

**185**  
**List of Regulations:**  
**Offences**

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**Offences**

**185.00.1** (1) Any person who –

- (a)  
hinders or obstructs an authorised officer, inspector or authorised person in the exercising of his or her powers or the performance of his or her duties;
- (b)  
when called upon by an authorised officer, inspector or authorised person to do so, refuses or fails to give his or her name and address, or gives a false name or address;
- (c)  
obstructs or impedes any other person acting in the exercising or performance of any privileges, powers or duties conferred on such other person by or under the regulations;
- (d)  
makes or causes to be made, either orally or in writing –
  - (i)  
any fraudulent, misleading or false statement for the purpose of obtaining any licence, rating, certificate, permit, approval, authorisation, exemption or other document in terms of the regulations;
  - (ii)  
any fraudulent, misleading or false entry in any logbook, record or report which is required to be kept, maintained, made or used to show compliance with any provision of the regulations;
- (e)  
falsifies, counterfeits, alters, defaces or mutilates, or adds anything to, any licence, rating, certificate, permit, approval, authorisation, exemption or other document issued in terms of the regulations;
- (f)  
does or causes, or permits to be done or caused, any act contrary to, or who fails to comply with, any provision of the regulations, or a direction given or a prohibition made or a condition imposed in terms thereof;
- (g)  
exercises a privilege granted by, or uses, any licence, rating, certificate, permit, approval, authorisation, exemption or other document issued under the regulations, of which he, she or it is not the holder;

(h)  
unless otherwise authorised in the regulations, permits a licence, rating, certificate, permit, approval, authorisation, exemption or other document issued under the regulations, of which he, she or it is the holder, to be used, or a privilege granted thereby, to be exercised, by any other person;

(i)  
operates or attempts to operate any aircraft in respect of which no valid certificate of registration or valid certificate of airworthiness have been issued;

(j)  
commits any act, whether by interference with any flight crew member, air traffic service personnel member or aircraft maintenance engineer, by tampering with any aircraft, or any thereof, or by disorderly conduct or otherwise, which is likely to endanger the safety of any aircraft or its occupants;

(k)  
without the permission of an aerodrome or heliport operator, enters any place within the boundaries of a licensed aerodrome or heliport which has been closed to the public;

(l)  
gives false information pertaining to the investigation of any aviation accident or incident;  
and

(m)  
contravenes in any manner the provisions of the Aviation Act, 1962, and regulations promulgated in terms of the said Act which are administered by the Authority in terms of the South African Civil Aviation Authority Act, 1998 (Act No. 40 of 1998),

shall be guilty of an offence.

(2) Any person who is convicted of an offence in terms of sub-regulation (1), shall be liable to the penalties prescribed in section 19 of the Act, read with section 332 of the Criminal Procedure Act, 1977 (Act No. [51 of 1977](#)).

### **Presumptions and evidence**

#### **185.00.2** In criminal proceedings under the regulations –

(a)  
a written statement purported to be signed by the Commissioner that a licence, rating, certificate, permit, approval, authorisation or exemption, as the case may be, has not been granted or issued to a specific person shall, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein;

(b)  
a document purporting to be a copy of a licence, certificate, permit, approval, authorisation or exemption signed by the Commissioner shall, upon the mere production thereof, be accepted as *prima facie* proof of the fact that the person whose name appears as the holder of the licence, certificate, permit, approval, authorisation or exemption, as the case may be, on that copy, was the holder of the licence, certificate, permit, approval, authorisation or exemption at the time when the offence was committed

(c)  
a document purporting to be an extract certified by the Commissioner or a copy signed by the Commissioner, of any register maintained in terms of the regulations shall, upon the mere production thereof, be accepted as *prima facie* proof of the facts mentioned therein; and

(d)  
evidence supplied by the duly designated enforcement officer and obtained by the use of specialised equipment, such as weighing scales, video recorders, small hand-held recording devices, navigation and communication transceivers and secondary equipment, shall be accepted as *prima facie* proof of facts mentioned therein.

**[Editorial note:** The following regulation *has come into operation with effect from 13 August 2007.*]

### Administrative Monetary Penalties

**185.00.3** (1) An enforcement officer may assess and impose administrative monetary penalties for offences referred to in regulation [185.00.1](#).

