

MEDIA STATEMENT

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SA Civil Aviation Authority to continue with CemAir AOC renewal audit

[Johannesburg] The South African Civil Aviation Authority (SACAA) has reviewed the judgement handed down by the Civil Aviation Appeal Committee (CAAC) following an appeal brought against the SACAA by CemAir. The airline's appeal related to four (4) notices issued by the SACAA, which resulted in the suspension of the airlines Part 121 and 135 Air Operator Certificates (AOCs) as well as the resultant grounding of the airline's fleet during the course of the CemAir AOC renewal audit in December 2018 and January 2019.

The decision of the CAAC, which was delivered by the Tribunal on 29 April 2019 set aside the two grounding notices issued by the SACAA against CemAir, and referred the matter back to the SACAA to continue with its audit and consider the evidence provided by CemAir subsequent to the issuing of the grounding notices.

The SACAA has noted the following key rulings by the Tribunal as outlined in paragraph 266 to 268 of the judgement, which must be implemented by the Regulator.

"Whilst Section 8 (1) (c)(ii) of PAJA permits a court or tribunal to substitute its findings for that of the decision-maker, this may only be done in exceptional cases. The wide discretion afforded to the CAAC must be balanced against the interests of the Applicant and the responsibility of the Regulator in overseeing aviation safety and that of the public inter alia in accordance with Sections 71 and 72 of the Civil Aviation Act."

"Whilst the CAAC considered the arguments put forward by both Parties, the sentiments set out in paragraph [266] above deal with the matter and find that it is not necessary to pronounce any further thereon."

"In light of the above, the CAAC finds that it cannot rule that the annual renewal audit for the year ending January 2019 was duly finalised and concluded favourably and that the Respondent is entitled to its renewal of the Part 121 and Part 135 AOC's for the period ending January 2020, however the CAAC does make an order to refer the consideration of the application for the renewal of the AOC back to the DCA for immediate and proper reconsideration of inter alia the documentation presented or made available by the Appellant to the Respondent and its inspectors and authorised officers in terms of Section 88 of the Act, and in accordance with the true intent and meaning of Part 121 and Part 135 of the Regulations."

The above extract from the ruling outlines the way forward, as well as the respective responsibilities of both the Appellant (CemAir) and the Respondent (SACAA).

The implications of the Tribunal's decision is that CemAir is still not permitted to operate as an airline or utilise any of its aircraft commercially, pending the renewal audit process being finalised, and the operator being issued with the relevant operating certificates or approvals.

“The actions expected to be undertaken by the Director of Civil Aviation, as well as by both the SACAA and CemAir, as outlined in the ruling, are unambiguous, and as a result, I have already delegated my functions in terms of legislation to the SACAA's Aviation Safety Operations to immediately implement the recommendations of the CAAC as summarised above,” said Ms Poppy Khoza, who is the Director of Civil Aviation.

“It is also in the interest of aviation development and safety to have this matter resolved as quickly as possible. However, in practical terms, the pace of finalising this matter is in the hands of the airline. The Regulator will rely on CemAir's cooperation in relation to the submission of the relevant documents and records, as well as any other evidence that will contribute to the speedy completion of the inspection. To this end, I have written to CemAir to inform the operator of my decision to continue the renewal audit and inspection process for purposes of completing this task. The expectation is that the operator will submit all the documents and records to the SACAA inspectorate for purposes of the audit,” Khoza explained.

The SACAA's Aviation Safety Operations division has also sent communication to the airline detailing the SACAA's preliminary requirements for the renewal audit, which will entail the AOC renewal audit and inspections pertaining to the certification of airworthiness of the CemAir fleet.

The SACAA is very keen to see the airline back in the air and as soon as practically possible, and hence the necessary arrangements have been made to ensure that its inspectorate can instantly start auditing the airline.

“The primary role of the SACAA is to preserve lives by ensuring high standards of aviation safety and security. No regulator in the world or any other industry can achieve this if they do not discharge their mandate in a fair but firm manner, and most importantly, without any form of favouritism or fear,” Khoza concluded.

-ENDS-

About the SACAA:

The South African Civil Aviation Authority (SACAA) is a Schedule 3A public entity reporting to the Department of Transport established in terms of the Civil Aviation Authority Act, 2009 (Act No 13 of 2009) (the Act). In terms of mandate, the SACAA is tasked with promoting and maintaining a safe, secure and sustainable civil aviation environment, by regulating and overseeing the functioning and development of the industry in an efficient, cost-effective, and customer-friendly manner according to international standards.

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