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LETTER OF TRANSMITTAL

MAY 11, 1961.

HON. OVERTON BROOKS,
*Chairman, Committee on Science and Astronautics,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: We have long been living in a shrinking world; now we are living in a shrinking universe. Outer space has been penetrated too recently for the development of international rules for its use. Aircraft, however, cross continents in a few hours and at altitudes thought impossible not many years ago. In spite of these technical advances, the rules for flight in the air—from which rules for the use of outer space will largely evolve—have not yet been assembled in one place and one language.

There is forwarded herewith for committee consideration a report entitled "Air Laws and Treaties of the World"—a compilation in English of the pertinent air laws and space laws of most of the principal nations, together with multilateral aviation treaties and agreements.

This report will fill a great and immediate need in the field of aviation law. Furthermore, there is a close technical, and hence legal, relationship between navigation in the air space and that in outer space. Indeed, air space and outer space are inseparable. The Congress recognized this relationship in the National Aeronautics and Space Act of 1958, which authorizes the National Aeronautics and Space Administration to deal with problems "involved in the utilization of aeronautical and space activities." In the "Survey of Space Law" (H. Doc. No. 89, 86th Cong.), issued by the Committee on Science and Astronautics, the following questions were raised as to common legal problems in air and space activities:

1. What is the legal boundary between air space and outer space?
2. Do present international conventions for the regulation of civil aviation apply to space flight?
3. What is the relation to space flight of national aviation laws?
4. How can international agreement be reached on space jurisdiction and other basic matters of definition and classification?
5. What legal liabilities arise from injury or damage caused by space vehicles?
6. What provisions should be made for the ownership and commercial use of space resources and the legal incidents of space travel?

It is believed that the publication of national and international flight rules in a single language and a single document will promote the general knowledge and understanding of the air laws of other countries, encourage the adoption of more uniform laws, and eventually assist in accomplishing an international agreement on the peaceful uses of outer space.

This compilation, which was done as a public service on the contributors' own time, was prepared by Dr. William S. Strauss, Assistant to the General Counsel, Library of Congress, as editor-in-chief and compiler, with Mr. Spencer M. Beresford, Special Counsel, Committee on Science and Astronautics, U.S. House of Representatives, as executive editor, and Mr. Charles Biondi, Administrative Assistant to the Chairman, Civil Aeronautics Board, as assistant editor. Translations of the air laws of the countries indicated were made by the following persons:

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The project, while in progress, was encouraged and supported by the aviation law committee of the Federal Bar Association and by the directors of the foundation of the Federal Bar Association.

Sincerely yours,

CHARLES F. DUCANDER,
Executive Director and Chief Counsel.

AIR LAWS AND TREATIES OF THE WORLD

AFGHANISTAN

CIVIL AVIATION ACT OF AFGHANISTAN OF AUGUST 12, 1956, AS AMENDED
TO NOVEMBER 2, 1957¹

CHAPTER ONE—GENERAL AIMS

ARTICLE I. The Royal Government of Afghanistan, considering:

1. The country's need of having a law for the regulation and control of Civil Aviation in the national interest,
2. The need to create an efficient, relatively autonomous organization for the administration of civil aviation.
3. The need to discharge this country's obligation under the international agreements and treaties to which Afghanistan is or may become a party, and particularly under the convention on International Civil Aviation opened for signature at Chicago on December 7, 1944,

Decreases the following:

CHAPTER TWO—REGULATION AND CONTROL OF CIVIL AVIATION

ARTICLE II. Afghanistan retains complete and exclusive sovereignty over the airspace above its territory.

ARTICLE III. An Afghan aircraft or of a foreign country, member of the ICAO, is free to fly in Afghanistan provided it complies with the requirements of the Convention on Civil Aviation; any other foreign aircraft must have moreover, the authorization of the Department of Civil Aviation.

ARTICLE IV. An aircraft may exercise a commercial activity as long as it complies with the laws and regulations of the country and provided that prior specific authorization in accordance with the article (10) has been obtained from Afghan civil aviation authorities.

ARTICLE V. Subject to approval by the Government, the Department of Civil Aviation may, for reasons of military necessity or public safety, prohibit or restrict uniformly the flight of any aircraft over certain areas of Afghan territory.

ARTICLE VI. An aircraft can obtain Afghan nationality when it is registered in the Aircraft Register. The conditions for registration are as follows:

- a. The aircraft must not be registered in any other country and if previously registered in any other country, the former registration must be cancelled.

¹ English text supplied by the Royal Afghan Government.

b. The aircraft must belong to the Afghan Government or its nationals, foreign residents in Afghanistan, or a company or corporation registered in accordance with the regulations in Afghanistan.

ARTICLE VII. An aircraft registered in the Aircraft Register may be flown, provided it has a valid certificate of airworthiness.

ARTICLE VIII. No person may pilot an aircraft, or participate in operating the aircraft as a member of the crew, or act as flying instructor, unless he holds an appropriate license.

ARTICLE IX. The Department of Civil Aviation may, in cases of contravention with article 8, revoke or temporarily suspend a permit, or license granted by it, or limit the rights contained therein, irrespective of penal proceeding.

ARTICLE X. Any person, physical or legal, desiring to undertake commercial air transportation must obtain an operating certificate from the Department of Civil Aviation.

ARTICLE XI. When any of the conditions necessary for the issue of an operating license no longer exist, or the holder of such certificate fails to comply with any of its provisions, the Department of Civil Aviation may revoke or temporarily suspend the operating certificate, or limit the rights granted therein.

ARTICLE XII. The importation of aircraft, engines, spare parts, all ground equipment, with regard to the objective of encouraging the development of civil aviation will be free from custom and other duties.

ARTICLE XIII. As a legal body, the Department of Civil Aviation can buy any kind of stable property in accordance with the Property Act, if it is necessary for the development of the civil aviation or the executing of its aims.

ARTICLE XIV. The Government may, upon the proposal of the Department of Civil Aviation, prohibit the construction of any building within a specified distance from the limits of an airport or air-navigation facility, if the construction of this building would create danger to aircraft in flight.

If such a building or obstacle existed prior to the enforcement of the present Act, the Government may remove or restrict it. Compensation for such damage must be made by the D.G. of C.A. [Director General of Civil Aviation].

The Department of Civil Aviation may use any public or private property either land, building or structure, for installation of air-navigation facilities necessary for the safety of flight, and has the right of entry to the said land, building or structure for the purpose of installing, operating or maintaining the said facilities. If, as a result of the installation, operation or maintenance of the said facilities, any inconvenience is caused, compensation for such inconvenience must be made by the Department of Civil Aviation.

CHAPTER THREE—THE DEPARTMENT OF CIVIL AVIATION

ARTICLE XV. There shall be a Director General of Civil Aviation who shall head the Department of Civil Aviation, and who shall have responsibility for the administration of civil aviation, in Afghanistan.

The Director General of Civil Aviation under general control of the Prime Minister or such Minister as may be designated by the Government is authorized to:

a. Organize air routes so that the country may benefit from the advantages of air transportation, establish such airports as are needed and provide air-navigation facilities and ground services necessary for the safe, regular, efficient and economical operation of civil aircraft into or over the territory of Afghanistan.

b. Foster air services with foreign countries for the purpose of developing and strengthening the economic and cultural relations of Afghanistan with those countries and negotiate appropriate agreements.

c. Encourage air transport organizations in order to provide for the needs of external and internal air transportation of passengers, cargo and mail.

d. Foster any other civil aviation activities.

e. Collect or arrange for the collection of charges for the use of airports, air-navigation facilities and ground services in accordance with the established regulations.

f. Supervise civil aviation activities according to the Civil Aviation Act and regulations in force.

g. Establish, collect or arrange for collection of fees in accordance with the Regulations, for the licenses, certificates and other documents.

h. Organize and sponsor training of Afghan nationals in different fields of civil aviation services.

i. Prepare and administer the annual and investment budgets for Civil Aviation.

j. Participate in the International Civil Aviation Organization and attend international aviation conferences with the approval of the Government.

k. Issue the regulations concerning different aspects of civil aviation activities and related to:

1. Flights of Afghan and foreign aircraft in or over Afghanistan.

2. Safety of flights.

3. Air traffic.

4. Procedures for air navigation.

5. Airports.

6. Health.

7. Customs procedures for aircraft entering or departing Afghanistan.

8. Aircraft documents.

9. Registration of aircraft.

10. Training of aviation personnel.

11. Training institutions.

12. Factories and maintenance.

13. Air transport.

14. Aircraft in distress.

15. Investigation of accidents.

16. Telecommunication.

17. Suspension or revocation of permits, certificates or licenses.

18. Detention of aircraft, and, having regard to the best practices, any other regulations needed for development of civil aviation and its proper control.

CHAPTER FOUR—CIVIL AVIATION COUNCIL

ARTICLE XVI. There shall be a Civil Aviation Council which shall be the highest authority to advise the Government in all civil aviation matters, and which shall particularly:

- a. Advise the Government in civil aviation policy matters;
- b. Submit international agreement for ratification;
- c. Advise the Government on civil aviation administration and investment budgets;
- d. Interpret the civil aviation laws and rules, regulations and orders; especially in eventual disputes between the Department of Civil Aviation and other parties;

The Civil Aviation Council shall consist of five members appointed by the Government from Ministries interested in civil aviation and from persons especially qualified by knowledge and experience.

The chairman and vice-chairman of the Council shall be nominated by the Government.

A quorum of three, including either chair- or vice-chairman shall be needed for lawful decisions.

Decisions shall be taken by a majority of votes. If the votes are equally divided, the acting chairman shall have a second vote.

The Director of the Civil Aviation shall act as a secretary to the Civil Aviation Council.

The Council meeting will be called by the acting chairman at least once every three months.

ARTICLE XVII. By the judgment of the court the following persons shall be subject to a fine of not less than 1,000 Afs. [Afghanis] and of not more than 10,000 Afs. [Afghanis] or to imprisonment of not less than two months and not more than six months or to both.

- a. Any person who engages in commercial air transportation without an operating certificate;

- b. Any person who pilots an aircraft or, as a member of the crew, participates or assists in any way in operating an aircraft, or who acts as a flying instructor without the appropriate license.

- c. Any person who pilots an aircraft without a certificate of airworthiness or with one the validity of which has expired.

