Occurrence (continuation):
Other relevant information (continuation)

Notes:

1. Any type of Dangerous Goods Occurrence must be reported, irrespective of whether the dangerous goods are contained in cargo, mail or baggage.
2. A dangerous goods accident is an occurrence associated with and related to the transport of dangerous goods which results in fatal or serious injury to a person or major property damage. For this purpose serious injury is an injury which is sustained by a person in an accident which:
 - a. Requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received; or
 - b. Results in a fracture of any bones (except simple fractures of fingers, toes nose) or
 - c. Involves lacerations which cause severe hemorrhage, nerve, muscle or tendon damage; or
 - d. Involves injury to any internal organ; or
 - e. Involves second or third degree burns, or any burns affecting more than 5% of the body surface; or
 - f. Involves verified exposure to infectious substances or injurious radiation. A dangerous goods accident may also be an aircraft accident; in which case the normal procedure for reporting of air accidents must be followed.
3. A dangerous goods incident is an occurrence, other than a dangerous goods accident, associated with and related to the transport of dangerous goods, not necessarily occurring on board an aircraft, which results in injury to a person, property damage, fire breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained. Any occurrence relating to the transport of dangerous goods which seriously jeopardizes the aircraft or its occupants is also deemed to constitute a dangerous goods incident.
4. This form should also be used to report any occasion when undeclared or mis-declared dangerous goods are discovered in cargo or accompanied baggage or when accompanied baggage contains dangerous goods which passengers or crew are not permitted to take on board aircraft.
5. An initial report should be dispatched within 72hours of the occurrence to the competent authority of the state (a) of the operator; and (b) in which the incident occurred, unless exceptional circumstances prevent this. The initial report may be made by any means but a written report should be sent to the authority as soon as possible.
6. Copies of all relevant documents and any photographs should be attached to this report.
7. Any further information, or any information not included in the initial report must be sent as soon as possible to authorities identified in note 5 above.
8. Provided it is safe to do so, all dangerous goods, packaging's, documents, etc. relating to the occurrence must be retained until after the initial report has been sent to the authorities identified in note 5 and they have indicated whether or not these should continue to be retained.

SCHEDULE 2

(Reg. 5 (2), Reg. 5 (3), Reg. 6 (2), Reg. 6 (3), Reg. 7 (2) (b), Reg. 8 (1), Reg. 11, Reg. 12

No	Description	Fees (BWP)
1	Application for Certificate to carry Dangerous Goods: Initial application for Certificate to carry Dangerous Goods Application for renewal of Certificate to Carry Dangerous Goods Variation to Certificate to Carry Dangerous Goods	250 125 100
2	Certificate to Carry Dangerous Goods	15.00 for every 100kg or part thereof of the aggregate weight of all aircraft to be operated under the certificate
3	Variation to Certificate to carry Dangerous Goods	10.00 for every 100kg or part thereof of the aggregate weight of all aircraft to be operated under the certificate
4	Application for approval to carry Dangerous Goods Initial application for Approval to carry Dangerous Goods Application for extension of Approval to carry dangerous Goods	-nil- 125
5	Approval to Carry Dangerous Goods	250
6	Issuance of duplicate Certificate or Approval	125
7	Application for Validation of Foreign Certificate to Carry Dangerous Goods	250
8	Validation of Foreign Certificate to Carry Dangerous Goods	375
9	Application for Exemption to carry dangerous goods	
10	Issuance of Exemption to carry Dangerous Goods	

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Notes:

1. Any type of Dangerous Goods Occurrence must be reported, irrespective of whether the dangerous goods are contained in cargo, mail or baggage.
2. A dangerous goods accident is an occurrence associated with and related to the transport of dangerous goods which results in fatal or serious injury to a person or major property damage. For this purpose serious injury is an injury which is sustained by a person in an accident which:
 - a. Requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received; or
 - b. Results in a fracture of any bones (except simple fractures of fingers, toes nose) or
 - c. Involves lacerations which cause severe hemorrhage, nerve, muscle or tendon damage; or
 - d. Involves injury to any internal organ; or
 - e. Involves second or third degree burns, or any burns affecting more than 5% of the body surface; or
 - f. Involves verified exposure to infectious substances or injurious radiation. A dangerous goods accident may also be an aircraft accident; in which case the normal procedure for reporting of air accidents must be followed.
3. A dangerous goods incident is an occurrence, other than a dangerous goods accident, associated with and related to the transport of dangerous goods, not necessarily occurring on board an aircraft, which results in injury to a person, property damage, fire breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained. Any occurrence relating to the transport of dangerous goods which seriously jeopardizes the aircraft or its occupants is also deemed to constitute a dangerous goods incident.
4. This form should also be used to report any occasion when undeclared or mis-declared dangerous goods are discovered in cargo or accompanied baggage or when accompanied baggage contains dangerous goods which passengers or crew are not permitted to take on board aircraft.
5. An initial report should be dispatched within 72 hours of the occurrence to the competent authority of the state (a) of the operator; and (b) in which the incident occurred, unless exceptional circumstances prevent this. The initial report may be made by any means but a written report should be sent to the authority as soon as possible.
6. Copies of all relevant documents and any photographs should be attached to this report.
7. Any further information, or any information not included in the initial report must be sent as soon as possible to authorities identified in note 5 above.
8. Provided it is safe to do so, all dangerous goods, packaging's, documents, etc. relating to the occurrence must be retained until after the initial report has been sent to the authorities identified in note 5 and they have indicated whether or not these should continue to be retained.

SCHEDULE 2

(Reg. 5 (2), Reg. 5 (3), Reg. 6 (2), Reg. 6 (3), Reg. 7(2) (b), Reg. 8 (1), Reg. 11, Reg. 12

No	Description	Fees (BWP)
1	Application for Certificate to carry Dangerous Goods: Initial application for Certificate to carry Dangerous Goods Application for renewal of Certificate to Carry Dangerous Goods Variation to Certificate to Carry Dangerous Goods	250 125 100
2	Certificate to Carry Dangerous Goods	15.00 for every 100kg or part thereof of the aggregate weight of all aircraft to be operated under the certificate
3	Variation to Certificate to carry Dangerous Goods	10.00 for every 100kg or part thereof of the aggregate weight of all aircraft to be operated under the certificate
4	Application for approval to carry Dangerous Goods Initial application for Approval to carry Dangerous Goods Application for extension of Approval to carry dangerous Goods	-nil- 125
5	Approval to Carry Dangerous Goods	250
6	Issuance of duplicate Certificate or Approval	125
7	Application for Validation of Foreign Certificate to Carry Dangerous Goods	250
8	Validation of Foreign Certificate to Carry Dangerous Goods	375
9	Application for Exemption to carry dangerous goods	
10	Issuance of Exemption to carry Dangerous Goods	

MADE this 21st day of February, 2012.

NONOFO E. MOLEFHI,
*Minister for Transport and
Communications.*