



# **MODEL CIVIL AVIATION ACT**

**(STATE)**

**MARCH 2013**

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## CIVIL AVIATION SAFETY ACT

An Act to create an autonomous Civil Aviation Authority, to provide for the regulation and promotion of civil aviation in [The BAG STATES], to foster its safe development, and for other purposes incidental thereto.

### PART I -GENERAL PROVISIONS

#### 1. SHORT TITLE

This Act may be cited as the " (BAG STATE) Civil Aviation Safety Act of 20...]."

#### 2. DEFINITIONS

- (a) **[STATE]**. The term [STATE] in this Act means the land and water territory of any of the [ BAG STATE] to the outer limits of the territorial sea and includes the airspace above such territory.
- (b) The following definitions apply to these words where they are used in this Act.
  - (1) **Aerial Work.** An aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.
  - (2) **Aerodrome.** An airport, a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft.
  - (3) **Aircraft.** Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface. The term "aircraft," when used in this Act or in regulations issued under this Act, shall refer to civil aircraft only, and will not include state or public aircraft.
  - (4) **Aircraft engine.** Any engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.
  - (5) **Aircraft piracy.** Any actual or attempted seizure or exercise of control, by force or violence, or by any other form of intimidation, with wrongful intent, of an aircraft within the jurisdiction of [STATE].
  - (6) **Airman.** This term refers to—
    - (i) Any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, or who navigates an aircraft while the aircraft is underway;



- (ii) Any individual in charge of the inspection, maintenance, overhauling, or repair of aircraft, and any individual in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; or
  - (iii) Any individual who serves in the capacity of flight operations officer;
- (7) **Air navigation facility.** Any facility used in, available for use in, or designed for use in aid of air navigation, including airports, landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio directional finding, or for radio or other electromagnetic communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.
- (8) **Air Operator.** Any organization which undertakes to engage in domestic commercial air transport or international commercial air transport, whether directly or indirectly or by a lease or any other arrangement.
- (9) **Air Operator Certificate (AOC).** A certificate authorizing an operator to carry out specified commercial air transport operations.
- (10) **Annexes to the Chicago Convention.** The documents issued by the International Civil Aviation Organization (ICAO) containing the Standards and Recommended Practices applicable to civil aviation.
- (11) **Appliances.** Instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not part or parts of aircraft, aircraft engines, or propellers.
- (12) **Approved Training Organisation.** An organization approved by and operating under the supervision of a contracting state in accordance with the requirements of annex 1 to perform approved training.
- (13) **Chicago Convention.** (“Convention”) The Convention on International Civil Aviation concluded in Chicago, U.S.A. in 1944, in effect, 1947. The Articles of the Chicago Convention govern the actions of the contracting States in matters of international civil aviation safety directly and through the Annexes to the Convention, which set forth ICAO Standards and Recommended Practices.
- (14) **Commercial air transport operation.** An aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.
- (15) **Citizen of [STATE].** This term refers to one of the following:
- (i) An individual who is a citizen of [STATE];
  - (ii) A partnership of which each member is a citizen of [STATE]; or
  - (iii) A corporation or association created or organized and authorized under the laws of [STATE].

- (16) **Civil aircraft.** Any aircraft other than a state or public aircraft.
- (17) **Civil aviation.** The operation of any civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations.
- (18) **Crew Member.** A person assigned to perform duties on an aircraft in flight.
- (19) **Dangerous goods.** Articles or substances which are capable of posing significant risks to health, safety or property when transported by air.
- (20) **Director.** The Director of Civil Aviation appointed under this Act.
- (21) **Foreign air operator.** Any operator, not being a [STATE] air operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations within borders or airspace of [STATE], whether on a scheduled or charter basis;
- (22) **General aviation operation.** An aircraft operation of a civil aircraft for other than a commercial air transport operation or aerial work operation.
- (23) **ICAO.** Where used in this Act, this is an abbreviation for the International Civil Aviation Organization.
- (24) **International commercial air transport.** The carriage by aircraft of persons or property for remuneration or hire or the carriage of mail between any two or more countries.
- (25) **Minister.** This term means the Minister responsible for civil aviation.
- (26) **Navigable airspace.** The airspace above the minimum altitudes of flight prescribed by regulations under this Act and includes airspace needed to insure safety in the takeoff and landing of aircraft.
- (27) **Navigation of aircraft.** A function which includes the piloting of aircraft.
- (28) **Operator.** A person, organization or enterprise engaged in or offering to engage in an aircraft operation. Any person who causes or Authorizes the operation of aircraft, whether with or without the control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this Act.
- (29) **Person.** Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative of these entities.
- (30) **Propeller.** An inclusive term for all parts, appurtenances, and accessories of a propeller.
- (31) **Public aircraft.** An aircraft used exclusively in the service of any government or of any political jurisdiction thereof, including the Government of [STATE], but not including any government owned aircraft engaged in operations which meet the definition of commercial air transport operations.

- (32) **Spare parts.** Any parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers, and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.
- (33) **Special aircraft jurisdiction of [STATE].** This includes:
- (i) Civil aircraft of [STATE]; and
  - (ii) Any other aircraft within the jurisdiction of [STATE], while the aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or, in case of a forced landing, until the competent authorities take over the responsibility of the aircraft and the persons and property aboard.
- (34) **Validation.** The written acceptance of an action of the civil aviation authority of another country in lieu of an action that this Act assigns to the Director.

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## **PART II ORGANIZATION OF AUTHORITY**

### **3. ESTABLISHMENT OF AUTHORITY I**

(1) There is hereby established a body corporate to be known as the BAG STATE Civil Aviation Authority,( referred to in this Act as the "Authority.").

(2) .The Authority shall be headed by a Director General, referred to in this Act as the "Director General," who shall be appointed by the [President or Minister Responsible for civil aviation], with the advice and consent of the [ APPROPRIATE STATE ORGAN],

(3) The Authority:

a) shall be a body corporate with perpetual succession and a common seal and;

a) may Sue or be sued in its corporate name;

b) may enter into contracts and acquire, hold, or dispose of property wether moveable or immoveable.

### **4 . TENURE OF OFFICE**

1) The Director General shall be appointed for a minimum term of \_\_\_ years, and may not be removed except for cause by a resolution signed by the [APPROPRIATE STATE ORGAN,].

(2 ) RESPONSIBILITY OF DIRECTOR GENERAL

a). The Director General shall be responsible for the exercise of all powers and the discharge of all duties of the Authority and shall have control over all personnel and activities of the Authority.

b). The Director General shall be primarily responsible for the fostering of safety of all civil aviation in [STATE] and the administration of this Act.

### **5. STATEMENT OF AUTHORITY POLICY**

(a) In the exercise and performance of the powers and duties assigned under this Act, the Director General shall consider the following, among other things, as being in the public interest—

(1) The promotion, encouragement, and development of safety in civil aviation; and

(2) The regulation of civil aviation in such manner as to best promote safety.

### **6. QUALIFICATIONS OF DIRECTOR GENERAL**

(a) The Director General shall be appointed with regard to fitness for the efficient discharge of the powers and duties vested in and imposed by this Act.

- (b) At the time of nomination, the Director General shall have significant management or similar technical experience in a field directly related to aviation.
- (c) (Depending on the needs, States may specify cognate experience and any extra qualification they want their Director General to possess).

## 7. BOARD OF DIRECTORS

- (1) There is hereby established for the Authority a Board of Directors which shall consist of:-
  - (a) A chairperson;
  - b) One representative of the Ministry responsible for aviation or Ministry for the time being responsible for Aviation;
  - c) One representative of the Ministry of Defence or the Ministry for the time being responsible for Defence;
  - d) one representative of the Ministry of Communication or the Ministry for the time being responsible for Communications;
  - e) five other persons (with cognate experience in aviation) two of whom are women;
  - f) the Director General of the Authority
  - g) and such other officers as may be determined by the BAG STATE.

### QUALIFICATION OF THE BOARD

- (2) The Chairman and members of the Board, including the Director General shall be persons of recognised expert knowledge, qualification and experience of not less than ten years in one or more of the following fields:
  - a) Aeronautical Engineering
  - b) Aviation Law
  - c) Air Transport Management,
  - d) Aerodrome Engineering,
  - e) Aircraft Piloting, or
  - f) Telecommunications

- (3) TENURE OF OFFICE OF OFFICE OF THE BOARD MEMBERS.

A member of the Board other than the Director General shall hold office:

- (a) for a term of (as specified by the STATE) in the first instance and may be reappointed for a further term of (-) and no more, and;
- (b) on such term and conditions as may be specified in the letter of appointment.