ARTICLE XVIII. If the offenses mentioned in Article XVII result in injury or death, the offender may also be subject to penalty laid down for a crime.

ARTICLE XIX. For minor infringements of this Act, rules or regulations, the Director General of Civil Aviation can impose a disciplinary fine not exceeding Afghanis 1,000.

20 Assad 1335

12 August 1956

AMENDMENT TO THE CIVIL AVIATION ACT

The sentence "Director General of Civil Aviation" stated in articles (15-16 and 19) of the Civil Aviation Act has been amended to "President of Civil Aviation".

ARGENTINA

PRELIMINARY

Prior to the enactment of the Aviation Code of July 15, 1954, air law in Argentina was regulated by a multitude of laws, decrees, and ordinances. The basic law was the decree of September 4, 1925, which, although passed "to bridge the gap until an Argentine law concerning air traffic is enacted" remained in effect until 1954. The regulation of July 30, 1926, concerning flight and landing rules on Argentine territory was amended more than 60 times—which made it almost impossible to get a clear view of the legal situation. These, and a number of other decrees and regulations have been superseded by the code of 1954.

This code (Law No. 14,307, entitled "Aeronautical Code of the Argentine Republic"), apparently has not been amended since its enactment. However, in 1957 a special commission for the study of possible modifications in the code held meetings (ending on October 25, 1957) and may eventually present proposals for amending the code.

The Argentine Government recently has promulgated several decrees in regard to policies concerning air traffic.

The code is largely based on a draft law prepared by a commission appointed by a resolution of June 26, 1935, of the Ministry of the Interior. Article 3 of this draft law enunciated Argentina's sovereignty over the airspace above the country, but the Argentine Institute of Air Law, in preparing this code, considered it better legislative technique not expressly to state the principle of air sovereignty; since both the Paris convention of 1919 (art. 1) and the Chicago convention of 1944 (art. 1) recognize that each state has complete and exclusive sovereignty over the airspace above its territory, and since Argentina adhered to both conventions, it was held unnecessary to reaffirm "a right which nobody denies." Article 3 of the Aviation Code permits free aerial navigation except as specifically limited by the code. It should be noted that the French Air Code of 1955 (art. 17) and the West German Air Law of 1959 (art. 1) also grant freedom of the air, subject to specific limitations and conditions and, insofar as foreign aircraft are concerned, subject to reciprocity under multilateral or bilateral agreements. The British Civil Aviation Act, 1949 (sec. 8) merely states that the act gives effect to the Chicago Convention subject to compliance with the conditions set forth in the act. Section 104 of the Federal Aviation Act of 1958 also recognizes a public right of freedom of transit through the navigable airspace of the United States.

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ARGENTINA

AVIATION CODE OF ARGENTINA,¹ PROMULGATED AUGUST 4, 1954

TITLE I—GENERAL PROVISIONS

Article 1. This Code shall govern civil aviation within the territory of the republic of Argentina and the space over it as circumscribed by vertical lines at its perimeter.

For the purposes of this Code, the term "civil aviation" shall mean all those activities which directly or indirectly entail the use of aircraft, excluding military aircraft and aircraft of the customs and the police.

With respect to national military aircraft, only the provisions pertaining to air navigation as well as the regulations which the aeronautics authority may issue therefor, shall apply. However, when, because of their special operations, such aircraft have to depart from these provisions, they shall inform the competent authority in advance in order that the proper safety measures may be taken.

Article 2. For the purposes of this Code, the term "territory" shall include bodies of water under the jurisdiction of the State.

Provisions pertaining to the landing of aircraft on land shall apply equally to landing on water.

TITLE II—PROVISIONS PERTAINING TO NAVIGATION IN THE AIR

Article 3. The takeoff, flight, and landing of aircraft shall be permitted within the national territory except as limited in this Code.

Article 4. No person may oppose the passage of an aircraft by reason of any property right. If damage should result such person shall be entitled to compensation.

Article 5. In the event of war or internal disturbance, or when the public welfare is deemed endangered, the Executive shall have the power to prohibit or limit navigation in the air over the territory of Argentina with respect to all or a particular type of aircraft.

Article 6. Flight over specified areas of Argentine territory may be prohibited or limited for military reasons, in the interest of the public welfare, or for other analogous reasons.

Article 7. The Executive shall have power to forbid, or place conditions upon, the transportation of: a) explosives; b) arms and ammunition of war; c) photographic equipment; d) other articles or substances which may be enumerated.

In no event shall permission be granted for the transport of explosives or ammunition of war in aircraft transporting passengers.

¹ Law No. 14,307, passed July 15, 1954, sanctioning the Code: (published in Boletín Oficial, Aug. 18, 1954), also published with official annotations (referring to relation of the Code with other laws, explanatory of terminology and giving references to applicable international conventions), in the series "Códigos y Leyes Usuales de la República Argentina" under the title "Código Aeronáutico de la Nación Argentina" by Lajouane Editores, Buenos Aires (1954).

Article 8. Aircraft shall have radio communications equipment, for which the proper license must be issued by the competent authority. The Executive shall make a determination with respect to aircraft which may be excepted therefrom.

Article 9. No aircraft may fly over populated areas at an altitude less than that established by the competent authority.

Article 10. Except in emergencies, nothing may be dropped from an aircraft which may cause injury to persons or damage to property on the ground.

Article 11. Foreign aircraft may enter the country only at an international airport and over an air route designated for that purpose. Foreign state aircraft may do so only with the authorization of the Executive obtained in advance in the manner set forth in Article 68, clause 24, of the National Constitution.

Article 12. The competent authority shall have the power to carry out the inspection of persons, of aircraft, of the crew on an aircraft, and of articles being transported, before takeoff, while in flight, upon landing or while the aircraft is parked on an airdrome, and to take the necessary measures for the safety of the flight.

Article 13. In regard to the national and international air routes established in this country, there shall be established and maintained flight control services, meteorological services, radio communications services, and ground aids to air navigation.

Article 14. The services of flight control, meteorology and radio communications shall be furnished exclusively by the national Government.

Article 15. The Executive shall have the power to make arrangements with adjacent countries for common services of flight control, meteorology, and radio communications.

Article 16. Aircraft which have been repaired or which have undergone modification, shall not make flights without first being inspected and relicensed by the competent authority.

Article 17. Aircraft departing from the territory of Argentina may do so only from an international airport or from an airdrome especially designated by the competent authority where the formalities of inspection may be carried out. The same requirements shall apply to flights arriving from abroad.

Article 18. Aircraft arriving from abroad or departing from the territory of Argentina shall clear the frontier over pre-established points and follow designated air routes. Except in the case of *force majeure*, such aircraft may not land on an airport within the geographic borders before or after complying with the inspection requirements.

Article 19. Private aircraft not engaged as public passenger or cargo carriers may be excepted specifically and individually from having to depart and land on an international airport. In such case they shall do so on other airdromes designated in advance by the competent authority and they shall follow the air route indicated by such authority.

Article 20. When an aircraft has landed outside of an international airport [aerodromo de frontera] or one of the type indicated in the preceding article, the persons in charge of the aircraft shall immediately communicate with the nearest authority.

Article 21. The person responsible for the aircraft shall not permit the removal of the aircraft except in cases of necessity to assure its safety and under such circumstances as the competent authority may determine.

Article 22. Aircraft that have a permit to cross in transit over the national territory shall not be subject to the requirements of frontier inspection. They shall follow the designated air route and shall observe the applicable flight rules.

In the event of an emergency landing, the procedures set forth in Articles 20 and 21 shall apply.

TITLE III—GROUND ORGANIZATION

Chapter I—Airdromes

Article 23. Airdromes may be public or private. Airdromes shall be deemed public when they are open to public use; all others shall be deemed private. The character of the entity which owns the real property shall not determine whether an airdrome is public or private.

Article 24. Public airdromes intended for aircraft flying over international routes shall be designated as airdromes for international use. Airdromes for international use that have health service, customs, immigration and other inspectors shall be known as international airports.

Article 25. Every airdrome shall be certified by the competent authority which will establish the conditions for its operation.

Article 26. Aircraft shall take off from, or land on public or private airdromes. This obligation shall not obtain in the case of *force majeure* or in cases involving public aircraft carrying out their duties or in the cases of aid or rescue work, or aircraft in health service work.

Article 27. Private aircraft not engaged as public carriers of passengers or goods and those transporting mail exclusively, may be excused from the obligation imposed by the preceding article.

Article 28. Except in the case of *force majeure*, no aircraft may land on private airdromes without authorization from the owner.

The landing of aircraft on private property, whether airdromes or not, shall not entitle the owner to prevent the continuation of the flight. The owner shall be required to report the landing to the proper regulating authority giving the registration of the aircraft and the name and address of its owner and of the person in charge of it.

Article 29. Adequate space required to fulfill the needs of aviation facilities shall be made available for public airfields.

The competent authority shall determine or approve, as the case may be, the price of the property and the payments therefor in the manner set forth in the pertinent provisions of law.

Chapter II—Limitations on property rights

Article 30. Private property necessary for the installation of airdromes and their improvements, and for airports already established and their supporting facilities, is hereby considered of public use and subject to expropriation.

As supporting facilities are considered all the elements necessary to set up ground aid units such as beacons, signal systems, radio com-

munications and meteorological aids and such others as are necessary or useful for air navigation.

Article 31. The agency invested by the Executive with the power of holding expropriation hearings when called for such purpose, shall make settlements directly with the property owners, observing in all cases the principles applicable under the general rules of law pertaining to seizures under the power of eminent domain.

Article 32. If at the time the establishment or operation of an airdrome is authorized there are near it buildings, structures, or other works of whatever nature which might render difficult the arrival or departure of aircraft, the competent authority shall be empowered to order them demolished or removed completely or partially, provided the property has been expropriated or purchased as set forth in the previous article.

Article 33. In the area immediately adjoining an airport, no structure, construction or other work of any sort may be erected if this would render difficult the departure or arrival of aircraft, unless prior authorization is obtained from the competent authority.

The same agency shall be empowered to order the demolition or removal of buildings, structures or works erected in violation of the terms of this article and if necessary to resort to judicial intervention, and no right of compensation shall arise therefrom.

