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Brunei Department of Civil Aviation

Negara Brunei Darussalam

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Brunei Aviation Requirements

BAR 11 - Part ATS Oversight

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Control of this Document

DC.1 Introduction

DC.1.1 Pursuant to Civil Aviation Order 2006 and the Civil Aviation Regulations 2006 and their subsequent amendments, the following requirements are hereby established for compliance by all persons concerned, the Director of Civil Aviation is empowered to adopt and amend Brunei Aviation Requirements. In accordance herewith, the following requirement is hereby established for compliance by all persons concerned. This requirement shall be known as BAR 11 - Part ATS Oversight and any reference to this title shall mean referring to the requirements to be met for the oversight of Air Traffic Services in Brunei.

DC.2 Authority for this Regulation

DC.2.1 This BAR 11 - Part ATS Oversight is issued on the authority of the Director of Civil Aviation.

DC.3 Applicability

DC.3.1 This BAR 11 - Part ATS Oversight is applicable to the aviation industry of Brunei.

DC.4 Scope

DC.4.1 BAR 11 – Part ATS Oversight contains the requirements for the oversight by Brunei DCA of Air Traffic Services in Brunei, and together with the main body of BAR 11 demonstrates compliance with ICAO Annex 11. The requirements in BAR 11 for ATS Provision and Oversight are separated into the following parts with cross references between parts were applicable:

BAR11 - Part ATS Provision

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DC.5 Definitions

DC.5.1 Terms not defined shall have the meaning given to them in the relevant legal instruments or international legal instruments in which they appear, especially as they appear in the Convention and its Annexes.

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Abbreviations & Acronyms

ATS	Air traffic services
ICAO	International Civil Aviation Organisation
BARs	Brunei Aviation Safety Requirements
SARPs	Standards and Recommended Practices

References

ICAO Annex 11	Air Traffic Services
ICAO Doc 9734	Safety Oversight Manual, Part A
ICAO Doc 9859	Safety Management Manual

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Article 1: Subject Matter and Scope

- (1) This regulation establishes requirements to be applied to the exercise of the safety oversight function by the Brunei DCA concerning air traffic services for general air traffic.
- (2) This regulation shall apply to the activities of the Brunei DCA regarding the safety oversight of air traffic services.
- (3) Throughout this regulation the term 'Brunei DCA' shall mean the regulatory (competent authority) element only. Where this regulation addresses the other parts of the Brunei DCA which provide Air Traffic Services and associated services it does so using the terms 'Air Navigation Service Providers (ANSP)' and 'providers'.

Article 2: Definitions

For the purposes of this regulation the definitions in BAR 11: Air Traffic Services apply. However, the following definitions also apply:

"air traffic service providers" means any public or private entity providing air traffic services for general air traffic;

"airspace block" means an airspace of defined dimensions, in space and time, within which air traffic services are provided;

"airspace users" means operators of aircraft operated as general air traffic;

"certificate" means a document issued by a national aviation authority in any form complying with national law, which confirms that an air traffic service provider meets the requirements for providing a specific service;

"constituents" means tangible objects such as hardware and intangible objects such as software upon which the interoperability of the Brunei air traffic control system depends;

"cross-border services" means any situation where air traffic services are provided in one state by a service provider certified in another state;

"functional system" means a combination of systems, procedures and human resources organised to perform a function within the context of air traffic service provision;

"general air traffic" means all movements of civil aircraft, as well as all movements of state aircraft (including military, customs and police aircraft) when these movements are carried out in conformity with the procedures of the ICAO;

"process" means a set of interrelated or interacting activities which transforms inputs into outputs;

"qualified entity" shall mean a body which may be allocated a specific oversight and/or certification task by, and under the control and the responsibility of, the Brunei DCA;

"safety directive" means a document issued or adopted by the Brunei DCA which mandates actions to be performed on a functional system to restore safety, when evidence shows that aviation safety may otherwise be compromised;

"safety regulatory requirements" means the requirements established by the Brunei DCA for the provision of air traffic services as well as concerning the technical and operational competence and suitability to provide these services their safety management, as well as systems, their constituents and associated procedures;

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"system" means the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air traffic services for all phases of flight;