(2) The administrative monetary penalty may be a spot fine or a fine following an investigation.

(3) The following administrative penalties, in respect of the offences referred to in the table below, shall be applicable to individuals in the event of a criminal prosecution not being instituted:

PENALTY - INDIVIDUALS			
	1ST OFFENCE	2ND OFFENCE	3RD OFFENCE
185.00.1(1)(a)	R5 000	R10 000	R16 000
185.00.1(1)(b)	R5 000	R10 000	R16 000
185.00.1(1)(c)	R5 000	R10 000	R16 000
185.00.1(1)(d)	R10 000	=	=
185.00.1(1)(e)	R10 000	=	=
185.00.1(1)(f)	R10 000	R20 000	=
185.00.1(1)(g)	R10 000	R20 000	=
185.00.1(1)(h)	R10 000	=	=
185.00.1 (1)(i)	R10 000	=	=
185.00.1(1)(j)	R10 000	=	=
185.00.1(1)(k)	R5 000	R10 000	=
185.00.1(1)(i)	R10 000	=	=
185.00.1(1)(m)	Discretionary	Discretionary	Discretionary

(4) In the event of a conviction where a criminal prosecution has been instituted in accordance with the table above, the penalties referred to in the table may be used as guidance in determining the appropriate sentence.

(5) The following administrative penalties, in respect of the offences referred to in the table below, shall be applicable to organisations:

PENALTY - ORGANISATIONS			
	1ST OFFENCE	2ND OFFENCE	3RD OFFENCE
185.00.1(1)(a)	R16 000	R32 000	R16 000
185.00.1(1)(b)	R16 000	R32 000	R16 000
185.00.1(1)(c)	R16 000	R32 000	R16 000
185.00.1(1)(d)	R24 000	=	=

185.00.1(1)(e)	R24 000	=	=
185.00.1(1)(f)	R24 000	R53 000	=
185.00.1(1)(g)	R40 000	R53 000	=
185.00.1(1)(h)	R40 000	=	=
185.00.1 (1)(i)	R40 000	=	=
185.00.1(1)(j)	R24 000	=	=
185.00.1(1)(k)	R16 000	R32 000	=
185.00.1(1)(i)	R40 000	=	=
185.00.1(1)(m)	Discretionary	Discretionary	Discretionary

(6) In the event of a conviction where a criminal prosecution has been instituted in accordance with the table above, the penalties referred to in the table may be used as guidance in determining the appropriate sentence.

(7) A Penalty Notice issued by an enforcement officer to the suspected offender must be in the appropriate form as prescribed in Document SA-CATS- OFF AND PEN, which notice shall –

- (a)  
specify the offence allegedly committed;
- (b)  
disclose possible evidence of the alleged offence;
- (c)  
specify the reasons for the action taken;
- (d)  
specify the rights and obligations arising there from, including time frames;
- (e)  
invite the alleged offender to pay to the Authority the admission of guilt fine as stipulated by the enforcement officer in the Penalty Notice within 30 (thirty) days of the issue and service of the Penalty Notice; or
- (f)  
invite the alleged offender to make representation on the allegation(s) within 30 (thirty) days of the issue and service of the Penalty Notice;
- (g)  
provide for an opportunity for the alleged offender to obtain assistance in making representations; and
- (h)  
specify the possible administrative action that may follow.

(8) The enforcement officer who has issued a Penalty Notice for the payment of a spot fine must submit to the Commissioner, within 7 (seven) days after the issue and service of a Penalty Notice, a written report on the enforcement action taken which report must –

(a)  
specify the nature of the alleged offence committed;

(b)  
include possible evidence of the alleged offence;

(c)  
include a copy of the Penalty Notice issued to the alleged offender;

(d)  
specify the reasons for the action taken; and

(e)  
include proof of service of the Penalty Notice on the alleged offender.

(9) An Enforcement Officer must serve the alleged offender with a Notice of Intended Investigation, before issuing and serving a Penalty Notice for a fine following investigation.

(10) The Notice of Intended Investigation must be served in person or by registered mail, on the appropriate form as prescribed in Document SA-CATS-OFF AND PEN, and must –

(a)  
specify the alleged offence to be investigated;

(b)  
disclose possible evidence of the alleged offence;

(c)  
specify the reasons for the action taken;

(d)  
specify the rights and obligations arising there from, including time frames;

(e)  
invite the alleged offender to make representation on the allegation(s) within 30 (thirty) days of the issue of the Notice of Intended Investigation;

(f)  
provide an opportunity to the alleged offender to obtain assistance in making representations; and

(g)  
specify the possible administrative action that may follow.