#### **4) CESSATION OF OFFICE**

Notwithstanding the provisions of sub-section (2) of Act, a person shall cease to hold office as a member of the Board if he;

- (i) becomes bankrupt, suspends payment or compounds with his creditors; or
  - (ii) is convicted of a felony or any offence involving dishonesty or fraud; or
  - (iii) becomes of unsound mind or is
  - (iv) incapable of carrying out his duties; or
  - (v) is guilty of a serious misconduct in relation to his duties; or
  - (vi) in the case of a person possessed of professional qualification, is disqualified or suspended from practising his profession in any part of the world by an order of a competent authority; or
  - (vii) resigns his appointment by a letter addressed to the President.
- b) A member of the Board, other than the Director General, may be removed by the President, on the recommendation of the Minister if the Minister is satisfied that it is not in the interest of the Authority or the public for the member to continue in office.
- c) If a member of the Board ceases to hold office for any reason whatsoever before the expiration of the term for which he is appointed, another person representing the same interest as that member shall be appointed to the Board for the unexpired term.

#### **(4) ALLOWANCES AND EXPENSES OF CHAIRMAN AND MEMBERS OF THE BOARD**

The Chairman and members of the Board shall be paid such allowances, expenses and benefits in accordance with extant (BAG STATE) Financial Guidelines

#### **(5) FUNCTIONS OF THE BOARD.**

The Board shall:

- (a) fix terms and conditions of service including remuneration of the employees of the Authority in accordance with (the relevant provision for fixing of wages and remuneration in the BAG STATE).
- (b) receive and review annual reports from the Management of the Authority and submit same to the President and the National Assembly, through the Minister, not later than 30th June in each year. The report shall be on the activities of the Authority during the immediately preceding

- calendar year, and shall include a copy of the audited accounts of the Authority for that calendar year.
- (c) submit not later than 30th September in each year to the Minister an estimate of the income and expenditure of the Authority for the next succeeding year; and
  - (d) cause to be kept, proper accounts of the Authority in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the BAG STATE.
  - (e) advise and direct the Director General on the management of the business and financial aspects of the Authority.

*(States are expected to establish the functions, composition, tenure of office, other proceedings of their Boards etc, as this may vary from jurisdiction to jurisdiction. Above provisions just serves as a guide culled from the Civil Aviation Acts of some member States. The functions of the Board should not include aviation safety function of the Director General under Section 4(2)(b) of this Act.) Whilst the Board of Directors may serve in an advisory capacity, it should in no way be constituted to diminish the authority of the Director General regarding aviation safety.*

## **6) Meetings of the Board.**

- (a) The Board shall meet at least once every three months but may be summoned to transact an extraordinary business at the request in writing of three members addressed to the chairman at least five days before the date of the meeting with a summary of the business to be transacted at the meeting.
- (b) The chairman shall preside at meetings of the Board and in the absence of the chairman the members present shall appoint one of their number to preside.
- (c) The quorum for a meeting of the Board is five, but in respect of a financial matter or policy issue the quorum shall be seven
- (d) subject to subsection (3), decisions of the Board shall be determined by a majority of the members present.
- (e) At a meeting of the Board chairman or the presiding member shall have a casting vote.
- (f) The validity of a proceeding of the Board shall not be affected by a vacancy among its members or a defect in the appointment or qualification of a member.
- (g) The two Deputy Directors-General shall attend meetings of the Board but shall not vote on a matter for the decision by the Board.
- (h) except as otherwise provided in this section, the Board shall regulate its own procedure.



- (i) A member who has an interest in a matter to be considered by the Board shall disclose the nature of the interest to the Board and is qualified from participating in a deliberation of the Board in respect of that matter.
- (j) A member who fails to disclose interest under subsection (9) shall cease to be member.

### **(7) Committees of the Board**

The Board may appoint committees it considers necessary consisting of members, non-members or both

- (a) to perform a function of the Board assigned to the committee, or
- (b) to advise the Board on a matter referred to the committee.

## **8. OFFICERS AND EMPLOYEES**

The Director General may with the approval of the Board elect, employ, and appoint such officers, employees, consultants, attorneys, and agents as shall be necessary to carry out the provisions of this Act, and to define their authority and duties.

## **9. CONFLICT OF INTEREST**

The Board of Directors, Director General shall have no monetary interest in or own any stocks or bonds of any aeronautical enterprise nor be engaged in any other business, vocation, or employment.

No officer, employee, or Attorney of the Authority shall have any monetary interest in or over any stocks and bonds of any aeronautical enterprise.

## **10. PROTECTION OF MEMBERS OF THE AUTHORITY**

No action or other proceeding shall be brought or instituted against the authority, board members, director general, and staff of the authority in respect of anything done in pursuance of and or execution of any of the provisions of this act.

## **11. LIMITATION OF ACTION AGAINST THE AUTHORITY**

Notwithstanding anything contained in any other Law or enactment, no suit shall lie against the Authority, Board members, Director General or any other employee of the Authority, in the execution of any public duty under this Act or any Law, or enactment, or in respect of any alleged negligence or default in execution of any public duty under this Act or such Law or enactment, unless it is commenced within one (1) year next after the act, negligence, or default complained of, or in the case of continuance of damage or injury, within one year after the ceasing thereof.

No suit shall be commenced against the Authority, Board members, Director General or staff of the Authority before the expiration of a period of one (1) month after written notice of intention to commence the suit shall have been served upon the Authority by the intending plaintiff or his agent; and the notice shall clearly and

explicitly state the cause of action, the particulars of the claim, the name and place of abode of the plaintiff and the relief sought.

## **12. INDEMNIFICATION OF OFFICERS**

A member of the Board, Director General, or employee of the Authority shall be indemnified by the Authority against any civil proceeding brought against the officer arising from the lawful discharge of any of any of the functions or the exercise of any of the powers conferred on the Authority under this Act or any other enactment.

# **PART III ADMINISTRATION OF THE AUTHORITY**

## **13. CO-OPERATION WITH OTHER AGENCIES**

The Director General shall have the power to use,, the available services, equipment, personnel, and facilities of other agencies of [STATE] with their consent, on a reimbursable basis when appropriate, and on a similar basis to co-operate with those agencies in the establishment and use of services, equipment, and facilities of the Authority.

## **14. ACQUISITION OF PROPERTY**

(a) The Director General may, where appropriate—

- (1) Accept on behalf of [STATE], any gift or donation of money or other property, real or personal, or of services; and
- (2) Acquire by purchase, lease, or otherwise, personal and real property or interests therein, including, in the case of air navigation facilities owned and operated by [STATE], easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith.

## **15. AUTHORIZATION TO CONTRACT**

The Director General is hereby Authorized, subject to available appropriations and applicable laws of [STATE], and in furtherance of the proper exercise of assigned powers and duties under this Act, to contract or otherwise arrange for the services of private persons, and private, public, or governmental organizations.

## **16. EXCHANGE OF INFORMATION**

The Director General shall have the power to exchange with foreign governments, through appropriate agencies of the Government of [STATE], information pertaining to civil aviation.

## 17. DELEGATION OF FUNCTIONS

(a) DELEGATION TO OFFICERS, EMPLOYEES, AND ADMINISTRATIVE UNITS OF AUTHORITY.

The Director General may, subject to such regulations, supervision, and review as may be prescribed, authorize the performance by any officer, employee, or administrative unit under the Director General's jurisdiction of any function under this Act.

(b) DELEGATION TO PRIVATE PERSONS.

The Director General is Authorized to delegate any assigned powers and duties to any properly qualified private person, subject to such regulation, supervision, and review as may be prescribed. However, the Director shall ensure that such functions are not delegated in such a way that air operators, aerial work or general aviation operators and maintenance facilities, in effect, regulate themselves.

## 18. AUTHORIZATION TO IMPOSE FEES FOR SERVICES

a) The Director General may impose fees for services of the Civil Aviation Authority, including, Authorizations, approvals, inspections and the administration of licenses and certificates, and shall maintain and publish a schedule of all such fees that the Director General may impose. Changes in fees to be imposed shall be the subject of a notice of general circulation.

b) There shall be a xx% safety charge on all international passenger departures from (BAG STATE)

c) Funds accruing from the safety charge shall be used as (BAG STATE) contribution to the development of safety, and fostering of international co-operation in the sub region.

*NOTE: States may alter or make inclusion on some administrative and financial provisions relevant to their systems.*



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## **PART IV -GENERAL POWERS AND DUTIES**

### **19. GENERAL**

#### **(a) GENERAL AUTHORITY.**

The Director General shall have the power to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures pursuant to and in accordance with the provisions of this Act, as the Director shall deem necessary to carry out the provisions of, and the exercise and performance of the powers and duties assigned under this Act.

#### **(b) PUBLICATIONS.**

The Director General shall provide for the publication of all reports, orders, decisions, rules, and regulations issued under this Act in such form and manner as may be best adapted for public information and use.

#### **(c) EVIDENCE.**

In the conduct of any public hearings or investigations Authorized by this Act, the Director General shall have the power to take evidence, issue subpoenas, and take depositions. Actions of the Director in such cases shall be governed by the procedures specified in Subchapter VIII of this Act.

### **20. ORDERS**

#### **(a) EFFECTIVENESS OF ORDERS.**

Except in emergency situations, all orders, rules, and regulations of the Director General shall take effect within such reasonable times as the Director General may prescribe, and shall continue in force until a further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation.