Article 34. It shall be required throughout the territory of the Republic that any obstacles which, in the opinion of the competent authority, constitute a danger to aviation be marked by appropriate markings or lights and that the costs of installing and maintaining such devices devolve upon the owner of the structure involved. Such warning devices shall be set up in accordance with the regulations promulgated by the competent authority.

TITLE IV—AIRCRAFT

Chapter I—Definition

Article 35. Aircraft shall be deemed to be any devices or machines which are capable of circulating in the air and which are suitable for the transportation of persons or goods.

Chapter II—Classification

Article 36. Aircraft shall be deemed to be either public or private. Aircraft are public aircraft when they serve for use by the governing authorities, such as the military, police, and customs. Other aircraft are private even when owned by the state.

Chapter III—National Register of Aircraft

Article 37. Aircraft shall be registered in a national register established for that purpose. Engines, propellers, parts and accessories may be registered in a special register.

Article 38. The following shall be registered in the national register of aircraft:

1. All documents, instruments, contracts, or resolutions which manifest the ownership, transfer, alteration, or destruction of aircraft;
2. Incumbrances or restraints imposed on aircraft or which may be decreed against them;

3. Registration papers with sufficiently detailed information to identify aircraft and certificates of airworthiness;

4. The grounding, disablement, or loss of an aircraft, substantial alterations, and partial or total remodeling of an aircraft;

5. Contracts for the operation of an aircraft;

6. Amendments to a corporate charter or partnership agreement, and the name, residence, and nationality of the directors or managers and executives of enterprises owning Argentine aircraft;

7. In general, any document which may have legal significance or which may affect, or bear reference to, an aircraft.

Article 39. After an aircraft has been registered in the register, all prior registrations shall be deemed cancelled, but without affecting the validity of legal rights relative to the obligations of the owner.

Article 40. The competent authority shall determine the items which are to be set forth in the registration of an aircraft and the procedure for its registration and cancellation thereof.

Article 41. The national register of aircraft shall be open to the public. Any interested person may obtain a certified copy of all entries in that register by requesting it from the authority in charge thereof.

Chapter IV—Requirements for Ownership in an Argentine Aircraft

Article 42. In order to be owner of an Argentine aircraft a natural person must be domiciled in the republic of Argentina.

Article 43. If an aircraft is owned by several coowners, the majority, owning in excess of one-half of the value of the aircraft must be domiciled in the republic of Argentina.

Article 44. If an aircraft is owned by a company, one more than one-half of the owners representing at least a majority of the capital and subject to joint liability must be domiciled in Argentina and the company must have its real and effective main office in the republic of Argentina.

Article 45. If an aircraft is owned by a corporation, the chairman of the board of directors, the person who carries out the functions of manager of the corporation, and at least two-thirds of the directors or administrators must be Argentine nationals and such company must have its real and effective main office and be controlled within the republic of Argentina.

Chapter V—Nationality

Article 46. Registration of an aircraft in the register shall confer Argentine nationality upon it.

Aircraft registered in Argentina shall lose their nationality if, for any reason, there is a failure to meet the conditions set forth in the preceding chapter, or if they are registered in a foreign country.

Chapter VI—Markings

Article 47. Every aircraft shall display distinctive markings indicating its nationality and registration.

The markings of an aircraft engaged in police, customs, or health service, shall have distinctive characteristics which will facilitate its identification.

Chapter VII—Ownership, Modifications, and Transfers

Article 48. Aircraft within the scope of this Code shall be considered personal property; any transaction pertaining to aircraft shall be made by a public or private instrument and duly authenticated.

Article 49. The transfer of title to aircraft, as well as any other legal act with reference to them and provided for in Article 38, may not be perfected by the immediate parties, and shall not be binding upon third parties unless followed by registration in the national register of aircraft.

Article 50. In order that the transactions and contracts mentioned in paragraphs 1, 2, and 5 of Article 38 which have been executed in a foreign country may be of force and effect in the republic of Argentina, they must be executed by a notarized instrument in writing or before a consular representative of Argentina who shall register the document in question and shall forward a record to the proper authorities.

Chapter VIII—Mortgages and Creditors' Rights

Article 51. Aircraft may be mortgaged in whole or in part even when they are in process of construction.

A mortgage shall be created by public or private instrument in writing, properly notarized, and shall be recorded in the national register of aircraft. Such recordation shall entitle the mortgagee to preference over other creditors in the order of recordation.

Article 52. A mortgage shall extend to coverage by insurance for loss of, or damage to the aircraft and to compensation to the owner for damage done to it by third parties.

Article 53. The following rights shall have preference over the mortgagee's rights in the order rated:

1. Amounts due for lawful expenses which benefit the mortgagee;
2. Amounts due to the State for taxes and fees for use of airports or for services which are a part or in aid of air navigation;
3. Amounts due for salvage of the aircraft;
4. Amounts due for provisioning and repair of the aircraft made at a place other than that of its destination to enable it to continue on its journey;
5. Wages of the crew for the last trip.

Article 54. A mortgage shall lapse three years from the date of its recordation unless renewed.

Article 55. The provisions pertaining to mortgages on sea vessels shall apply to aircraft, unless they are in conflict with this Code.

Chapter IX—Operation

Article 56. The use of an aircraft may be contracted for one or more trips, for a fixed period of time, or according to the number of kilometers flown.

Article 57. The crew of an aircraft, absent any agreement to the contrary, shall be subject to the control and charge of the owner of the aircraft.

Article 58. In the case where the operator of an aircraft undertakes to provision the aircraft and to furnish its crew, the obligation of the owner shall be limited to delivering the aircraft at the time and place agreed upon, after obtaining the necessary flight papers.

Operator of an aircraft, in the sense of this Code, shall be deemed to be any person who utilizes an aircraft for his own purposes, including a nonprofit undertaking.

The duty of the owner shall extend to maintaining the aircraft in normal operating condition until the completion of the contract. This duty shall cease if there is negligence on the part of the operator.

Article 59. The contract shall be reduced to writing, it shall be approved by the proper authority and registered in the national register of aircraft. It shall not be approved if the person who is to use the aircraft fails to meet the conditions required of an owner.

Article 60. Recordation of the contract in accordance with the provisions of Article 58 shall relieve the owner of any liability subsequently incurred, which shall be the sole responsibility of the other contracting party with the exception of those provided for in the regulations promulgated by the competent authority, which shall be applicable in all cases.

Article 61. In the event that the contract is not recorded it shall be of no effect with respect to third parties, and the owner and the operator shall be jointly liable for any violation or damage that may result.

Article 62. The rights and duties under the contract shall not be assignable either in whole or in part unless the contract contains an express provision to that effect.

Article 63. The provisions of the Commercial Code shall apply unless they do not relate to this Code or are incompatible with it.

Chapter X—Attachment

Article 64. With the exception of public aircraft, all aircraft shall be susceptible to attachment.

Article 65. Upon recordation of a writ of attachment, the party in whose favor the attachment runs shall have preference over all other creditors with the exception of creditors with a superior right.

Article 66. Attachment shall carry with it the grounding of the aircraft in the following circumstances:

1. When it has been ordered in execution of a judgment of a court;
2. When a loan has been granted to make the trip possible, and the aircraft is ready to depart;
3. When there exists a claim of the seller of the aircraft for breach of the sales contract.

Chapter XI—Industries

Article 67. The Executive shall promote the construction of aircraft and shall encourage private enterprise tending to develop a domestic aircraft industry.

Article 68. In order to fulfill the purpose set forth in the preceding article, agreements of an industrial or commercial character may be concluded; or mixed organizations may be established.

Article 69. In order to benefit from aid by the State, private enterprises must be legal entities established in the country and may not depend, directly or indirectly, upon foreign organizations.

Article 70. The Executive shall establish the circumstances, form, and conditions for technical and economic aid to aircraft maintenance shops and all other similar enterprises.

TITLE V—FLIGHT PERSONNEL

Article 71. The members of the flight crew and the persons required to participate in the operation of the aircraft shall have a certificate of fitness in the form to be established by the competent authority.

Article 72. Any aircraft engaged as a carrier shall have on board one person to function as commander.

Article 73. The appointment of the commander shall be the concern of the operator of the aircraft and he shall act as representative of the owner.

Article 74. The name and special powers of the commander shall be recorded in the board papers.

Article 75. The competent authority shall determine the composition of the flight crew of aircraft which engages in transportation service.

Article 76. The commander of an aircraft shall have disciplinary powers over the flight crew insofar as this is indispensable for the operation of the aircraft and shall have authority over passengers during the flight. He shall look out for their safety and he may not absent himself from the aircraft without taking measures necessary to insure its safety.

Article 77. In the event of danger, it shall be incumbent upon the commander of the aircraft to remain at his post until he has taken proper measures to save the passengers, the crew, and the property on board and to prevent damage on the ground.

Article 78. Without special authorization, the commander of an aircraft shall be empowered to make purchases and incur expenses necessary for the trip and to protect baggage, goods and mail which are being transported.

Article 79. The commander of an aircraft shall be under a duty to assure himself of the proper operation of the aircraft before departure and of weather conditions en route, and it shall be his responsibility to decide whether the flight should be suspended.

Article 80. The commander of an aircraft shall record in the proper books any births, deaths, marriages or last wills that may take place or be performed or executed on board and he shall forward a true copy thereof to the proper authorities.

In the event of the death of a passenger or a member of the crew, he shall take the necessary steps to insure the safety of property belonging to the deceased, delivering it with an inventory to the Argentine consul or, if there is none, to the representative of the owner at the place of first landing.

Article 81. In the event that he considers it unavoidable for the safety of the aircraft, and subject to the provisions of Article 10, the commander of aircraft may jettison goods and baggage during flight. If a choice is possible to him, he shall jettison things of lesser value.

Article 82. Certification or validation of credentials issued by a foreign government shall be governed by the agreements with respect to the subject matter entered into between that government and the Government of Argentina.

If there are no agreements, the credentials may be validated or certified under the conditions that may be established by the competent authority, provided there is reciprocity.

Article 83. All matters pertaining to employment contracts and to compensation for accidents shall be treated in special laws.

Article 84. At every airport open to public use there shall be a supervisor who exercises overall authority on the airport with respect to its operation, coordination, and internal control. To act as airport supervisor such person shall have the proper certification issued to him by the competent authority.