(11) Representation on the alleged offence may be made in writing or orally, at a formal meeting before the enforcement officers concerned.

(12) The enforcement officer must assess all the relevant evidence before him or her and verify with the Legal Division of the Authority prior to issuing a Penalty Notice.

(13) An enforcement officer who has issued a Penalty Notice must submit to the Commissioner within 7 (seven) days after the issue of the Penalty Notice a written report on the enforcement action taken, as detailed in the Penalty Notice.

(14) An enforcement officer who has issued a Notice of No Further Action in terms of must submit to the Commissioner within 7 (seven) days after the issue of the notice a written report explaining why no further action was taken.

(15) If a Penalty Notice is served on an alleged offender and he or she within 30 (thirty) days pays the monetary penalty specified therein –

(a)  
any liability of the alleged offender specified in the notice is taken to be discharged;

(b)  
a Notice of No further Action shall be issued to the alleged offender on the appropriate form prescribed in Document SA-CATS-OFF AND PEN; and

(c)  
the alleged offender shall not be regarded as having been convicted of the offence.

(16) A copy of the Penalty Notice and proof of payment of the penalty must be placed in the official file of the Authority relating to the individual or organisation, as the case may be.

(17) If payment is made in the form of a cheque, the amount will be regarded as being paid only after the cheque is honoured upon presentation.

(18) An alleged offender, who feels aggrieved by the Final Ruling, may appeal to the Commissioner against the terms of the Final Ruling within 14 days of the issue of Final Ruling.

(19) The Enforcement Officer must, within 14 days of receipt of the copy of the appeal referred to in sub-regulation (12), deliver his or her written reply to such an appeal to the Commissioner.

(20) The Commissioner must make a Final Decision on the appeal in the appropriate form as prescribed in Document SA-CATS-OFF AND PEN, which decision may include withdrawal, confirmation or amendment of the Penalty Notice.

(21) If the Penalty Notice is withdrawn by the Commissioner on appeal, after the alleged offender has paid the monetary penalty, the Commissioner must direct or instruct that the amount paid as the monetary penalty be refunded.

(22) Nothing in this

(a)  
prevents the service of a Penalty Notice on an individual or organisation for repeating a prescribed offence;

(b)  
limits the amount of the fine that may be imposed by a court, subject to its punitive jurisdiction, on an individual or organisation convicted of a prescribed offence; or

(c)  
limits the Commissioner in the exercise of any other powers granted to him or her elsewhere in these Regulations.

(23) In proceedings against an individual or organisation for an alleged offence specified in a Penalty Notice, a Certificate of Withdrawal in the appropriate form as prescribed in Document SA-CATS-OFF AND PEN, signed by the Commissioner, stating that the notice was withdrawn on a day specified in the certificate, is prima facie evidence of that fact.

(24) The Commissioner or an enforcement officer may serve a Penalty Notice, a Penalty Notice following Final Ruling, a Final Decision, a Notice of No Further Action or a Notice of Withdrawal of a Penalty Notice –

(a)  
on an individual –

(i)  
by giving it to the individual personally;

(ii)  
by leaving it at, or by sending it per registered mail to, the address of the place of residence or business of the individual last known to the Commissioner or the Enforcement Officer;

(iii)  
by giving it, at the place of residence or business of the individual last known to the Commissioner or Enforcement Officer, to a person who is, or is reasonably believed to be, above the age of 16 years and apparently an occupant of, or employed at the place; and

(b)  
on an organisation –

(i)  
by sending it per registered mail to the head office, registered office, principal office or other postal address of the organisation; or

(ii)  
by giving it to a person who is, or is reasonably believed to be, an officer of, or in the service of the organisation and above the age of 16 years, at the head office, registered office, principal office or other place of business of the organisation.

(25) The Authority must keep proper records of all enforcement actions taken in terms of this regulation, and retain on the individual's or organisation's file copies of all notices issued, reports written and decisions taken in respect of any alleged offence and any investigation undertaken in terms of this .