#### **(b) EMERGENCIES.**

Whenever the Director General is of the opinion that an emergency requiring immediate action exists with respect to safety in civil aviation, the Director General shall have the power, either upon complaint or the Director general's initiative without complaint, at once, if the Director so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations as may be essential in the interest of safety in civil aviation to meet such emergency; provided that the Director shall immediately thereafter initiate proceedings relating to the matter giving rise to any such order, rule, or regulation.

#### **(c) SUSPENSION, MODIFICATION OF ORDERS.**

The Director General shall have the power to suspend or modify orders upon such notice and in such manner as the Director General shall find proper.

## 21. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

Except as otherwise provided in this Act, in the exercise of making rules and regulations under this Act, the Director General shall be subject to the provisions of [STATE ADMINISTRATIVE PROCEDURES] Act.

## 22. PUBLIC COMPLIANCE

It shall be the duty of every person (along with any agents and employees thereof in the case of entities other than individuals) subject to this Act, to observe and comply with any order, rule, regulation, license or certificate issued by the Director General under this Act, affecting such person so long as the same shall remain in effect.

## 23. EXEMPTIONS

- (a) The Director General may grant exemptions from the requirements of observing any rule set forth in this Act or in its aviation safety regulations if the Director finds such action would be in the public interest.
- (b) The Director General shall issue regulations governing the application for and approval of exemptions.
- (c) The Director General shall publish any exemption actions taken as appropriate.
- (d) Except as provided in paragraphs (a), (b) and (c), the Director may not grant exemptions from the requirements of this Act.

## 24. DEVELOPMENT OF CIVIL AVIATION

The Director General shall foster the safe development of civil aviation in [BAG STATE].

## 25. AIRSPACE CONTROL AND FACILITIES

- (a) USE OF AIRSPACE.

The Director General shall develop, plan for, and formulate policy with respect to use of the navigable airspace of [BAG STATE]. The Director may assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as the Director may find necessary to insure the safety of aircraft and the efficient utilisation of such airspace.

- (B) LIMITS ON AUTHORITY.

The authority of the Director General under this Section shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

## 26.

## 27. REGULATION OF AIR TRAFFIC

(a) GENERAL.

The Director General shall have the power to prescribe, as may be deemed necessary in the opinion of the Director General and in the interests of aviation safety, air traffic rules and regulations—

- (1) Governing the flight of aircraft;
- (2) For the navigation, protection, and identification of aircraft;
- (3) For the protection of persons and property on the ground; and
- (4) For the efficient utilisation of the navigable airspace, including rules as to safe altitude of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles and objects, and between aircraft and airborne objects.

(a) FACILITIES AND PERSONNEL.

The Director General shall provide, as required in the interest of aviation safety, the necessary facilities and personnel for the regulation and protection of air traffic.

C) LIMITS ON AUTHORITY.

The authority granted to the Director General under this Section shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

(d) NATIONAL DEFENCE AND SECURITY.

In exercising the authority granted in, and discharging the duties imposed by this Act, the Director General shall give full consideration to the requirements of national defence and or security, of commercial and general aviation and to the public right of transit through the navigable airspace.

## **28. COMMERCIAL AIR TRANSPORT SECURITY (AVIATION SECURITY)**

(a) SCREENING.

The Director General shall prescribe regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in commercial air transport be screened by weapon detecting procedures or facilities employed or operated by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for such transportation.

The Director General shall make regulation requiring the screening prior to boarding the aircraft of passengers and property intended to be carried in an aircraft in commercial air transport;

(S.21(1)(j)) Act 678 2004.

38. (1) The Director General shall prescribe reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in



commercial air transport be screened by weapon detecting procedures or facilities employed or operated by employees or agents of the air operator or foreign air operator prior to boarding the aircraft for transportation.

(2) The Director General may prescribe such other **reasonable** rules and regulations requiring such practices, methods, and procedures as the Director General may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy. (S.38(1)&(2)) GCAA2004

#### **(B) PROTECTION AGAINST VIOLENCE AND PIRACY.**

The Director General shall prescribe such other rules and regulations requiring such practices, methods, and procedures as the Director General may find necessary to protect persons and property aboard aircraft operating in commercial air transport against acts of criminal violence and aircraft piracy.

#### **(b) PROCEDURES FOR INSPECTIONS, DETENTIONS, AND SEARCHES.**

The Director General shall, to the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in domestic commercial air transport and international commercial air transport to assure their safety and to assure that they will receive courteous and efficient treatment by air operators and their agents and employees.

### **29. CAA TRAINING SCHOOLS**

#### **(a) AUTHORITY TO OPERATE.**

The Director General may conduct a school or schools for the purpose of training employees of the Authority in those subjects necessary for the proper performance of all Authorized functions of the Authority.

(1) Training offered by the school may include Leadership, administrative and managerial skill training. The school shall also run courses, seminars and workshops as and when required

(2) The Director General also may Authorize attendance at courses given in such schools by other governmental personnel and personnel of foreign governments, or personnel of the aeronautical industry.

#### **(b) OFFSET OF TRAINING COSTS.**

The Director General shall, where appropriate, require payment of appropriate consideration to offset the costs of training provided by such school or schools.

*Note: The determination of cause for aviation accidents is normally entrusted to a governmental authority different from the Civil Aviation Authority. Combining analysis for probable cause with safety regulation and enforcement within the same governmental organization presents the potential for continuing conflict.*

(1) The Director General may –

conduct one or more school for the purpose of training employees of the Authority in those subjects necessary for the proper performance of all authorised functions of the Authority; and

(b) authorise attendance at courses given in schools by other Government personnel and personnel of foreign Governments or of the aeronautical industry.

(2) The Director General may, where appropriate, require payment of appropriate consideration to offset the costs of training provided by the schools (S.39 GCAA )

### 30 ACCIDENT INVESTIGATION

(1) **The Minister** may, in accordance with the recommendations of the Authority, **by legislative instrument**, make Regulations providing for the investigation of an accident or incidents arising out of, or in the course of air navigation that occurs in or over the BAG State or elsewhere to aircraft registered in the BAG State.

(2) Regulations made under subsection (1) shall incorporate the provisions of annex 13 to the Convention on International Civil Aviation and may contain provisions

(a) for setting up an independent body of persons to conduct investigations into aircraft accidents;

b) for delegation of whole or part of an accident investigation by the BAG State to Regional accident investigation body of the BAG States;

c) for specifying procedures to be followed to keep technical investigation separate from judicial and administrative proceedings;

d) for defining the rights and responsibilities of the accident investigation personnel or body;

(e) requiring notice of an accident to be given in the prescribed manner;

(f) applying, with or without modification, for the purpose of investigations held with respect to an accident, the provisions of a law in force in the BAG State relating to the investigation of deaths or accidents;

(g) prohibiting, pending investigation, access to or interference with aircraft in respect of which an accident has occurred, and authorizing a person so far as may be necessary for the purposes of the investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, that aircraft;

3) The sole objective of accident or incident investigation under this Act shall be the prevention of accident and incidents. It shall not be the purpose of such an investigation to apportion blame or liability;

4) Notwithstanding the provisions of any Law in force in the BAG State, the content of an air accident investigation report made pursuant to the provision of this Act and regulations made

thereunder, shall not be admissible in evidence as to form the basis of liability in any criminal or civil proceedings.

### **31. FLIGHT STANDARDS INSPECTORATE**

(A) Establishment. The Director General shall establish an Inspectorate to assist in carrying out the responsibilities of the Director General's office, for licensing, certification and on-going inspections of aircraft, airmen and air operators.

#### **(b) FACILITIES AND PERSONNEL.**

The Authority shall have the power to establish, flight operations, airworthiness engineering, and airworthiness inspection Organisations, necessary for the requirement of safety of air navigation..

The Director General shall provide, as required in the interest of aviation safety, the necessary facilities and personnel for the Flight Standards Inspectorate for the performance of their function.

#### **(c) THE FOLLOWING DIRECTORATES SHALL BE INCLUDED IN THE INSPECTORATE:**

- (1) Airworthiness Inspectorate .
- (2) Flight Operations Inspectorate.
- (3) Personnel Licensing.
- (4) Aviation Medicine

### **32. VALIDATION**

The Director General is authorized, in the discharge of certification and inspection responsibilities, to validate the actions of the civil aviation authority of another State in lieu of taking the specific action, with the following restrictions:

- (1) For actions on airman or airworthiness certificates, the other State must be a signatory to the Chicago Convention and be fulfilling their obligations under the Chicago Convention with respect to the issuance and currency of these certificates.
- (2) For actions applicable to Air Operators, the Director General must exercise discretion and require supporting documents. The Director General should ensure that, when validation is based on the actions of another civil aviation authority, there is no information to indicate that State does not

meet their obligations under the Chicago Convention regarding certification and on-going validation of their air operators.