Article 85. At airports reserved for private use there shall be one person in charge; this function may be exercised by the owner of the airfield or by a person designated by him. He shall inform the competent authority of the name and the address of the person in charge and the date of his appointment.

Article 86. The competent authority shall promulgate rules defining the powers and the duties of the airport supervisor, of the person in charge of an airport and of other personnel employed thereon.

Article 87. The services of flight control, radio communications, weather, health, customs, immigration, security and judicial police and any other service, as well as their respective personnel, shall remain subject to the control of the agencies in charge of such services as to their technical operations.

Article 88. The Executive may completely or partially centralize the services and may devise methods for achieving maximum coordination of, and cooperation from, the agencies which render these services.

TITLE VI—FLIGHT OPERATIONS

Chapter I—Documents Pertaining to National Aircraft

Article 89. No Argentine aircraft may fly over the national territory without the certificates of registration and of airworthiness issued by the competent authority.

Article 90. Aircraft must carry board papers as required by the competent authority in the manner specified by it, and record in them the documents and contracts mentioned in paragraphs 1, 2, & 5 of Article 38.

Article 91. Aircraft engaged in passenger service must be readied for flight by qualified personnel. A certificate reflecting such qualifications filed in the manner set forth in the pertinent regulations must be made a part of the board papers.

No aircraft may depart on a flight without the commander filing his flight plan in accordance with the manner set forth in regulations promulgated by the competent authority.

Chapter II—Documents Pertaining to Foreign Aircraft

Article 92. In order to fly over and land on Argentine territory, foreign aircraft must have certificates of registration and airworthiness, board papers, and a license for the radio equipment, respectively.

Article 93. Aircraft of foreign states must abide by the agreements entered into with respect to these matters between those states and the Government of Argentina.

TITLE VII—AIR TRANSPORTATION

Chapter I—Air Transportation in General

Article 94. Air transportation of passengers and goods shall be subject to the provisions of this Code and of the Commercial Code and the special laws relating to transportation, insofar as they are applicable and are not in conflict with the provisions of this Code.

Article 95. A permit to operate air lines carries with it the right to do so in combination with other established lines or other means of transportation. Agreements and contracts of combinations of air lines or other means of transportation shall be subject to the approval of the Executive.

Chapter II—International Air Transportation

Article 96. Transportation by aircraft between the republic of Argentina and a foreign state or between points in the republic of Argentina with intermediate landings in a foreign state shall be considered international air transportation.

Article 97. For purposes of the immigration laws, passengers on aircraft shall be deemed on a par with passengers on a sea vessel. The competent authority shall make regulations and establish the procedure to be followed respecting passengers, their baggage and goods that cross the border on aircraft.

TITLE VIII—OPERATION OF AIR SERVICES

Chapter I—Scheduled Air Transportation Services

Article 98. The establishment and operation of scheduled air transportation services, either domestic or international, shall be exclusively in the hands of the State, which may make partial use of privately owned facilities as the Executive may deem convenient.

Article 99. Foreign aircraft may carry on international air transportation services in accordance with the terms of international conventions or agreements to which Argentina is a party or with prior authorization from the Executive.

Article 100. Foreign aircraft shall not be permitted to take on passengers, mail, or freight in the republic of Argentina for transportation to another point in the country unless the Executive, for exceptional reasons of public interest, deems it necessary or urgent to authorize such services by said aircraft. Such permit shall be subject to being withdrawn at will.

Chapter II—Unscheduled Air Transportation Service

Article 101. Unscheduled air transportation service between two or more points within the territory of Argentina and all paid air work carried out completely within the country may only be undertaken by Argentine aircraft.

Article 102. Prior authorization by the Executive shall be required for rendering such services, and the Executive may delegate this power to the competent authority.

Article 103. No permit of any kind may be granted without a prior proof of the technical and financial qualifications of the operator and of his ability to make proper use of the airports, supporting facilities and flight services that are intended to be used.

Article 104. The recipient of a permit may not transfer it. He may transfer performance of the services which he is authorized to render only if, in the judgment of the competent authority, they are performed in a proper manner and after there has been proof of the technical and financial qualifications of the transferee.

Article 105. The Executive may subsidize the establishment and the operation of the services mentioned in Article 101.

Chapter III—Transportation of Passengers

Article 106. A contract for the transportation of passengers shall be evidenced in writing. In cases of transportation of passengers by a scheduled air carrier the contract is to be evidenced by the issuance of a ticket.

Article 107. Such ticket shall state:

1. the order number;
2. the place and date of issuance;
3. the point of departure and destination;
4. the name and address of the carrier.

Article 108. The absence, irregularity, or loss of the ticket shall not affect the existence or validity of the carriage contract, which shall be subject to the provisions of this Code. But if the carrier accepts the passenger without issuing a ticket, he shall not be entitled to rely on any provisions which exclude or limit his liability.

Article 109. In any aircraft engaged in the transportation of passengers, a list of the passengers shall be kept in duplicate, one copy to be kept on board and the other to be submitted upon request to the employees of the State whose duty it is to inspect air traffic.

Article 110. A carrier may not take on passengers for flights to foreign countries without prior proof that they have the papers necessary to disembark at the point of destination.

Article 111. National air carriers shall be under a duty to carry on their aircraft free of charge an agent of the aeronautics authority who is travelling on an official inspection assignment.

His seat shall be reserved at least 24 hours prior to departure time. Foreign air carriers shall be under the same duty with respect to flights within the national territory.

The competent authority shall determine the type of aircraft in which, according to their official capacity, such personnel may fly.

Chapter IV—Transportation of Baggage

Article 112. The transportation of baggage which has been checked shall be evidenced by a baggage check issued in duplicate. It shall not include personal articles which the passenger carries with him.

One copy of the baggage check shall be handed to the passenger and the other shall be kept by the carrier.

Article 113. The baggage check shall state:

- a) the place and date of issuance;
- b) the place of departure and destination;
- c) the name and address of the carrier;
- d) the number of the flight ticket;
- e) the weight and number of the pieces;
- f) the total declared value, if any;
- g) a statement to the effect that delivery will be made to the holder of the baggage check.

Article 114. If the carrier accepts the baggage without giving a baggage check, or if the baggage check lacks the number of the ticket and the weight and number of the pieces of baggage, the carrier shall not be entitled to rely on the provisions of the present Code excluding or limiting his liability, without thereby affecting the validity of the contract.

Chapter V—Transportation of Goods

Article 115. The legal designation of the contract between the shipper and the carrier shall be "bill of lading" [carta de porte]. It must state that it deals with air transportation.

Article 116. The bill of lading shall be made out in triplicate, one copy for the carrier, with the signature of the shipper; another for the consignee with the signature of the carrier and the shipper; and the third for the shipper with the signature of the carrier.

Article 117. The bill of lading shall state, in addition, to any other information which the competent authority may require:

- a) the place and date of issuance;
- b) the place of departure and destination;
- c) the name and address of the shipper;
- d) the name and address of the carrier;
- e) the name and address of the consignee, if any;
- f) the type of packaging, marking, and numbering of the packages;
- g) the weight and size of the shipments or packages;
- h) the external condition of the merchandise and the packaging;
- i) the cost of shipping, if this has been established;
- j) the price of the goods and expenses, if the shipment is being made cash on delivery;
- k) the amount of the declared value, if any;
- l) the number of copies of the bill of lading;
- m) the documents delivered to the carrier with the bill of lading;
- n) the time for transporting and statement as to the route, if agreed to.

Article 118. If the carrier accepts the goods without a bill of lading having issued, or if it should fail to contain the information indicated by items a) through g) of the preceding article, the carrier shall not be entitled to take advantage of the provisions excluding or limiting his liability, without thereby affecting the validity of the contract.

Article 119. Unless proved otherwise, the bill of lading shall be evidence of the execution of the contract, of the receipt of the merchandise by the carrier, and of the conditions of carriage.

Article 120. The bill of lading may be issued to bearer, to order or by name, and may be transferred in the manner and with the consequences set forth in the Commercial Code for instruments made out to bearer, to order or by name.

Chapter VI—Transportation of Mail

Article 121. The establishment and operation of the air mail service shall be in the care of and under the direction and control of the respective ministries.

Article 122. The transportation of mail by air shall be made by aircraft owned by the State or, if need be, by aircraft of Argentine registry.

Article 123. The provisions of law pertaining to the mails shall apply, where pertinent, to mail transported by air.

Article 124. The operators of air transportation services shall carry such mail as may be assigned to them in accordance with the regulations in force.

The order of priority for postal shipments delivered to such carriers for shipment shall be according to the following schedule: 1) passenger, 2) postal shipments, 3) baggage, and 4) freight.

TITLE IX—SEARCH, AID, AND RESCUE

Article 125. Upon request by the competent authority, any owner of an aircraft shall be under a duty in so far as he is able to render aid in the search for aircraft.

Article 126. The commander of an aircraft in flight shall render the following assistance:

1. Aid to other aircraft in flight which find themselves in a situation of imminent danger;

2. Rescue of persons in danger because of damage sustained by the aircraft transporting them.

Article 127. There shall be no duty to render assistance when any of the following circumstances occur: when aid is better assured from other sources; when rendering such aid would greatly endanger persons on board the aircraft, or when there is no possibility of rendering useful aid.

Article 128. If aid was rendered without the existence of a duty to do so, the operator of the aircraft shall have a right to compensation only when he has saved, or helped to save some person.

Article 129. Aircraft which only rendered aid to another aircraft or which participated in the search mentioned in Article 125, shall have a right to be reimbursed for expenses arising therefrom and for damage sustained during the operation or as a direct consequence thereof.

Article 130. The operator of an aircraft which saved some person shall have a right to reimbursement for the costs incurred by such rescue and for damage sustained during the operations or as a direct consequence thereof.

The reimbursement shall be the responsibility of the operator of the aircraft aided and may not exceed the value of the aircraft immediately preceding the accident.

Article 131. Operators of aircraft which salvaged some property shall be entitled to compensation, paid to them according to the risks involved and the expenses and damages sustained by the rescuer, the difficulties of the rescue work, and the danger incurred by the rescued² and the value of the property saved.

Payment of the compensation which in no event may exceed the value of the property saved, shall be made by the owners thereof in proportion to the value, and the rescuer may claim directly from the

² The Spanish text read "socorrido" meaning "rescued". This may be an error, and the word should be "salvador" (rescuer).

operator of the aircraft assisted, or from each of the proprietors thereof.