Article 3: Competent Authority for Oversight and Certification

- (1) For the purpose of this regulation the competent authority for oversight and certification of ATS in Brunei Darussalam shall be the Brunei DCA.
- (2) The provision of all air traffic services within Brunei shall be subject to certification. Applications for certification shall be submitted to Brunei DCA which shall issue certificates to air traffic service providers where they comply with the requirements laid down in Part ATS Provision. Certificates shall specify the rights and obligations of air traffic service providers, including non-discriminatory access to services for airspace users, with particular regard to safety. Notwithstanding the foregoing, Brunei may allow the provision of air traffic services in all or part of its airspace without certification in cases where the provider of such services offers them primarily to aircraft movements other than general air traffic.
- (3) The Brunei DCA shall monitor compliance with the regulatory requirements and with the conditions attached to the certificates and if it finds that the holder of a certificate no longer satisfies such requirements or conditions, it shall take appropriate measures while ensuring continuity of services on condition that safety is not compromised. Such measures may include the revocation of the certificate.
- (4) The Brunei DCA shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under its responsibility designating an air traffic service provider holding a valid certificate. Brunei shall define the rights and obligations to be met by the designated air traffic service providers. The obligations may include conditions for the timely supply of relevant information enabling all aircraft movements in the airspace under their responsibility to be identified.

Article 4: Safety Oversight Function

Brunei DCA staff shall exercise safety oversight as part of their supervision of requirements applicable to air traffic services in order to monitor the safe provision of this activity and to verify that the applicable safety regulatory requirements and their implementing arrangements are met.

Article 5: Monitoring of Safety Performance

- (1) The Brunei DCA shall provide regular monitoring and assessment of the levels of safety achieved in order to determine whether they comply with the safety regulatory requirements applicable in the airspace under their responsibility.
- (2) The Brunei DCA shall ensure the appropriate supervision of the application of this regulation, in particular with regard to the safe and efficient operation of air traffic service providers which provide services relating to Brunei airspace. To this end, Brunei DCA shall organise proper inspections and surveys to verify compliance with the requirements of this regulation, including human resources requirements for the provision of air traffic services. The air traffic service provider concerned shall facilitate such work. The Brunei DCA shall cooperate closely with the national aviation authorities of adjacent states to ensure adequate supervision of air traffic service providers holding a valid certificate from Brunei DCA that also provide services relating to the airspace falling under the responsibility of another state and

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vice-versa. Such cooperation shall include arrangements for the handling of cases involving non-compliance with the applicable regulatory requirements or with the conditions set out in Annex I to this regulation. In the case of cross-border provision of air traffic services, such arrangements shall include an agreement on the mutual recognition of the supervisory tasks set out in this regulation and of the results of these tasks.

- (3) Brunei DCA shall use the results of the monitoring of safety in particular to determine areas in which the verification of compliance with safety regulatory requirements is necessary as a matter of priority.

Article 6: Verification of Compliance with Safety Regulatory Requirements

- (1) The Brunei DCA shall establish a process in order to verify:
 - (a) compliance with applicable safety regulatory requirements prior to the issue or renewal of a certificate necessary to provide air traffic services including safety-related conditions attached to it;
 - (b) ongoing compliance of the organisations with applicable safety regulatory requirements;
 - (c) implementation of safety objectives, safety requirements and other safety-related conditions identified in risk assessment and mitigation procedures required by safety regulatory requirements applicable to air traffic services,
 - (d) the implementation of safety directives in accordance with Article 13.
- (2) The process referred to in paragraph (1) shall:
 - (a) be based on documented procedures;
 - (b) be supported by documentation specifically intended to provide safety oversight personnel with guidance to perform their functions;
 - (c) provide the organisations concerned with an indication of the results of the safety oversight activity;
 - (d) be based on safety regulatory audits and reviews conducted in accordance with Articles 7, 9 and 10;
 - (e) provide the Brunei DCA with the evidence needed to support further action in situations where safety regulatory requirements are not being complied with.

Article 7: Safety Regulatory Audits

- (1) The Brunei DCA, or qualified entities as delegated by them, shall conduct safety regulatory audits.
- (2) The safety regulatory audits referred to in paragraph (1) shall:
 - (a) provide the Brunei DCA with evidence of compliance with applicable safety regulatory requirements and with implementing arrangements by evaluating the need for improvement or corrective action;
 - (b) be independent of internal auditing activities undertaken by the organisation concerned as part of its safety or quality management systems;
 - (c) be conducted by auditors qualified in accordance with the requirements of Article 12;