### **33. RIGHT OF ACCESS FOR INSPECTION**

- (a) The Director shall have access to civil aircraft without restriction wherever they are operated within [STATE] for the purposes of the ensuring that those aircraft are airworthy and being operated in accordance with this Act, regulations issued under this Act, and applicable ICAO Annexes.
- (b) The Director shall have access to civil aircraft registered in [BAG STATE] without restriction wherever they are operated in the world for the purposes of ensuring that these aircraft are airworthy and are being operated in accordance with this Act and applicable regulations and directives.
- (c) The Director shall be Authorized access by [STATE] Air Operators any place and any time to conduct any tests or inspections in order to determine that those operations are conducted in accordance with this Act and applicable regulations and directives.

### **34. AUTHORITY TO PREVENT FLIGHT**

- (a) The Director is Authorized to direct the operator or airman of a civil aircraft that the aircraft is not to be operated in situations where—
  - (1) The aircraft may not be airworthy; or
  - (2) The airman may not be qualified or physically or mentally capable for the flight; or
  - (3) The operation would cause imminent danger to persons or property on the ground.
- (b) The Director may take such steps as are necessary to detain such aircraft or airmen.

### **35. AUTHORITY RESPECTING THE TRANSPORTATION OF DANGEROUS GOODS BY AIR**

The Director shall monitor and enforce compliance with the provisions of Annex 18 to the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air, and is authorized to submit variations to the Technical Instructions on behalf of [BAG STATE] where necessary.

### **36. INTERNATIONAL OBLIGATIONS**

In exercising and performing powers and duties under this Act, the Director General shall act consistently with any obligation assumed by the Government of [BAG STATE] under any international treaty, convention and agreement that may be in force between the Government of [BAG STATE] and any foreign countries.

### **37. AUTHORITY TO ENTER INTO INTERNATIONAL AND REGIONAL COOPERATIVE AVIATION SAFETY AGREEMENTS**

- (a) The Director General shall encourage international and regional cooperation in the regulation and administration of aviation safety.

- (b) The Director General may enter into agreements for co-operative endeavours in aviation safety with other regional contracting States to the Convention on International Civil Aviation. In doing so, the Director General shall have the authority, in co-ordination with [Name of Foreign Ministry or Department of Foreign Affairs], to negotiate, agree to, and manage any such regional international agreement. The Director General may, where appropriate to civil aviation safety and the public interest, further delegate certain aviation safety tasks under the international agreement to citizens of [BAG STATE] or to citizens of the contracting State with which [BAG STATE] has entered into an international regional agreement.

### **37B. AUTHORITY TO ENTER INTO REGIONAL COOPERATIVE AVIATION SAFETY AGREEMENTS PARLIAMENTARY SYSTEM**

- (a) The Minister of [Responsible for civil aviation] shall encourage regional cooperation in the regulation and administration of aviation safety.
- (b) The Minister of [Responsible for civil aviation] may enter into agreements for co-operative endeavours in aviation safety with other regional contracting States to the Convention on International Civil Aviation. In co-ordination with [Name of Foreign Ministry or Department of Foreign Affairs], the Minister of [Appropriate Title] may, by regulation, delegate the authority to negotiate, agree to, and manage any such cooperative agreement to the Director General. The Minister of [Appropriate Title], in entering into such an international agreement, may, where appropriate to civil aviation safety and the public interest, allow the Director to further delegate certain aviation safety tasks under the international agreement to citizens of [STATE] or to citizens of the contracting State with which [STATE] has entered into an international regional agreement.

### **38. BILATERAL EXCHANGE OF SAFETY OVERSIGHT RESPONSIBILITIES**

- 1) The Authority may pursuant to Article 83 bis of the Convention on International Civil Aviation and by a Bilateral Agreement with the Aeronautical Authorities of another country exchange with that country all or part of their respective functions and duties with respect to registered aircrafts under the following articles of the convention: Article 12 (Rules of the air), Article 31 (Certificate of airworthiness), or Article 32(a) (Licenses of personnel)
- 2) The Authority relinquishes responsibility with respect to the functions and duties transferred by the Authority as specified in the Bilateral Agreement under the articles listed in Section (-) for the (BAG STATE) registered aircraft transferred abroad, and accept responsibility with respect to the functions and duties under those articles of the convention, for aircraft registered abroad described in Section (-) that are transferred to (BAG STATE)
- 3) The Authority may predicate in the agreement, the transfer of functions and duties under this subsection on any conditions the Authority deems necessary and prudent, except that the Authority may not transfer responsibilities for (BAG STATE) registered aircraft to a country that the Authority determines is not in compliance with its obligation under International Law for safety oversight of Civil aviation.
- 4) The Authority, pursuant to agreement s entered into under this section, may recognise certificates of airworthiness or personnel licenses issued or renewed by the State of the Operator.

- 5) The Authority shall notify and inform the International Civil Aviation Organisation and other States concerned with the transfer arrangement of the existence of the agreement.
- 6) In this section “registered aircraft” means:
  - a) Aircraft registered in the (BAG STATE) and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has his principal place of business or, if it has no such place of business, its permanent residence in another country; and
  - b) Aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the (BAG STATE).

## **PART V - NATIONALITY AND OWNERSHIP OF AIRCRAFT**

### **39. AIRCRAFT REGISTRATION**

#### **(a) ESTABLISHMENT OF REGISTRY.**

- (b) The Director General shall establish and maintain a system for the national registration of civil aircraft in [BAG STATE].

It shall be unlawful to operate a civil aircraft in [BAG STATE] unless it is registered in [BAG STATE] or is registered under the laws of a foreign country.

#### **(c) ELIGIBILITY.**

An aircraft shall be eligible for registration if and only if it is not registered in a foreign country and, unless otherwise permitted by the Director General by regulation, it is owned by—

- (1) A citizen of [BAG STATE];
- (2) An individual citizen of another State who is lawfully admitted for permanent residence in [BAG STATE];
- (3) A corporation lawfully registered and doing business under the laws of [STATE] where the aircraft is based and primarily used in [BAG STATE]; or
- (4) The Government of [BAG STATE] or a political subdivision thereof.

#### **(d) CERTIFICATE OF REGISTRATION.**

Upon request by the owner of any aircraft eligible for registration, such aircraft shall be registered by the Director General and the Director shall issue to the owner thereof a certificate of registration.

#### **(e) APPLICATION.**

Applications for such certificates shall be in such form, filed in such manner, and contain such information as the Director may require.

#### **(f) SUSPENSION AND REVOCATION.**

Any certificate issued by the Authority may be suspended or revoked by the Director for any cause if the Director finds such suspension or revocation to be in the public interest.

#### **(g) NATIONALITY AND EVIDENCE OF OWNERSHIP**

An aircraft shall acquire [BAG STATE] nationality when registered under this Act. A certificate of registration issued under this Section shall not be considered evidence as to ownership in any

proceeding under the laws of [BAG STATE] in which ownership of the aircraft by a particular person is or may be in issue.

#### 40. REGISTRATION OF INTERESTS IN AIRCRAFT

(h) ESTABLISHMENT OF SYSTEM.

The Director General shall:

establish a national system for recording documents which affect title to or any interest in any civil aircraft registered in [BAG STATE] and in any aircraft engine, propeller, appliance, or spare part intended for use on any aircraft registered in [BAG STATE].

(i) establish and maintain a system or register for recording the title to or any interest in any civil aircraft or aircraft engines, propeller, appliance or spare part intended for use in any aircraft registered in the BAG State..

(j) VALIDITY BEFORE FILING.

Upon the Director establishing a recording system, no document affecting title to or any interest in such registered aircraft, aircraft engines, propellers, appliances, or spare parts shall be valid, except between the parties thereto, unless it is recorded in that system.

(k) APPLICABLE LAWS.

(l) The validity of any document so recorded, unless otherwise specified by the parties thereto, shall be determined under the laws of [BAG STATE]. The requirements for documents to be recorded shall be specified in regulations issued by the Director General.



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## **PART VI SAFETY REGULATION OF CIVIL AVIATION**

### **41. GENERAL SAFETY POWERS AND DUTIES**

(a) **PROMOTING SAFETY.**

The Director General shall have the power and duty to promote safety of flight of civil aircraft in civil aviation by prescribing and revising from time to time as necessary—

- (1) Reasonable rules and regulations implementing, at a minimum, all Standards of the Annexes to the Chicago Convention;
- (2) Such other reasonable rules, regulations, or minimum standards governing other practices, methods, and procedures as the Director General may find necessary to provide adequately for safety in civil aviation.

(b) **REGULATION OF AIR OPERATORS.**

The Director General shall take into consideration the obligation of air operators to perform their services with the highest possible degree of safety in the public interest in prescribing standards, rules, and regulations and in issuing certificates under this Act.

### **42. STATE SAFETY PROGRAMME**

- (1) The Authority shall establish a state safety programme in order to achieve an acceptable level of safety in civil aviation.
- (2) The Authority shall require as part of the state safety programme that operators and service providers implement a safety management system.

### **.43. AIRMAN LICENCES OR CERTIFICATES**

(a) **AUTHORITY TO CERTIFICATE AIRMEN.**

The Director General shall issue airman licenses or certificates specifying the capacity in which the holders thereof are Authorized to serve as airman in connection with aircraft.