Article 132. If both persons and property have been rescued, the one who has rescued the persons shall have a right to an equitable share of the compensation made to the one who has saved the property, without impairing any right to reimbursement he may have.

Article 133. Reimbursement and compensation shall be due even though aircraft may belong to the same owner.

TITLE X—LIABILITY

Chapter I—Damages Sustained by Passengers or Goods Being Transported

Article 134. A carrier shall be liable for any damages or losses caused by the death, injury or any other physical detriment sustained by a passenger, when the accident which caused the damage took place on board an aircraft or while boarding or disembarking from it.

Article 135. A carrier shall be liable for any damages or losses suffered by destruction, loss, or damage to baggage that has been checked and to goods when the event causing the damage took place during the air transportation.

Air transportation for purposes of the last paragraph shall include the period during which the baggage or goods are in the custody of the carrier whether on an airport or on board an aircraft or at some other place if the landing is made at a place other than at an airport.

The period of air transportation shall not include transportation on the ground, by sea, or in navigable waters when such transportation takes place outside of an airport, unless one of these types of transportation has been undertaken in pursuance of a contract for air transportation with the object of loading, delivering, or transferring the shipment. Unless there is proof to the contrary, it shall be presumed in those cases that the damage was sustained during the air transportation.

Article 136. A carrier shall be liable for damages arising from delays in transporting passengers, baggage, or goods.

Article 137. A carrier shall be liable for the negligence of persons under his control such as clerks, laborers, or servants while in the performance of an act connected with their employment.

A carrier shall not be liable if he can establish that the damage was the result of an excusable pilot error, in the operation of the aircraft or in navigation, and that in all other respects he, or the persons subject to his control, took adequate measures to avoid the damage, or that it was impossible for them to adopt such measures.

Such evidence shall be admissible even when it is shown that the damage resulted from a defect in the aircraft.

Article 138. The courts may absolve the carrier from any liability or reduce his liability if the injured party caused the damage or was a contributing cause thereof.

Article 139. With respect to the transportation of persons, the limit of liability of the carrier for each passenger shall be a sum of eighty thousand pesos in national currency, (\$80,000). However, a higher limit may be established by an express agreement between the carrier and the passenger.

With respect to the transportation of goods and baggage, the limit of liability of the carrier shall be established on the basis of one hundred and fifty pesos in national currency (\$150) for each kilogram gross weight and at the sum of three thousand pesos in national currency (\$3,000) for each passenger, with the exception of a special declaration of interest in the delivery filed by the shipper at the time the parcels are delivered to the carrier and, if necessary, payment of an additional fee. In such case, the carrier shall be under a duty to pay the declared amount unless he can prove that the value of the shipment is less or that said sum is greater than the shipper's interest in the delivery.

With respect to articles remaining in the custody of the passenger, the liability shall be limited to one thousand five hundred pesos in national currency (\$1,500) for each passenger.

Article 140. Any clause tending to exempt the carrier from liability or to set up a limit of liability which is less than that established in this chapter shall be void; but the nullity of such a clause shall not go to the essence of the contract which remains subject to the rules established above.

Article 141. A carrier shall not be entitled to take advantage of the provisions of this chapter excluding or limiting his liability when the damage resulted from his wrongdoing, or from the wrongdoing of any person subject to his control who was acting in the course of his employment.

Article 142. Absent proof to the contrary, acceptance by the consignee of baggage and goods without protest shall give rise to a presumption, that they were delivered in good condition and in conformity with the shipping bill [título del transporte].

Article 143. In the case of loss, the consignee shall file a claim with the carrier within a period of three days for baggage, and of ten days for goods counting from the day of the delivery. In the case of delay, the claim must be made within ten days following the date on which the baggage or goods should have been placed in the hands of the consignee.

Failure to file a claim within such time shall preclude any action against the carrier, except in the case of fraud on his part.

Article 144. If the trip which was intended has been interrupted or has not been made, a passenger, in the former instance, shall be entitled to reimbursement of the part of the purchase price which is proportionate to the part of the trip not completed and to payment of the ordinary costs of transportation and subsistence from the place of landing to the nearest place where the trip can be continued, and, in the latter instance, to the return of the price of the ticket.

Any passenger who fails to present himself or who arrives late to board the flight for which a ticket has been issued to him or who interrupts his trip, shall not be entitled to demand the return of all or part of the amount.

In the case that the aircraft departs with all seats taken, the competent authority shall order the return of the purchase price of the flight ticket, in whole or in part, and shall establish the requirements and conditions thereof.

Article 145. In the case of successive or combination hauls, each carrier shall be answerable for the subsequent carriers. These shall

be entitled to state on the bill of lading the conditions of the goods and in the absence of such statement it shall be presumed that they received them in good condition.

Article 146. In the case of successive or combination hauls, made partly by air and partly by some other means of transportation, the provisions of this Code shall apply only to air transportation.

Article 147. The parties may stipulate the conditions relative to other means of transportation, notwithstanding the provisions of the preceding article.

Article 148. Any loss sustained in case of jettisoning shall be borne by the aircraft, the freight and the cargo in proportion to their value.

Chapter II—Damages Caused to Third Parties on the Ground

Article 149. Any damages caused by an aircraft or by an object falling from an aircraft shall give rise to a right to recovery merely by proof of the fact that it was caused by one or the other.

The rule of the preceding paragraph shall apply from the moment when the aircraft, under its own power, begins to move in preparation for a flight until the moment when, after completion of the flight, the aircraft stops moving under its own power.

Article 150. The liability established by the preceding article shall attach to the operator of an aircraft. In the case that the name of the operator does not appear on the national register of aircraft, he shall be liable jointly with the owner.

Article 151. Any person who, without having the right to use an aircraft, uses it without the consent of the operator, shall be liable for any damage which may result. Any operator who does not take adequate measures to prevent unlawful use of his aircraft shall be liable jointly with the person causing the damage.

Article 152. Liability for damages to third parties may be precluded or diminished if the person who sustained the damage was the cause of it or a contributing cause thereof.

Article 153. The operator of an aircraft shall be liable with respect to each accident up to a total amount computed at the rate of one hundred and forty pesos in national currency (\$140) for each kilogram of the weight of the aircraft. The weight of the aircraft shall include the total maximum load capacity as stated in the certificate of airworthiness.

However, the liability of the operator may not be less than one hundred and fifty thousand pesos in national currency (\$150,000) nor more than one million two hundred thousand pesos in national currency (\$1,200,000). One third of such amount shall be used for payment of the damage caused to property, and the remaining two thirds for the payment for injuries to persons, but in the latter case the compensation may not exceed one hundred thousand pesos in national currency (\$100,000) for each person injured.

Article 154. If several persons have sustained damage in the same accident and the total amount due to be paid exceeds the limits provided in the preceding article, there shall be a proportionate reduction of the amount due to each person in order that the aforesaid total limits may not be exceeded.

Article 155. An operator shall not be entitled to take advantage of the provisions limiting his liability if the damage resulted from

his own wrongdoing or the wrongdoing of persons subject to his control, unless he can prove, with reference to such persons, that he took adequate measures to prevent the damage.

Chapter III—Damages Sustained When the Transportation is Gratuitous

Article 156. In the case of gratuitous transportation which is not rendered by an enterprise engaged in public transportation, the carrier's liability shall be limited to the sum of twenty thousand pesos in national currency (\$20,000).

Article 157. The carrier may exempt himself from liability by a special express agreement with the passengers.

Article 158. The carrier shall not be liable if the circumstances set forth in Article 137 are present and if he proves that he and the persons subject to his control took adequate measures to prevent the damage or that it was impossible to take such measures.

Chapter IV—Damages to Persons and Property Aboard in Case of a Mid-air Collision

Article 159. By mid-air collision shall be understood any collision between two or more aircraft in flight.

Damages caused by one aircraft in flight to another aircraft in flight, or to persons or property on board, even if there is no collision, shall be considered to have resulted from a mid-air collision.

Article 160. If a mid-air collision is due to the fault of one of the aircraft, it shall be liable for the damages.

It shall not be liable under the circumstances recited in Article 137.

In this respect, the limitations set forth in Article 141 shall apply.

Article 161. If a mid-air collision is caused by concurrent negligence, the liability of each aircraft for the damages to such aircraft, and to the persons and property on board shall be in proportion to the degree of negligence.

If the proportionate degree of negligence cannot be determined, the liability shall be shared equally.

Article 162. The liability established in the preceding article shall be joint, but without impairing the right of a tortfeasor who has paid more than the amount for which he is liable to recoup from the other tortfeasor.

Article 163. No liability shall attach in the case of an unavoidable accident or of *force majeure*.

Chapter V—Damages to Third Parties on the Ground in the Case of Mid-air Collision

Article 164. In the case of damages caused to third parties on the ground by a mid-air collision between two or more aircraft, the operators of such aircraft shall be jointly liable within the purview of the preceding chapter to the persons sustaining such damage.

Article 165. If the mid-air collision was the result of the negligence of one of the aircraft, the aircraft which was not at fault shall have the right to recoup from the former the amount of damage payments which it was required to pay to the victims by reason of joint liability.

If the negligence was concurrent, the aircraft which, by reason of joint liability, paid an amount in excess of its share, shall be entitled to recoup the excess from the other party.

Article 166. An operator who is sued for recovery of the damage caused by a mid-air collision shall, within a period of six months counting from the date of notification, inform thereof the operator against whom he intends to exercise the right accorded to him by the preceding article, or he will be subject to forfeiture.

Article 167. If the mid-air collision was the result of an unavoidable accident or of *force majeure*, each aircraft shall be subject to liability within the limit and under the conditions stated, and the one who has paid a sum in excess of that for which he is liable shall have the right to recoup the excess.

Article 168. The persons in charge of each aircraft shall be under a duty to report the accident to the authorities at the place where the accident occurred.

TITLE XI—INSURANCE

Article 169. Any interest in an aircraft may be insured up to its total value against all risks of air flight with the exception of those arising from an intentional act of the owner of the aircraft or of the insured.

Article 170. Air carriers shall be under a duty to provide insurance against accidents likely to ensue from the performance of their duties for such of their employees who fly regularly or occasionally, and who are not otherwise covered by the pertinent laws.