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- (d) apply to complete implementing arrangements or elements thereof, and to processes, products or services;
 - (e) determine whether:
 - (i) implementing arrangements comply with safety regulatory requirements;
 - (ii) actions taken comply with the implementing arrangements;
 - (iii) the results of actions taken match the results expected from the implementing arrangements.
 - (f) lead to the correction of any identified non-conformities in accordance with Article 8.
- (3) Within the inspection programme required by Article 8 of BAR 11 Part ATS Provision, the Brunei DCA shall establish and update at least annually a programme of safety regulatory audits in order to:
- (a) cover all the areas of potential safety concern, with a focus on those areas where problems have been identified;
 - (b) cover all the ATS organisations operating under the supervision of the Brunei DCA;
 - (c) ensure that audits are conducted in a manner commensurate to the level of risk posed by the organisations activities;
 - (d) ensure that sufficient audits are conducted over a period of 2 years to check the compliance of all these organisations with applicable safety regulatory requirements in all the relevant areas of the functional system;
 - (e) ensure follow up of the implementation of corrective actions.
- (4) The Brunei DCA may decide to modify the scope of pre-planned audits and to include additional audits, wherever that need arises.
- (5) The Brunei DCA shall decide which arrangements, elements, services, functions, products, physical locations and activities are to be audited within a specified time frame.
- (6) Audit observations and identified non-conformities shall be documented. The latter shall be supported by evidence, and identified in terms of the applicable safety regulatory requirements and their implementing arrangements against which the audit has been conducted.
- (7) An audit report, including the details of the non-conformities, shall be drawn up.

Article 8: Corrective Actions

- (1) The Brunei DCA shall communicate the audit findings to audited organisations and shall simultaneously request corrective actions to address the non-conformities identified without prejudice to any additional action required by the applicable safety regulatory requirements.
- (2) Audited organisations shall determine the corrective actions deemed necessary to correct non-conformities and the time frame for their implementation.
- (3) The Brunei DCA shall assess the corrective actions as well as their implementation as determined by audited organisations and accept them if the assessment concludes that they are sufficient to address the non-conformities.

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- (4) Audited organisations shall initiate the corrective actions accepted by the Brunei DCA. These corrective actions and the subsequent follow-up process shall be completed within the time period accepted by the Brunei DCA.

Article 9: Safety Oversight of Changes to Functional Systems

- (1) Organisations shall only use procedures accepted by the Brunei DCA when deciding whether to introduce a safety-related change to their functional systems. In case of air traffic service providers, the Brunei DCA shall accept these procedures in the framework of BAR 11 - Part ATS Provision.
- (2) Organisations shall notify the Brunei DCA of all planned safety-related changes. To this effect, the Brunei DCA shall establish appropriate administrative procedures.
- (3) Unless Article 10 applies, organisations may implement notified changes following the procedures referred to in paragraph (a) of this Article.

Article 10: Review Procedure of the Proposed Changes

- (1) The Brunei DCA shall review the safety arguments associated with new functional systems or changes to existing functional systems proposed by an organisation when:

- (a) the severity assessment conducted in accordance with Annex I, paragraph 3.1.8 of BAR 11 - Part ATS Provision determines a severity class 1 or a severity class 2 for the potential effects of the hazards identified; or
- (b) the implementation of the changes requires the introduction of new aviation standards;

When the Brunei DCA determines the need for a review in situations other than those referred to in points (a) and (b), they shall notify the organisation that they will undertake a safety review of the notified changes.

- (2) Reviews shall be conducted in a manner commensurate with the level of risk posed by the new functional systems or by the proposed changes to existing functional systems. Reviews shall:
 - (a) use documented procedures;
 - (b) be supported by documentation specifically intended to provide the Brunei DCA safety oversight personnel with guidance to perform their functions;
 - (c) consider the safety objectives, safety requirements and other safety-related conditions that are related to the changes under consideration identified in risk assessment and mitigation documentation established in accordance with applicable safety regulatory requirements;
 - (d) identify additional safety-related conditions associated to the implementation of the changes, wherever needed;
 - (e) assess the acceptability of safety arguments presented, taking account of:
 - (i) the identification of hazards;
 - (ii) the consistency of the allocation of severity classes;
 - (iii) the validity of the safety objectives;
 - (iv) the validity, effectiveness and feasibility of safety requirements and any other safety-related conditions identified;

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- (v) the demonstration that the safety objectives, safety requirements and other safety-related conditions are continuously met;
 - (vi) the demonstration that the process used to produce the safety arguments meets the applicable safety regulatory requirements;
 - (f) verify the processes used by organisations to produce the safety arguments in relation to the new functional system or changes to existing functional systems under consideration;
 - (g) identify the need for the verification of ongoing compliance;
 - (h) include any necessary coordination activities with the Brunei DCA staff responsible for the safety oversight of airworthiness and flight operations;
 - (i) provide notification of the acceptance, with conditions where applicable, or the non-acceptance, with supporting reasons, of the change under consideration.
- (3) The introduction into service of the changes under consideration in the review shall be subject to acceptance by the Brunei DCA.