(b) **APPLICATION AND ISSUANCE.**

(i) Any person may file an application for an airman license or certificate with the Director General. If , after investigation the Director General finds, that such person possesses the proper qualifications for, and is physically able to, perform the duties pertaining to the position for which the airman license or certificate is sought, the Director General shall issue such license or certificate.

(ii) The Director General may, in lieu of such a finding, consider prior issuance of an airman license or certificate by a foreign country that is a member of the International Civil Aviation Organization as satisfactory evidence, in whole or in part, that the airman possesses the qualifications and physical ability to perform the duties pertaining to the position for which the airman license or certificate is sought.

(c) TERMS AND CONDITIONS

The license or certificate shall contain such terms, conditions, and tests of physical fitness, and other matters as the Director General may determine to be necessary to assure safety in civil aviation.

(d) CERTIFICATION OF FOREIGN NATIONALS.

Notwithstanding the provisions of subsection (b) of this Section, the Director General may prohibit or restrict, in such manner as the Director shall deem appropriate, the issuance of airman licenses or certificates to citizens of foreign countries.

(e) CONTENTS

Each airman license or certificate shall—

- (1) Be numbered and recorded by the Director General;
- (2) State the name and address of, and contain a description of, the person to whom the license or certificate is issued; and
- (3) Be titled with the designation of the airman privileges Authorized.

#### 44. AIRWORTHINESS CERTIFICATES I

- (a) AUTHORITY TO ISSUE CERTIFICATE OF AIRWORTHINESS.

The owner of any aircraft registered in [STATE] may file with the Director General an application for an airworthiness certificate for such aircraft.

- (b) ISSUANCE.

Director General shall make regulation for the issuance of certificate of airworthiness if the Director General finds that the aircraft conforms to the appropriate type certificate, and, after inspection, finds that the aircraft is in condition for safe operation.

##### TERMS AND CONDITIONS.

The Authority shall by Regulation prescribe the minimum safety standards and all other relevant requirements for the grant, issuance, operation, variation, and renewal of such certificates. (Section 34b)

- (c) The Authority shall by regulation, issue operation specifications that define the approved terms, conditions and limitations of such operations. (Section 34c)

- (c) (d) The Authority shall by Regulation prescribe conditions for the revocation, suspension or other limitation of Air Operator Certificates

The Director General may prescribe in an airworthiness certificate the duration of such certificate, the type of service for which the aircraft may be used, and such other terms, conditions, limitations, and information as are required in the interest of safety. Each airworthiness certificate issued by the Director General shall be recorded by the Director General.

- (d) AIRWORTHINESS APPROVALS.

The Director General may prescribe the terms under which additional airworthiness approvals for the purposes of modification may be made.

#### 45. AIR OPERATOR CERTIFICATE (AOC)

- (a) AUTHORITY TO LICENSE CARRIERS AND ESTABLISHMENT OF SAFETY STANDARDS.

The Director General shall issue air operator certificates, airworthiness certificates and establish minimum safety standards for the operation of the air operator to which any such certificate is issued.

- (b) APPLICATION AND ISSUANCE

. Any person desiring to operate as an air operator and who is a citizen of [BAG STATE] may file with the Director General an application for an air operator certificate. The Director General shall issue an air operator certificate to such person.

If the Director General finds, after thorough investigation, that such person is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed there under.

#### **46. APPROVED TRAINING ORGANIZATIONS AND APPROVED MAINTENANCE ORGANIZATIONS**

(a) EXAMINATION AND RATING.

The Director General ~~to~~ shall provide for the examination and rating of—

- (1) Civilian schools giving instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors;
- (2) Approved Maintenance Organization or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of those engaged in the work or giving any instruction therein.

(b) AUTHORITY TO CERTIFICATE.

The Director General shall issue, amend, vary, cancel, refuse and suspend certificates for such schools and approved maintenance organizations.

## 47. FORM OF APPLICATIONS

Applications for certificates issued under the authority of this Act shall be in such form, contain such information, and be filed and served in such manner as the Director General may prescribe and shall be under oath or affirmation whenever the Director General so requires.

## 48. AIR NAVIGATION FACILITY SAFETY STANDARDS

(a) MINIMUM SAFETY STANDARDS.

The Director General shall have the power to prescribe and revise from time to time as necessary minimum safety standards for the operation of air navigation facilities located in [bag state].

### AIR NAVIGATION FACILITIES

(b) The Director General may, within the limits of available appropriations—

- (1) Acquire, establish, and improve air navigation facilities wherever necessary; and
- (2) Operate and maintain such air navigation facilities.

(c) CERTIFICATION OF AERODROMMES .

(1) The Director General is empowered to :

- (i) issue airport certificates to, and to establish minimum safety standards for the design, operation and maintenance of aerodromes .
- (ii) **regulate and make regulations:**
  - A. for the certification, inspection and regulation of aerodromes, access to aerodromes and places where aircraft have landed, and for prohibiting or regulating the use of aerodromes which are not licensed in pursuance to the regulations;
  - B. as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving (BAG State) may fly, and as to the conditions, under which aircraft may fly from one part of (BAG State) to another;
  - C. as to the conditions under which noise and vibration(check Act 678) may be caused by aircraft on aerodromes provided that no action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome so long as the provisions of the regulations in force as respects aerodromes are complied with;

- (2) Any person desiring to operate an aerodrome that is described in this subsection and that is required by the Director General, by rule, to be certified may file with the Director General an application for an airport operating certificate. If the Director General finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed there under, the Director General shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in commercial air transport. Unless the Director General determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited to terms, conditions, and limitations relating to—
- (i) The operation and maintenance of adequate safety equipment, including fire fighting and rescue equipment capable of rapid access to any portion of the airport used for landing, takeoff, or surface maneuvering of aircraft; and
  - (ii) The condition and maintenance of primary and secondary runways as the Director General determines to be necessary.

**(d) ELIGIBILITY FOR AN AERODROME CERTIFICATE.**

(1) An aerodrome certificate shall not be granted to any person other than -

- (i) the Federal Government, a State Government, a Local Government or any company or corporation owned or controlled by either of the said Governments; or
- (ii) a company or a corporation registered in (State) and having its principal place of business in (BAG State).

(2) The Authority in exercising its functions in relation to the certification of Aerodromes shall have regard to the need to minimize so far as practicable any adverse effect the presence of such aerodrome(s) may have on the environment.

**(e) OBSTRUCTIONS NEAR AERODROMES.**

(1) If the Authority is satisfied, with respect to any building or structure in the vicinity of an aerodrome to which this section applies, that in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building or structure, it may by order direct (subject to any conditions specified in the order) the operator of the aerodrome and any person acting under the operator's instructions-

- (i) to execute, install, maintain, operate, and as occasion requires repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order, and
- (ii) so far as may be necessary for exercising any of the powers conferred by the order, enter upon and pass over (with or without vehicles) any such land as may be specified in the order.



Provided that, no such order shall be made in relation to any building or structure if it appears to the Authority that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid.

- (2) The Authority shall, before making any such order as aforesaid cause to be published, in such manner as it thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration, any representations with respect to the order which may within such period not being less than 14 (Fourteen) days after the publication of the notice as may be specified therein, be made to it by any person appearing to it to have an interest in any land which would be affected by the order, and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Authority thinks proper.
- (3) Every such order as aforesaid shall provide that-
  - (i) except in a case of emergency, no works shall be executed on any land in pursuance of the order unless, at least 14 (fourteen) days previously, the operator of the aerodrome to which the order relates has served in the manner specified by the order on the occupier of that land, and on every other person known by the operator to have an interest in the land, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be specified by the order,
  - (ii) if within 14 (fourteen) days from the service of the said notice on any person having such an interest, the operator of the aerodrome receives written objection on the part of that person to the proposals contained in the notice, then, except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific authorization of the Authority, and
  - (iii) the operator of the aerodrome to which the order relates shall pay to any person having an interest in any land affected by the order adequate compensation for any loss or damage which that person may suffer in consequence of the order; and for the purposes of this subsection any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.
- (4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such an order as aforesaid; and (subject to the provisions of the next following subsection) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the operator of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed in, on or over any land in pursuance of the order.
- (5) If any person contravenes the provision of subsection 4 of this section, he shall be guilty of an offence and liable on conviction to imprisonment for a term not less than X months or a fine not

less than XXX or both; and any person who wilfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be guilty of an offence and liable on conviction to imprisonment for a term not less than X months or a fine not less than XXXX or both.

(6) Nothing in this section shall operate, in relation to any building or structure, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building or structure if-

(i) notice of the doing of the work is given as soon as may be practicable to the operator of the aerodrome; and

(ii) the giving of warning of the presence of the building or structure in the manner provided by any order under this section in force in relation thereto is not interrupted.

(7) In this section –

(i) the expression "aerodrome to which this section applies" means-

A. an aerodrome under the control of the Minister or of the Minister of the Government of the Federation responsible for Defence, or

B. any premises which, in pursuance of regulations made under this Part of the Act are for the time being licensed as an aerodrome, and

(ii) the expression "operator of the aerodrome" means-

A. in the case of such an aerodrome as is mentioned in sub-paragraph (i) of paragraph (7) of this subsection, the person(s) in charge of the aerodrome and

B. in any other case, the holder of the certificate issued in respect of the aerodrome in pursuance of this Part of the Act.