Such insurance coverage shall be for an amount equal to forty times the monthly salary up to a fixed maximum of one hundred thousand pesos in national currency.

The competent authority shall determine the manner of enforcing the preceding provisions setting forth the nature of incapacities which may result from an accident, their character, the scale for appraising the lessening of incapacity [sic] for work and the manner of taking the proper action.

Article 171. Air carriers shall be under a duty to provide insurance for damage within the limits specified in Title X.

A deposit in cash or in national bonds, or a guaranty from a bank, may be substituted for the insurance.

Insurance for accidents of employees domiciled in the republic of Argentina, or for damage resulting from air transportation, whether to passengers or to goods or to third parties and their property, in the territory of Argentina, shall be purchased from companies which meet the requirements established by the respective laws.

However, with respect to foreign enterprises engaged in air transportation, insurance may be obtained from companies licensed for that purpose in the place where the aircraft is registered. The Executive shall establish guarantees to be required to assure that the purpose of this title is accomplished.

Article 172. The general rules as to insurance set forth in the Commercial Code shall be applicable to aviation insurance unless they are incompatible with the exercise of air navigation, or in conflict with the present Code.

Article 173. When an operator of several aircraft complies with the requirements for the insurance policies fixed by this Code by a deposit in cash or by a bank guaranty, such guaranty shall be deemed suf-

sufficient to underwrite the responsibility with respect to all his aircraft if the deposit or the guaranty amounts to two-thirds for each aircraft, if there are two aircraft, or to one-half if there are three or more. In any event, the coverage by guaranty shall be sufficient if it amounts to two million pesos in national currency (\$2,000,000) when there are two aircraft and three million pesos in national currency (\$3,000,000), if there are three or more.

Article 174. The risk arising from scheduled air transportation may not be excluded in life or accident insurance contracts executed in this country.

TITLE XII—INSPECTION

Article 175. The competent authority shall have the duty of inspecting the services of aerial navigation. For that purpose, it shall be incumbent upon it:

1. To enforce the performance of the orders and instructions provided for by the certification and the air operations' license, and the observance of the provisions of this Code and regulations which may be promulgated;
2. To enforce the proper performance of services;
3. To supervise the technical, economic, and financial inspection of the enterprise;
4. To suspend service if the necessary safety conditions are not present and to reestablish service when the defects have been corrected;
5. To forbid or to bar the use of flying materiel which does not provide the necessary safety;
6. To inspect materials used in the manufacture and for repairs and the manner in which they are performed;
7. To require that flight personnel meet the conditions imposed by the pertinent provisions;
8. To perform all other technical functions and supervision which the Executive may confer on it.

TITLE XIII—FORFEITURE

Article 176. The Executive, upon the report of the competent authority, may declare the revocation or withdrawal of the authorization given for the operation of aerial services:

1. When the factors of public necessity and convenience contemplated at the time it was conferred no longer exist;
2. When the enterprise which is authorized fails to meet major obligations imposed upon it or when it was repeatedly in default in the performance of lesser obligations;
3. When services are not initiated within the period stipulated in the authorization;
4. When services are disrupted partially or completely without good cause or without authorization by the competent authority;
5. When the enterprise which is authorized to operate is insolvent or is declared in a state of bankruptcy or the firm is dissolved by court decree;
6. When authorization was issued in violation of the terms of Article 104;

7. When the safety measures prescribed by title XI have not been adopted;

8. When the enterprise resists investigation of its technical, economic and financial condition.

Article 177. If any agency has information of any of the situations described in clause 5 of the preceding article, it shall make it known to the proper authority so as to enable it to intervene in defense of the rights and interests of the State.

Article 178. Prior to a declaration of revocation or withdrawal of certification a hearing shall be granted to the person concerned in order to enable him to produce evidence in his favor. The competent authority shall set up the procedure to be followed.

TITLE XIV—STATUTE OF LIMITATIONS

Article 179. At the end of six months the following actions shall be barred:

1. Any action to claim any preference granted by Article 53. Such period shall begin to run from the moment the debt accrues.

2. Any action against an operator for an amount which another operator had to pay in any of the cases mentioned in Articles 165 and 167. Such period shall begin to run from the date of payment.

Article 180. At the end of one year, the following actions shall be barred:

1. Any action for recovery for damages caused to passengers or goods being shipped. Such period shall be reckoned from arrival at the destination point, or from the day on which the aircraft should have landed, or from the day on which the shipment was detained, or from the day the person was declared missing and presumed dead.

2. Any action for recovery for damages to third parties on the ground. Such period shall begin to run from the date on which the event occurred. If it does not appear that the injured person had knowledge of the damage, or of the identity of the person responsible therefor, such period shall begin to run from the time when he could have had such knowledge. In these cases, the action shall be barred at the end of three years beginning on the date when the damage occurred.

3. Any action for recovery for damages resulting from a mid-air collision. Such period shall begin to run from the day on which the event occurred.

Article 181. Actions for compensation and reimbursement in cases of search, aid and rescue shall be barred at the end of two years. Such period shall begin to run from the day on which such operations were completed.

TITLE XV—JURISDICTION, POWERS, AND APPLICABLE LAW

Article 182. All matters concerning aerial navigation in general and the establishment and operation of airports intended for international and interstate air travel or for air services connected with these in particular are hereby declared subject matter of national leg-

isolation; the same shall apply to the granting of licenses to flight personnel and the issuance of the respective certificates as well as of certificates of aircraft registration and of airworthiness.

Article 183. The Supreme Court of Justice and the lower federal courts shall hear and decide cases dealing with aerial navigation or commerce in general and with violations that may affect it.

Article 184. Any event taking place, any act done, and any violation committed in a private Argentine aircraft over Argentine territory shall be subject to the law of the land and shall be judged by its courts.

Article 185. If a foreign public aircraft enters Argentine territory without prior permission or violates any regulation pertaining to air traffic control it shall be compelled to land and shall be detained pending investigation of the case.

Article 186. Any event taking place, any act done, or any violation committed in a private Argentine aircraft, over Argentine territory, or over territory not subject to the sovereignty of any state, shall be governed by the law of the land and shall be judged by its courts.

If it took place over foreign territory, the Argentine courts shall have jurisdiction and its laws shall apply only when a real interest of the State or of persons domiciled in it is affected, or when the first landing following the event, act, or violation has been made in the republic of Argentina.

Article 187. Any event taking place, any act done, and any violation committed in a foreign private aircraft in flight over Argentine territory shall only be subject to the jurisdiction of the Argentine courts and the application of its laws in the following cases:

1. Any violation of the laws pertaining to public safety, to the military, or to finances;

2. Any violation of laws or rules pertaining to air navigation;

3. Any act jeopardizing public safety or order, or affecting the public interest or that of persons, or when the first landing following the event, act or violation was made in the republic of Argentina, provided that in the latter case no request for extradition has been made.

If a request for extradition has been made, the law on that subject shall be controlling.

Article 188. Any birth, death, marriage, and will taking place in an aircraft over Argentine territory shall be recorded by the commander or by the person exercising his function, and a record of such event shall be made in the board papers of the aircraft.

At the first place at which the aircraft lands, the commander of the aircraft shall deliver a copy of the record regarding such event to the competent authority, if such place is an Argentine territory; otherwise to the Argentine consul; and, in the absence of the latter, the record shall be sent to the competent authority under a certified cover.

Article 189. The laws pertaining to jurisdiction and legislation in regard to civil, commercial, or criminal matters shall be applicable to air navigation insofar as they are not in conflict with the provisions of this Code.

TITLE XVI—VIOLATIONS AND PENALTIES

Chapter I—Violations

Article 190. Violations of the provisions of this Code not within the purview of this title, and violations of the regulations promulgated under it, shall be determined by the Executive and punished by temporary or permanent disqualification and/or a fine up to ten thousand pesos in national currency (\$10,000).

Article 191. The penalties provided for in the preceding article shall be imposed by the competent administrative authority with the exception of permanent disqualification which may be declared only by the Executive.

Article 192. The procedure to be followed in imposing such penalties and the appointment of the administrative authority empowered to impose them in each case and to dispose of appeals, shall be set up by the Executive.

Article 193. Imposition of the penalty of permanent disqualification and/or of a fine of ten thousand pesos in national currency (\$10,000), shall be subject to final appeal before the competent court.

Chapter II—Criminal Offenses

Article 194. The following persons shall be punished by imprisonment of from one to four years:

1. Any person who pilots an aircraft that does not meet the minimum safety requirements;

2. Any person who pilots an aircraft without a license, and any official who fails to inquire into the qualifications of a pilot and issues a license to the applicant who, in fact, does not have the required qualifications; and any official in charge of flight control who allows a flight to take place under conditions that are in violation of the preceding provisions.

If the death of a person ensues, the pilot of the aircraft shall be punished by imprisonment of from two to ten years.

Article 195. Anyone who makes a secret crossing of the border at any point other than those designated by the competent authority or who departs from an air route designated for entering and leaving the country, shall be punished with imprisonment of from six months to two years.

Article 196. Anyone who makes a secret flight over prohibited zones shall be punished with imprisonment of from six months to three years.

Article 197. Anyone who fails to comply with the provisions of Article 126 shall be punished with imprisonment of from three months to one year.

Article 198. Any imprisonment of six months or more for any violation made punishable by this Code shall entail a prohibition of being a crew member of an aircraft for a period of from one to three years, beginning with completion of the sentence.

In the event of a repetition, the guilty person shall be permanently barred from engaging in any aircraft operations.

TITLE XVII—POLICE AND PROCEDURES

Article 199. Control of the air space, of airports, and of other places pertaining to aviation within the whole territory of the republic of Argentina shall be exercised by the aviation authority, with the exception of the security and judicial police which shall be in charge of the national police forces in existence.

Article 200. The organization and operation of the aviation police shall be established by a law to be enacted for that purpose.

Article 201. Whenever a violation of this Code has been shown or an aircraft has caused an injury, the competent authority shall set forth the details before witnesses, with an itemized statement of the event, of the persons who caused it and of the persons who were injured, and of any other element giving rise to a legal action and it shall present its report to the proper judicial or administrative authority.

Only when there is a criminal offense may members of the crew of an aircraft be detained, and in such case an immediate replacement shall be obtained and, in so far as possible, interruption of the flight shall be avoided.