Article 11: Qualified Entities

- (1) When the Brunei DCA decides to delegate to a qualified entity the conduct of safety regulatory audits or reviews in accordance with this regulation, it shall ensure that the criteria used to select an entity amongst those qualified include the following:
- (a) the qualified entity has prior experience in assessing safety in aviation entities;
 - (b) the qualified entity is not simultaneously involved in internal activities within the safety or quality management systems of the organisation concerned;
 - (c) all personnel concerned with the conduct of safety regulatory audits or reviews are adequately trained and qualified and meet the qualification criteria of Article 12(3) of this regulation.
- (2) The qualified entity shall accept the possibility of being audited by the Brunei DCA or anybody acting on its behalf.
- (3) The Brunei DCA shall maintain a record of the qualified entities commissioned to conduct safety regulatory audits or reviews on their behalf. Such records shall document compliance with the requirements contained in paragraph (1).

Article 12: Safety Oversight Capabilities

- (1) Brunei shall ensure that the Brunei DCA has the necessary capability to ensure the safety oversight of all organisations operating under their supervision, including sufficient resources to carry out the actions identified in this regulation.
- (2) The Brunei DCA shall produce and update every 2 years, an assessment of the human resources needed to perform their safety oversight functions, based on the analysis of the processes required by this regulation and their application.
- (3) The Brunei DCA shall ensure that all persons involved in safety oversight activities are competent to perform the required function. In that regard they shall:
- (a) define and document the education, training, technical and operational knowledge, experience and qualifications relevant to the duties of each position involved in safety oversight activities within their structure;

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- (b) ensure specific training for those involved in safety oversight activities within their structure;
- (c) ensure that personnel designated to conduct safety regulatory audits, including auditing personnel from qualified entities, meet specific qualification criteria defined by the Brunei DCA. The criteria shall address:
 - (i) the knowledge and understanding of the requirements related to air traffic services, against which safety regulatory audits may be performed;
 - (ii) the use of assessment techniques;
 - (iii) the skills required for managing an audit;
 - (iv) the demonstration of competence of auditors through evaluation or other acceptable means.

Article 13: Safety Directives

- (1) The Brunei DCA shall issue a safety directive when they have determined the existence of an unsafe condition in a functional system requiring immediate action.
- (2) Safety directives shall be forwarded to the organisations concerned and contain, as a minimum, the following information:
 - (a) the identification of the unsafe condition;
 - (b) the identification of the affected functional system;
 - (c) the actions required and their rationale;
 - (d) the time limit for compliance of the required actions with the safety directive;
 - (e) its date of entry into force.
- (3) The Brunei DCA shall forward a copy of the safety directive to any other national aviation authorities concerned, in particular those involved in the safety oversight of the functional system.
- (4) The Brunei DCA shall verify the compliance with applicable safety directives.

Article 14: Safety Oversight Records

The Brunei DCA shall keep and maintain access to the appropriate records related to their safety oversight processes, including the reports of all safety regulatory audits and other safety-related records related to certificates, designations, and the safety oversight of changes, safety directives and the use of qualified entities.

Article 15: Safety Oversight Reporting

- (1) The Brunei DCA shall report annually on safety regulation and oversight actions pursuant to this regulation. The annual safety oversight report shall also include information on the following:
 - (a) organisational structure and procedures of the Brunei DCA;
 - (b) airspace falling under the responsibility of Brunei DCA and organisations falling under the supervision of the Brunei DCA;
 - (c) qualified entities commissioned to conduct safety regulatory audits;
 - (d) existing levels of resources of the Brunei DCA;

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- (e) any safety issues identified through the safety oversight processes operated by the Brunei DCA.
- (2) The annual safety oversight reports shall be made available to the appropriate Brunei DCA senior staff in order that they can monitor the implementation of the safety oversight of air traffic services.

Article 16: Information Exchange between National Aviation Authorities

The Brunei DCA shall make arrangements for close cooperation with the national aviation authorities of neighbouring states and exchange any appropriate information to ensure the safety oversight of all organisations providing cross-border services or functions.

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