(f) TRESPASSES ON AERODROMES.

(1) Subject to sub-section (2) of this section, any person who trespasses on any land forming part of an aerodrome, or upon which navigational aids or any ancillary facility is situated shall be guilty of an offence and liable on conviction, to imprisonment for a term not less than XXX month or a fine of not less than XXXX or both.

(2) No person shall be liable under this section, unless it is proved that at the material time, notices warning trespassers of their liability under this section were posted, so as to be readily seen and read by members of the public, in such position on or near the boundary of the aerodrome or land upon which any navigational aid or ancillary facility is situated as appear to the court to be proper.

(g) LIMITATION ON CONSTRUCTION OF REFUSE DISPOSAL FACILITY OR SITE.

No person shall establish a solid waste disposal facility or site that receives putrescible waste within 5 kilometres of the vicinity of an aerodrome unless the Director General determines that such an exemption from this requirement would have no adverse impact on aviation safety.

(h) RESTRICTION ON USE OF LAND ADJACENT TO AERODROMES.

- (1) The Minister may request the Land use Authority to make regulation for the purposes of preventing lands adjacent to or in the vicinity of aerodrome or aerodrome site from being used or developed in a manner that is, incompatible with the operation of an aerodrome; preventing lands adjacent to or in the vicinity of an aerodrome or aerodrome site from being used or developed in a manner that is, incompatible with the safe operation of an or aircraft; and preventing lands adjacent to or in the vicinity of equipment or facilities used to provide services relating to aeronautics from being used or developed in a manner that would, cause interference with signals or communications to and from aircraft or to and from those facilities.
- (2) The Authority shall monitor the development on Land adjacent to or in the vicinity of Aerodromes in order to ensure compliance with the regulation made by the Land use Authority.

## 49. DUTY OF OPERATORS AND AIRMEN

(a) DUTY OF OPERATORS.

It shall be the duty of each operator to make or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in civil aviation and to ensure that the operations conducted are in accordance with this Act and the regulations, directives and orders of the Director issued under this Act.

(b) DUTIES OF AIR OPERATORS.

It shall be the duty of each holder of an Air Operator Certificate to ensure that the maintenance of aircraft and operations of that air operator are conducted in the public interest and in accordance with the requirements of this Act and the regulations, directives and orders issued under this Act by the Director General.

(c) DUTIES OF AIRMEN.

Each holder of an airman certificate to observe and comply with the authority and limitations of that certificate, the requirements of this Act and the regulations, directives and orders issued under this Act.

(d) DUTY OF PERSONS GENERALLY.

Every person performing duties in civil aviation to observe and comply with the requirements of this Act and the orders, rules, and regulations issued under this Act relating to their tasks.

(e) DANGEROUS GOODS.

Any person who offers, or accepts, shipments, cargo, or baggage for commercial air transport, whether originating or arriving in international flights to or from [STATE], or for flights within [STATE], to offer or accept such shipments, cargo, or baggage in accordance with the provisions of Annex 18 to the Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air.

## 50. AUTHORITY TO INSPECT

(a) AUTHORITY TO INSPECT EQUIPMENT.

The Director General shall make regulation for —

- (1) inspections of aircraft, aircraft engines, propellers, and appliances used by any operator of civil aircraft as may be necessary to determine that the operators are maintaining these in safe condition for the operation in which they are used; and
- (2) the inspection and maintenance of these items.

(b) UNSAFE AIRCRAFT, ENGINES, PROPELLERS, AND APPLIANCES.

When the Director General finds that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by any operator in civil aviation, is not in a condition for safe operation, the Director General shall so notify the operator. Such aircraft, aircraft engine, propeller, or appliance then shall not be used in civil aviation or in such manner as to endanger civil aviation, unless and until found by the Director General to be in a condition for safe operation.

## 51. AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION OF CERTIFICATES

(a) RE-INSPECTION AND RE-EXAMINATION.

The Director General may, from time to time, for any reason, issue regulation to re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance, air operator, school, or approved maintenance organization, or any civil airman holding a certificate issued under this Act.

(b) ACTIONS OF THE DIRECTOR GENERAL .

If, as a result of any such re-inspection or re-examination, or if, as a result of any other investigation made by the Director General , the Director General determines that safety in civil aviation or commercial air transport and the public interest requires, the Director General may issue an order amending, modifying, suspending, or revoking, in whole or in part, any airworthiness certificate, airman license or certificate, air operator certificate, or certificate for any airport, school, or approved maintenance organization issued under this Act.

(c) NOTICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.

Prior to amending, modifying, suspending, or revoking any of the foregoing licenses or certificates, the Director General shall advise the holder thereof as to any charges or reasons relied upon by the Director General for the proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.

Any person whose certificate is affected by such an order of the Director General under this Section may appeal the Director General's order to [INSERT LEGAL ENTITY] and the Director General shall be made a party to such proceedings.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.

The filing of an appeal with the [INSERT LEGAL ENTITY] shall stay the effectiveness of the Director General's order unless the Director General advises the appropriate court that an emergency exists and safety in civil aviation requires the immediate effectiveness of the order, in which event the court may order that the Director General's order shall remain effective pending judicial review.

## **52. PROHIBITIONS (INCLUDE CURRENCY PENALTY UNIT)**

(a) IT SHALL BE UNLAWFUL FOR ANY PERSON TO—

- (1) Operate in any civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of the terms of any such certificate;
- (2) Serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller, or appliance used or intended for use in civil aviation without an airman certificate Authorizing that person to serve in such capacity, or in violation of any term, condition, or limitation of this certificate, or in violation of any order, rule, or regulation issued under this Act;
- (3) Employ for service in connection with any civil aircraft used in civil aviation an airman who does not have an airman certificate authorizing that person to serve in the capacity for which the person is employed;
- (4) Operate as an air operator without an air operator certificate, or in violation of the terms of any such certificate;
- (5) Operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director General under this Act; and
- (6) While holding a certificate issued to a school or approved maintenance organization as provided in this Act, to violate any term, condition, or limitation thereof, to violate any order, rule, or regulation made under this Act relating to the holder of such certificate.

(b) EXEMPTION.

~~On terms the~~ The Director General may in the public interest, exempt a foreign-registered aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted

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## PART VII -PENALTIES

### 53. CIVIL PENALTIES

(a) GENERAL PENALTY.

Any person, other than a person conducting an operation in commercial air transport or international commercial air transport, who violates any provision of this Act or any rule, regulation, or order issued there under shall be subject to a civil penalty not exceeding [LOCAL CURRENCY] for each such violation. If any such violation is a continuing one, each day of such violation shall constitute a separate offence.

(b) PENALTIES APPLICABLE TO COMMERCIAL AIR TRANSPORT.

Any person conducting an operation in commercial air transport or international commercial air transport who violates any provision of this Act or any rule, regulation, or order issued there under shall be subject to a civil penalty not exceeding [LOCAL CURRENCY] for each such violation. If any such violation is a continuing one, each day of such violation shall constitute a separate offence.

(c) PENALTY CONSIDERATIONS.

The Director General shall have the power to assess and compromise any civil penalty. In determining the amount of such penalty, the Director General shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, history of prior offences, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. The Director shall promulgate regulations governing the assessment and application of civil penalties, and shall provide guidance concerning the amounts of penalties applicable to certain violations of this Act or any regulations enacted hereunder.

(d) INFLATION ADJUSTMENT TO CIVIL PENALTIES.

The Director General shall adjust the amount of civil monetary penalties for inflation at least every four years. Prior to adjusting the civil penalties for inflation, the Director shall submit the proposed increase to the [Executive or Legislature of STATE] for approval. Once approved by the [Executive or Legislature of STATE], the Director General shall publish the adjusted monetary civil penalties to the public. Thirty (30) days after the Director General first publishes the adjusted civil monetary penalties, the modified civil penalties may be imposed for all violations committed after the date of publication.

(e) AIRCRAFT SUBJECT TO LIENS.

In case a civil aircraft is involved in such violation and the violation is by the owner or operator of the aircraft, such aircraft shall be subject to a lien for the penalty.

DANGEROUS GOODS.

Any person who, with actual knowledge of the facts of the occurrence, or who can be imputed to have such knowledge as reasonable person exercising reasonable care in the circumstances, offers or accepts dangerous goods for commercial air transport in violation of Annex 18 to the Chicago Convention or the ICAO Technical Instruction for the Safe Transport of Dangerous Goods by Air has

violated the duty imposed by in § 608(e) of this Act, and shall be subject to a civil penalty not exceeding [LOCAL CURRENCY] for each part of the ICAO Technical Instruction for the Safe Transport of Dangerous Goods by Air that are violated

## 54. CRIMINAL PENALTIES

### (a) GENERAL

i) Any Act done by any person on a (BAG STATE) registered aircraft outside (BAG STATE) which, if it had been by the person in any part of (BAG STATE) would have constituted an offence under the law in force in that part of (BAG STATE), for the purpose of any criminal proceedings in that part of (BAG STATE) against that person in respect of that act, shall be deemed to have been done by him in (BAG STATE)

ii). Whoever, while on board an aircraft within the special aircraft jurisdiction of [BAG STATE], commits an act, which, if committed in [BAG STATE] would be a violation of the laws of [BAGSTATE], shall be punished as provided herein.