Article 202. When a crime or violation is committed during a flight, the commander or the person exercising his function shall take the necessary measures to secure the person committing the crime or violation and to deliver such person to the proper authorities at the first airport of landing with a detailed report of the act and a list of the persons who witnessed it.

Article 203. The personnel appointed or especially designated for that purpose by the aviation authorities or by the customs shall enforce compliance with the provisions of this Code that are their responsibility.

Article 204. The judicial authorities, the police or other proper authority shall seize any article mentioned in Articles 7 and 8 when it is found on board an aircraft without the required special authorization; if the attachment is made final, the article shall be delivered to the aviation authority.

Article 205. The money received from any fine provided for in this Code shall be transferred to a fund for the development of civil aviation.

TITLE XVIII—MISCELLANEOUS PROVISIONS

Article 206. The Executive shall promote the development of aerial sports by means of financial subsidies, materials, and other aids to organizations set up in the manner established in the regulations and that have the object of practicing air flight, establishing flight schools, constructing airports and rendering other specified services.

Article 207. Organizations for aerial sports shall incorporate and meet the other requirements of the regulations.

Aircraft engaged in sports activities may be exempted from carrying either all or some of the flight papers required by this Code.

Article 208. Whenever an aviation accident occurs, the aviation authority shall make an inquiry into the causes thereof, shall take the measures necessary to prevent its recurrence and shall impose the penalties which the case may call for.

Foreign private aircraft sustaining accidents over Argentine territory and private Argentine aircraft sustaining accidents over foreign territory, shall be subject to the technical inspection provided for by the terms of international agreements.

Article 209. Any citizen learning of the whereabouts of the remains or wreckage of an aircraft shall inform the authorities within ten days.

Failure to do so shall make him subject to the provisions of Article 190.

Article 210. When an aircraft disappears, or when no information concerning it is available, it shall be deemed lost three months from the date when the last communication was received from it. Persons on board the aircraft shall be presumed dead at the end of six months from the date when the event took place or could have taken place.

Article 211. All provisions of law and all regulations which are in conflict with this Code are hereby repealed.

THE COMMONWEALTH OF AUSTRALIA.

QANTAS EMPIRE AIRWAYS AGREEMENT.

No. 75 of 1946.

An Act to authorize the execution of an Agreement for the Purchase by the Commonwealth of certain shares in Qantas Empire Airways Limited, and to appropriate the Moneys necessary for the purchase of those shares.

[Assented to 14th December, 1946.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Qantas Empire Airways Agreement* Short title.
Act 1946.
2. This Act shall come into operation on the day on which it Commencement.
receives the Royal Assent.
3. The execution on behalf of the Commonwealth is hereby Authorization of agreement.
authorized of an agreement between the Government of the Commonwealth and the Government of the United Kingdom and any other necessary party for or in connexion with the purchase by the Commonwealth of the shares held by British Overseas Airways Corporation in Qantas Empire Airways Limited.

Price of
shares.

4. The agreement authorized by this Act may fix the price for the purchase of the shares or may provide for the determination of the price by arbitration.

Appropriation.

5. Any payment by the Commonwealth required by the agreement authorized by this Act shall be made out of the Consolidated Revenue Fund which, to the necessary extent, is hereby appropriated accordingly.

AIR NAVIGATION ACT 1920-1950.*

An Act relating to Air Navigation.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Air Navigation Act 1920-1950*.^{*}

Short title.
Short title amended by
No. 32, 1918,
s. 2.
Commencement.
2. This Act shall commence in relation to the several States and Territories on such days as are respectively fixed by Proclamation.[†]
3. In this Act, unless the contrary intention appears—

“the Chicago Convention” means the Convention on International Civil Aviation concluded at Chicago on the seventh day of December, One thousand nine hundred and forty-four.

Definitions.
Amended by
No. 6, 1947,
s. 2;
and No. 80,
1950, s. 3 and
First Schedule.
- 3A. The ratification on behalf of Australia of the Chicago Convention is approved.

Approval of
ratification of
Chicago
Convention.
Inserted by
No. 6, 1947,
s. 3.

* * * * *

Section 4
repealed by No.
6, 1947, s. 6.†

* The *Air Navigation Act 1920-1950* comprises the *Air Navigation Act 1920*, as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Air Navigation Act 1920</i>	1920, No. 50 ..	2nd December, 1920	28th March, 1921
<i>Air Navigation Act 1936</i>	1936, No. 93 ..	7th December, 1936	7th December, 1936
<i>Air Navigation Act 1947</i>	1947, No. 6 ..	2nd April, 1947	30th April, 1947
<i>Air Navigation Act (No. 2) 1947</i>	1947, No. 89 ..	11th December, 1947	11th December, 1947
<i>Statute Law Revision Act 1950</i>	1950, No. 80 ..	16th December, 1950	31st December, 1950

† The respective dates so fixed were—

- (a) in relation to the several States and Territories—28th March, 1921 (*see Gazette* 1921, p. 480);
- (b) in relation to the Territory of Cocos (Keeling) Islands—23rd November, 1955 (*see Gazette* 1955, p. 3824A); and
- (c) in relation to the Australian Antarctic Territory—19th April, 1956 (*see Gazette* 1956, p. 1068).

† Section 6 of the *Air Navigation Act 1947* reads as follows :—

“6. Section four of the Principal Act as amended by this Act shall cease to have effect as at midnight on the ninth day of August, One thousand nine hundred and forty-seven and shall be deemed to be repealed as at that time.”

Power to make
regulations.
Substituted by
No. 89, 1947,
s. 3.*

5.—(1.) The Governor-General may make regulations—

- (a) for the purpose of carrying out and giving effect to the Chicago Convention and the provisions of any amendment of the Chicago Convention made under Article ninety-four thereof and for the purpose of carrying out and giving effect to any other international convention or agreement relating to air navigation to which Australia is or becomes a party;
- (b) prescribing all matters—
 - (i) in respect of air navigation which are necessary or convenient to be prescribed in relation to any matter with respect to which the Parliament has power to make laws; or
 - (ii) which are necessary or convenient to be prescribed in respect of air navigation within any Territory of the Commonwealth or to or from any such Territory.

(2.) Any regulations made under this section in respect of air navigation within any Territory of the Commonwealth or to or from any such Territory shall have effect notwithstanding the provisions of section ten of the *Northern Territory (Administration) Act 1910-1947*.

(3.) The power to make regulations under this section shall include power to make provision for—

- (a) the establishment, maintenance, operation and use of aerodromes and air route and airway facilities, including the imposition of charges and conditions for their use;
- (b) the removal or marking of objects which constitute potential hazards to air navigation and such other measures as are necessary to ensure the safety of aircraft; and
- (c) the imposition of penalties not exceeding Two hundred pounds or imprisonment for six months, or both, for any contravention of or failure to comply with any provision of the regulations or any order, direction or condition given or made under, or in force by virtue of, the regulations.

* Section 4 of the *Air Navigation Act (No. 2) 1947* reads as follows:—

"4. The Air Navigation Regulations, being Statutory Rules 1947, No. 112, and any regulations amending those Regulations and made before the commencement of this Act, shall be and be deemed to have been as valid and effectual as if the Principal Act, as amended by this Act, had been in operation when they were made and shall, subject to any regulations made under the Principal Act as amended by this Act, continue in force notwithstanding the repeal of section five of the Principal Act."

AUSTRALIAN NATIONAL AIRLINES ACT 1945-1952.*

An Act to provide for the Establishment and Operation of National Airline Services by the Commonwealth and for other purposes.

WHEREAS, in order to ensure, amongst other things, that— Preamble.

- (a) trade and commerce with other countries and among the States are fostered and encouraged to the greatest possible extent;
- (b) the maintenance and development of the Defence Force of the Commonwealth in relation to the defence of Australia by air and the establishment of plant and equipment necessary for that Force are assured;
- (c) the development of the Territories is promoted with the utmost expedition; and
- (d) the carriage of mail by air within Australia is promoted to meet the needs of the people of Australia,

it is expedient to provide for the matters hereinafter set out:

BE it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Australian National Airlines Act 1945-1952*.

Short title.
Amended ;
No. 32, 1918,
s. 2.

* The *Australian National Airlines Act 1945-1952* comprises the *Australian National Airlines Act 1945* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Australian National Airlines Act 1945</i>	No. 31, 1945	16th August, 1945..	17th April, 1946
<i>Australian National Airlines Act 1947</i>	No. 90, 1947	11th December, 1947	11th December, 1947
<i>Australian National Airlines Act 1952</i>	No. 102, 1952	18th November, 1952	16th December, 1952

Commencement.

2. This Act shall come into operation on a date to be fixed by Proclamation.*

Parts.

3. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—The National Airline Services.

Division 1.—Establishment and Constitution of the Australian National Airlines Commission.

Division 2.—Powers, Functions and Duties of the Commission.

Division 3.—Finances of the Commission.

Division 4.—Reports.

Part III.—Compulsory Acquisition of Aircraft and other Property.

Part IV.—Limitations in respect of Airline Services.

Part V.—Compensation.

Part VI.—Penalties and Procedure.

Part VII.—Miscellaneous.

Definitions.

Amended by
No. 90, 1947,
s. 3.

4. In this Act, unless the contrary intention appears—

“Acting Commissioner” means a person appointed to perform the functions of a Commissioner during the illness or absence of a Commissioner;

“adequate airline service”†, in relation to any stopping places at least one of which is within a Territory of the Commonwealth, means a service in respect of which there is in force a declaration made by the Minister and published in the *Gazette* that the service is adequate to meet the needs of the public for transport by air between those stopping places;

“airline licence” means an air-line licence under the Air Navigation Regulations;

“Air Navigation Regulations” means the Air Navigation Regulations under the *Air Navigation Act* 1920-1936 or those regulations as amended from time to time, and includes any regulations in substitution for those regulations;

“air service” means a service established or conducted by the Commission for the transport by air of passengers or goods;

“Australia” includes the Territories of the Commonwealth.

“Chairman” means Chairman of the Commission and includes a Commissioner or person appointed to act as Chairman;

* The date fixed was 17th April, 1946. See *Gazette* 1946, p. 1068.

† This definition was substituted by paragraph (a) of section 3 of the *Australian National Airline Act* 1947.