### (b) CERTIFICATE VIOLATIONS.

Every person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate Authorized to be issued under this Act, or knowingly uses or attempts to use any such fraudulent license or certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_\_ years, or both.

### (c) INTERFERENCE WITH AIR NAVIGATION.

A person shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_\_ years, or both, who—

(1) Unlawfully or intentionally interfere with air navigation within [STATE], exhibits within [STATE] any light, signal, or communication at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility, or, after due warning by the Director General, continues to maintain any such misleading light or signal; or

(2) Knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

### (d) REPORTING AND RECORD KEEPING VIOLATIONS. Any air operator, or any officer, agent, employee, or representative thereof, who shall

1), knowingly and willfully, fails or refuses to make a report to the Director as required by this Act;

2) or fails or refuses to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Director;

3) or mutilates or alter any such report, account, record, or memorandum; or files a false report, account, record, or memorandum;

4) shall be guilty of a misdemeanor and shall upon conviction be liable for each offence to a fine of not less than [LOCAL CURRENCY] and not exceeding [LOCAL CURRENCY].

(e) i) REFUSAL TO TESTIFY OR PRODUCE RECORDS.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in that person's power to do so, in obedience to a subpoena or lawful requirement of the Director General,

ii) shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not less than [LOCAL CURRENCY] and not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding one year, or both.

(f) AIRCRAFT PIRACY./HIJACKING

(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

(i) With imprisonment; or

(ii) With imprisonment for life, If the death of another person results from the commission or attempted commission of the offence.

(2) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of [STATE] even though the aircraft is not in flight at the time of such attempt, if the aircraft would have been within the special jurisdiction of [STATE] had the offence of aircraft piracy been completed.

(g) INTERFERENCE WITH CREWMEMBERS.

(1) Whoever while aboard an aircraft within the special aircraft jurisdiction of [STATE], interferes with the performance of duties by crew member or lessens the ability of such member or attendant to perform these duties shall be guilty of an offence and shall upon conviction be liable for a fine not exceeding [LOCAL CURRENCY].

(2) In addition, any person who, in the interference with a crewmember's performance of their duties, assaults, intimidates, or threatens any flight crew member or flight attendant, including any steward or stewardess of such aircraft,

(3) Shall be guilty of an offence and shall upon conviction be liable to a term of imprisonment not exceeding \_\_\_ years, or both. Whoever in the commission of any such act referred to in this subsection uses a deadly or dangerous weapon shall be liable to a term of imprisonment for any term of years or for life.

(h) WEAPON AND EXPLOSIVE VIOLATIONS.

- (1) Whoever, while on board, or while attempting to board, any aircraft in or intended for operation in commercial air transport, has on or about their person or their property a concealed deadly or dangerous weapon, which is, or would be accessible to such person in flight, or any person who has on or about their person, or who has placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_ years, or both.
  - (2) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, shall commit an act prohibited by paragraph (a) of this subsection shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_ years, or both.
  - (3) This subsection shall not apply to law enforcement officers of [STATE], who are Authorized or required within their official capacities to carry arms, or to persons who may be Authorized by the Director General to carry deadly or dangerous weapons in commercial air transport, nor shall they apply to persons transporting weapons contained in baggage which is not accessible to passengers in flight if the presence of such weapons has been declared to the air operator.
- (i) INTERFERENCE WITH AIRCRAFT OPERATIONS. Whoever willfully and with reckless disregard for safety of human life interferes or attempts to interfere with the safe operation of any aircraft in, or intended for operation in, the special aircraft jurisdiction of [STATE], shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_ years, or both.
- (j) FALSE INFORMATION.
- (1) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do an act which would be a crime prohibited by subsections (e) through (h) of this Section, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_ years, or both;
  - (2) Any person Who willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsections (e) through (h) of this Section, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_ years, or both.
- (k) REMOVAL OF PARTS OF AIRCRAFT INVOLVED IN ACCIDENTS.
- (l) Any person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard such aircraft at the time of the accident, shall be guilty of an offence and shall upon conviction be liable to a fine of not less than [LOCAL CURRENCY] and not exceeding [LOCAL CURRENCY], or to a term of imprisonment not exceeding \_\_\_ year(s), or both.

- (m) **DANGEROUS GOODS.** A person is guilty of an offence if that person willfully, with knowledge of the provisions of this Act, delivers or causes to be delivered to an Air Operator for commercial air transport, or if that person recklessly causes the transportation in commercial air transport, of shipment, cargo, baggage, or other property in violation of the provisions of Annex 18 of the Chicago Convention and the ICAO Technical Instruction for the Safe Transport of Dangerous Goods by Air shall be subject to a fine of [LOCAL CURRENCY] or imprisoned for a period not exceeding \_\_\_ years, or both.

## **PART VIII PROCEDURE**

### **55 . CONDUCT OF PROCEEDINGS**

**A) conducting proceedings.**

The Director General shall, subject to the provisions of this Act, conduct proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice.

**b) conflicts of interest.**

No employee of the Authority shall participate in any hearing or proceeding in which the Director has a monetary interest.

**c) appearance.**

Any person may appear before the Director General or the Director General 's designee and be heard in person or by an attorney.

**d) recording and public access.**

Every official act of the Director General shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Director determines that withholding from public disclosure is necessary on grounds of national interest.

### **56. COMPLAINTS TO AND INVESTIGATIONS BY THE DIRECTOR GENERAL**

**(a) Filing of complaints.**

Any person may file with the Director General a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provision of this Act, or of any requirement established pursuant thereto. If there appears any reasonable ground for investigating the complaint, it shall be the duty of the Director General to investigate the matters set forth in the complaint. Whenever the Director is of the opinion that any complaint does not state facts which warrant an investigation or disclose any cause of action, such complaint may be dismissed without hearing.

**(b) Investigations.**

The Director General is hereby empowered to institute an investigation at any time, on the Director General 's initiative, in any case and as to any matter or thing within the Director General 's jurisdiction

by any provision of this Act, concerning which a complaint is Authorized to be made to or before the Director General , or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Director General shall have the same power to proceed with any investigation instituted on the Director General 's own motion as though it had been made by complaint.

(c) Orders to Compel Compliance.

If the Director General finds, after notice and hearing, in any investigation instituted upon complaint or upon the Director 's General initiative, with respect to matters within the Director General 's jurisdiction, that any person has failed to comply with any provision of this Act or any requirement established pursuant thereto, the Director General shall, consistent with the provisions of this Act, issue an appropriate order to compel such person to comply therewith.

## 57. EVIDENCE

(a) GENERAL.

The Director General may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in [BAG STATE].

(b) SUBPOENAS.

For the purposes of this Act, the Director General shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(c) COMPLIANCE WITH SUBPOENAS.

The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in [[BAG STATE], at any designated place of hearing. In case of disobedience to a subpoena, the Director General or any party to a proceeding before the Director General may invoke the aid of the [JUDICIAL AUTHORITY] in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Section.

(d) DEPOSITIONS.

(1) The Director General may order testimony to be taken by deposition in any proceeding or investigation pending before the Director, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Director General and having power to administer oaths. Reasonable notice must first be given in writing by the party or the party's attorney proposing to take such deposition to the opposite party or the party's attorney of record, which notice shall state the name of the witness and the time and place of the taking of the deposition. Any person may be compelled to appear and be deposed, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Director General, as herein before provided.

(2) Every person being deposed as herein provided shall be cautioned and shall be required to swear or to affirm, if requested, to testify to the whole truth, and shall be carefully examined. The

testimony shall be reduced to writing by the person taking the deposition, or under deponent's direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Director General.

- (3) If a witness whose testimony may be desired to be taken by deposition is in a foreign country, the deposition may be taken, by a person commissioned by the Director General or agreed upon by the parties in writing to be filed with the Director, or may be taken under letters issued by a court of competent jurisdiction at the request of the Director, provide that the laws of the foreign country so permit.

## **58. DESIGNATION OF AGENT FOR SERVICE**

### (a) DESIGNATING AGENTS.

It shall be the duty of every air operator in [STATE] and each foreign air operator with operations in [STATE] to designate in writing an agent in [STATE] upon which service of all notices and process and all orders, decisions, and requirements of the Director General may be made for and on behalf of the air operator or foreign air operator, and to file such designation with the Director General or . Such designation may be changed by subsequent filing.

### (b) SERVICE UPON AGENTS.

- (1) Service of all notices and process and of orders, decisions, and requirements of the Director General may be made upon any air operator or foreign air operator by service upon its designated agent at their office in [STATE] or place of residence in [STATE] with the same effect as personal service upon such air operator or foreign air operator.
- (2) If a designated agent is in default or is absent, service of any notice or other process in any proceedings before the Director General , or of any order, decision, or requirement of the Director General , may be made by posting such notice, process, order, requirement, or decision in the Office of the Director.

- (c) **SERVICE GENERALLY.** Service of notices, processes, orders, rules, and regulations upon any person may be made by personal service or upon an agent designated in writing for this purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the date when service is made.

## **59. JURISDICTION**

The trial of any offence under this Act shall be vested in the High Court of [BAG State].

The power to try any offence under this Act is vested in the High Court of (BAG State )

## **60. JUDICIAL REVIEW OF ORDERS**

**(a) AVAILABILITY OF JUDICIAL REVIEW.**

Any order issued by the Director General shall be subject to review by [JUDICIAL AUTHORITY] upon petition filed within \_\_\_ days after the entry of such order, by any person disclosing a substantial interest in such order. A petition may be filed beyond \_\_\_ days after the entry of an order of the Director General only with the permission or leave of the [JUDICIAL AUTHORITY] upon showing of reasonable grounds for failure to file the petition within time.

**(b) JUDICIAL PROCEDURES.**

A copy of the petition shall, upon filing, be forthwith transmitted to the Director General by the Clerk of [JUDICIAL AUTHORITY] and the Director shall thereupon file with the [JUDICIAL AUTHORITY] the record, if any, upon which the order complained of was entered.

**(c) AUTHORITY.**

Upon transmittal of the petition to the Director General, the [JUDICIAL AUTHORITY] shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Director General. Upon good cause shown and after reasonable (adequate) notice to the Director General, interlocutory relief may be granted by stay of the order or a stay of such mandatory or other relief as may be appropriate by the [JUDICIAL AUTHORITY].

**(d) SCOPE OF REVIEW.**

The findings of facts by the Director General, if supported by substantial evidence, shall be conclusive. No objection to an order of the Director General shall be considered by the [JUDICIAL AUTHORITY] unless such objection shall have been urged before the Director General or if it was not so urged, unless there were reasonable grounds for failure to do so.

## **61. JUDICIAL ENFORCEMENT**

**(a) JURISDICTION OF [JUDICIAL AUTHORITY].**

The [JUDICIAL AUTHORITY] shall have jurisdiction to enforce compliance to any provision of this Act, or any rule, regulation, requirement, or order issued there under, or any term, condition, or limitation of any certificate issued under this Act.

**(b) CIVIL ACTIONS TO ENFORCE THIS ACT.**

- (1) Where any person violates any provision of this Act, or any rule, regulation, requirement, or order issued there under, or any term, condition, or limitation of any certificate issued under this Act, the Director General may apply to the [JUDICIAL AUTHORITY] for the enforcement of such provision of this Act, or of such rule, regulation, requirement, order, term, condition, or limitation.
- (2) Upon the request of the Director General, the Attorney General of [STATE] may institute an enforcement action in the [JUDICIAL AUTHORITY] and prosecute all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order issued there under, or any term, condition, or limitation of any certificate issued under this Act, and for the punishment of all violations defined in the Act.



- (c) **PARTICIPATION OF DIRECTOR GENERAL.** Upon request of the Attorney General, the Director General shall have the right to participate in any proceeding in court under the provisions of this Act.

## **62. PROCEDURE FOR CIVIL PENALTIES**

(a) CIVIL PENALTY ACTIONS.

Any civil penalty imposed or assessed under this Act may be collected by proceedings against the person subject to the penalty and, in the case of an aircraft subject to a lien for the penalty, by proceedings against the aircraft.

(b) SEIZURE OF AIRCRAFT.

Any aircraft subject to a lien for a civil penalty may be seized by and placed in the custody of the Director General. A report of the seizure and the basis therefore shall be promptly transmitted to the Attorney General. The Attorney General shall promptly institute judicial proceedings for the enforcement of a lien against an aircraft seized by the Director General, or notify the Director General of his failure to so act. The aircraft shall be released from custody of the Director General upon—

- (1) Payment of the penalty or the amount agreed upon in compromise;
- (2) Seizure in pursuance of judicial proceedings for enforcement of the lien;
- (3) Notice by the Attorney General of failure to institute such proceedings; or
- (4) Deposit of a bond in such amount as the Director General may prescribe, conditioned upon payment of the penalty or the amount agreed upon in compromise.



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## **PART IX AIR OPERATOR ECONOMIC REGULATION**

### **63 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

(a) **CERTIFICATE REQUIRED.**

No air operator shall engage in any commercial air transport unless there is in force a certificate issued by the Minister empowered to Authorize the air operator to engage in such transportation.

(b) **APPLICATION FOR CERTIFICATE.**

Application for a certificate shall be made in writing to the Minister and shall be in such form and contain such information as the Minister shall by regulation require.

(c) **TERMS AND CONDITIONS OF CERTIFICATE.**

(1) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air operator is Authorized to engage in commercial air transport and the service to be rendered. There shall be attached to the statement of the privileges granted by the certificate, or any amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

(2) A certificate issued under this section to engage in international commercial air transport on a scheduled or charter basis shall designate the terminal and intermediate points only insofar as the Minister shall deem practicable and otherwise shall designate only the general route or routes to be followed.

(d) **AUTHORITY TO MODIFY, SUSPEND, OR REVOKE.**

(1) The Minister may alter, amend, modify, or suspend any such certificate, in whole or in part, for failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate.

(2) Any interested person may file with the Minister a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a certificate issued pursuant to paragraph (a) of this subsection.

(e) **TRANSFER OF CERTIFICATE.**

No certificate may be transferred unless such transfer is approved by the Minister as being consistent with the public interest.

(f) **LIABILITY INSURANCE.**

The Minister may issue a certificate to the applicant for such certificate only if the applicant complies with regulations and orders of the Minister governing the filing of an insurance policy or self-insurance plan approved by the Minister. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of

others, resulting from the operation or maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the air operator complies with this subsection.

(g) CONTINUING REQUIREMENT.

The requirement that each applicant for a certificate or any other authority under this title must demonstrate fitness, willingness and ability to perform effectively the transportation covered by its application and shall conform to the provisions of this Act, rules, regulations, and requirements of the Minister under this Act, which shall be a continuing requirement applicable to each such air operator with respect to the transportation Authorized by the Minister. The Minister may by order modify, suspend, or revoke such certificate or other authority, in whole or in part, for failure of such air operator to comply with the continuing requirement that the air operator be so fit, willing, and able.

## 64 PERMITS TO FOREIGN AIR OPERATORS

(a) PERMIT REQUIRED.

No foreign air operator shall engage in commercial air transport within [STATE] unless there is a permit issued by the Minister empowered to Authorize a foreign carrier to engage in such transportation.

(b) CONDITIONS FOR ISSUANCE OF PERMIT.

The Minister is empowered to issue such a permit if the Minister finds:

- (1) That the applicant is fit, willing, and able to effectively perform international commercial air transport and conform to the provisions of this Act and the rules, regulations, and requirements of the Director General (minister?) Made pursuant to the Act; and
- (2) Either that the applicant is qualified, and has been designated by its government, to perform international commercial air transport under the terms of an agreement with [STATE], or that such transportation will be in the public interest.

(c) APPLICATION FOR PERMIT.

Application for a permit shall be made in writing to the Minister and shall be in such form and contain such information as the Minister shall require.

(d) AUTHORITY TO MODIFY, SUSPEND, OR REVOKE.

- (1) The Minister may alter, amend, modify, or suspend any such permit, in whole or in part, for failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such permit.
- (2) Any interested person may file with the Minister a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a permit pursuant to paragraph (d)(1) of this subsection.

(e) LIABILITY INSURANCE.

The Minister may issue a permit to the applicant for such permit only if the applicant complies with regulations and orders of the minister governing the filing of an insurance policy or self-insurance plan approved by the minister. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A permit does not remain in effect unless the foreign air operator complies with this subsection.

### **EXPLANATORY NOTE CONCERNING AIR OPERATOR ECONOMIC REGULATION**

*The economic regulation of air operators is normally entrusted to a governmental authority different from the Civil Aviation Authority. The economic regulation of civil aviation can be in conflict with the attainment of civil aviation safety within the territory of a country, in that economic considerations might tempt the regulatory authority to accept a lesser level of safety in air operations than that required by the Act. Combining economic regulation and safety regulation and enforcement within the same governmental organization presents the potential for continuing tension between economic opportunity and civil aviation safety. Therefore, although the economic regulations are presented as Subchapter IX in the [BAG STATE] Civil Aviation Law, the separation of the economic regulatory function from the civil aviation safety regulatory function into two distinct governmental entities is recommended.*

*Please note that the economic regulations presented below address authorities and responsibilities exercised by a Minister empowered to regulate the economic aspects of civil aviation by issuing certificates of public convenience and necessity to [BAG STATE] air operators for commercial air transport, and to issue permits to foreign air operators to conduct commercial air transport within [BAG STATE].*