- "Commissioner" means member of the Commission and includes an Acting Commissioner;
- "contractor", in relation to an interstate airline service or a Territorial airline service, means a person with whom the Commission has entered into a contract in pursuance of section twenty-three of this Act to conduct that service;
- "goods" includes merchandise and chattels of every description, and animals alive or dead;
- "interstate airline service" means a service providing for the transport by air, for reward, of passengers or goods and operating from one place in Australia to another place in Australia and having scheduled stopping places in two or more States;
- "owner" in relation to goods, includes any consignor, consignee, shipper or agent for sale or custody of the goods;
- "scheduled stopping places", in relation to any airline service, means the terminal and scheduled intermediate stops specified in the conditions of any airline licence issued in respect of the service and includes such other stopping places as are prescribed;
- "Territorial airline service" means a service providing for the transport by air, for reward, of passengers or goods and having a scheduled stopping place in a Territory of the Commonwealth;
- "the Commission" means the Australian National Airlines Commission established under this Act;
- "the licensing authority" means the authority having power to issue an airline licence;
- "this Act" includes the regulations and by-laws made under this Act.

5. This Act shall extend to all Territories of the Commonwealth.

Extension of
Act to
Territories.

PART II.—THE NATIONAL AIRLINE SERVICES.

Division 1.—Establishment and Constitution of the Australian National Airlines Commission.

6.—(1.) For the purposes of this Act, there shall be a Commission to be known as the Australian National Airlines Commission which, for those purposes and subject to the provisions of this Act, shall have and may exercise the rights, powers, authorities and functions conferred, and shall be charged with and perform the duties and obligations imposed, upon it by this Act.

Australian
National
Airlines
Commission.

(2.) The Commission shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to any document or notice and shall presume that it was duly affixed.

(4.) The Head Office of the Commission shall be established at such place as the Minister, on the recommendation of the Commission, appoints.

**Composition of
Commission.**

7.—(1.) The Commission shall consist of five Commissioners.

(2.) One of the Commissioners shall be appointed to be Chairman and one shall be appointed to be Vice-Chairman of the Commission.

(3.) The Commissioners shall be appointed by the Governor-General.

**Term of
office of
Commissioners.**

8.—(1.) Subject to this Act, the period for which the Commissioners first appointed under this Act shall hold office shall be, in the case of the Chairman, five years, in the case of the Vice-Chairman, four years, and in the case of the remaining Commissioners, four years, three years and two years respectively.

(2.) After the appointment of the five Commissioners first appointed under this Act, each further appointment shall be for a period of three years.

(3.) In the event of a Commissioner ceasing to hold office prior to the termination of the period of his appointment, another Commissioner may be appointed in his place for the remainder of that period.

(4.) Each person who is appointed a Commissioner shall upon the expiration of the term for which he was appointed, be eligible for re-appointment.

**Remuneration
of
Commissioners.**

9.—(1.) The remuneration of the Commissioners shall be—

(a) in the case of the Chairman—at such rate per annum as the Governor-General approves;

(b) in the case of the Vice-Chairman—at the rate of Five hundred pounds per annum; and

(c) in the case of each other Commissioner—at the rate of Four hundred pounds per annum.

(2.) The Commissioners shall receive travelling and other allowances at such rates as the Governor-General determines.

**Absence of
Chairman.**

10.—(1.) In case of the absence (whether through illness or otherwise) of the Chairman, the Vice-Chairman, if present, shall act as Chairman.

(2.) In case of the absence (whether through illness or otherwise) of both the Chairman and the Vice-Chairman, the Commissioners present may appoint one of their number to act as Chairman:

Provided that the Governor-General may, if he thinks fit, appoint a person to act as Chairman for such period as the Governor-General specifies.

(3.) If the Governor-General appoints a person to act as Chairman, the appointment shall be at such remuneration as is determined by the Governor-General, not exceeding the remuneration fixed, in the case of the Chairman, in pursuance of section nine of this Act.

11.—(1.) In case of the absence (whether through illness or otherwise) of any other Commissioner, the Governor-General may, if he thinks fit, appoint a person to perform the functions of the Commissioner during that absence.

Illness or absence of Commissioners.

(2.) The remuneration of any person so appointed shall be determined by the Governor-General, but shall not exceed the remuneration fixed by paragraph (c) of sub-section (1.) of section nine of this Act.

12. The Governor-General may grant leave of absence to any Commissioner upon such conditions as to remuneration or otherwise as the Governor-General thinks fit.

Determination of conditions of leave of absence of Commissioners.

13. The Governor-General may terminate the appointment of a Commissioner or an Acting Commissioner for inability, inefficiency or misbehaviour.

Dismissal of a Commissioner or Acting Commissioner.

14.—(1.) A Commissioner shall be deemed to have vacated his office—

Vacation of office.

- (a) if his appointment is terminated by the Governor-General in pursuance of this Act;
- (b) if he becomes bankrupt or compounds with his creditors or makes any assignment of his remuneration for their benefit or takes advantage of any provision of any Act relating to bankruptcy;
- (c) if he becomes of unsound mind;
- (d) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation is accepted by the Governor-General;
- (e) if he absents himself (except with leave granted by the Governor-General) from three consecutive meetings of the Commission; or
- (f) if he, in any way—
 - (i) becomes concerned or interested in any contract or agreement entered into by or on behalf of the Commission; or
 - (ii) participates, or claims to participate, in the profit of any such contract or agreement or in any benefit or emolument arising from the contract or agreement.

Sub-section (1.) amended by No. 102, 1952, s. 2.

Substituted by
No. 102, 1952,
s. 2.

(2.) A Commissioner shall not be deemed—

- (a) to become concerned or interested in a contract or agreement specified in paragraph (f) of the last preceding sub-section; or
- (b) to participate, or to claim to participate, in the profit of, or in any benefit or emolument arising from, such a contract or agreement,

by reason only—

- (c) of his being a director of, and in receipt of director's fees as such from, a company consisting of more than twenty-five persons which has entered into a contract or agreement with the Commission, if, at a meeting of the Commission held prior to the entering into of the contract or agreement, the Commissioner has declared the nature of his interests in that company;
- (d) of his being a member of a company consisting of more than twenty-five persons which has entered into a contract or agreement with the Commission; or
- (e) of his entering into, or obtaining a benefit arising from, a contract or agreement between the Commission and himself for the transport by the Commission of himself or another person or of any goods.

Meetings of
Commission.

15.—(1.) The Commission shall hold such meetings as, in the opinion of the Chairman or at least three other Commissioners, are necessary for the efficient conduct of its affairs.

(2.) At meetings of the Commission three Commissioners shall form a quorum, and the Chairman shall have a deliberative vote, and, in the event of an equality of votes, a second or casting vote.

(3.) Any question arising at any meeting of the Commission shall be determined by a majority of the votes of the Commissioners present.

(4.) The general manager shall, as far as practicable, attend all meetings of the Commission:

Provided that, if the Commission so directs, he shall temporarily retire from any meeting.

Delegation of
powers by
Commission.

16.—(1.) The Commission may in relation to any particular matters or class of matters or to any particular part of Australia, by writing under its seal, delegate to any officer or employee or other prescribed person all or any of its powers under this Act (except this power of delegation), so that the delegated powers may be exercised by him with respect to the matters or class of matters or the part of Australia specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Commission.

17.—(1.) The Commission shall appoint a general manager, who shall be the chief executive officer of the Commission, and it may appoint such other officers as it thinks necessary. Appointment of officers.

(2.) The officers of the Commission shall constitute the Service of the Commission.

(3.) A person shall not be admitted to the Service of the Commission unless—

- (a) he is a natural-born or naturalized British subject;
- (b) the Commission is satisfied, upon such medical examination as is prescribed, as to his health and physical fitness; and
- (c) he makes and subscribes an oath or affirmation of allegiance in accordance with the prescribed form,

and shall not be appointed to a clerical office in that Service unless he has in open competition successfully passed the prescribed entrance examination:

Provided that the Commission may appoint, to such positions or positions of such classes as are prescribed, persons who do not possess all the qualifications specified in this sub-section.

(4.) Appointments to positions which are open only to persons who have passed the prescribed entrance examination shall be made in order of merit of their passing that examination.

(5.) Adequate notice and particulars of the prescribed entrance examination shall be given by the Commission, to the public, by advertisement in the *Gazette* and daily newspapers.

(6.) The rate of salary payable to the general manager shall be subject to the approval of the Governor-General.

(7.) The rate of salary payable to any other officer shall, if it exceeds the rate of Fifteen hundred pounds per annum, be subject to the approval of the Minister.

(8.) Officers appointed by the Commission shall, subject to this section, be subject to such terms and conditions of employment (including conditions with respect to punishment for breaches of discipline) as are determined by the Commission.

* * * * *

18. The Commission may appoint such temporary or casual employees as it thinks fit, on such terms and conditions as the Commission determines.

Sub-section (9.) omitted by L.C. 102, 1952, s. 3.*
Temporary and casual employees.

18A.† Where a person appointed in pursuance of either of the last two preceding sections was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his

Preservation of rights.
Inserted by No. 102, 1952, s. 4.

* This sub-section was omitted by sub-section (1.) of section 3 of the *Australian National Airlines Act 1952*. Sub-section (2.) of that section reads:—

"(2.) This section shall be deemed to have come into operation on the seventeenth day of April, One thousand nine hundred and forty-six."

† This section was inserted by sub-section (1.) of section 4 of the *Australian National Airlines Act 1952*. Sub-section (2.) of that section reads:—

"(2.) This section shall be deemed to have come into operation on the seventeenth day of April, One thousand nine hundred and forty-six."

service or employment, or both, under this Act, shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* applies as if this Act and the last two preceding sections had been specified in the Schedule to that Act.

Division 2.—Powers, Functions and Duties of the Commission.

General
functions and
duties of
Commission.
Sub-section (1.)
amended by
No. 90, 1947,
s. 4.

19.—(1.) For the purposes of this Act and subject to the provisions of this Act and of the Air Navigation Regulations and with full regard to safety, efficiency and economy of operation the Commission may do all that is necessary or convenient to be done for, or as incidental to, in relation to, or in connexion with, the establishment, maintenance or operation by the Commission of airline services for the transport, for reward, of passengers and goods by air—

- (a) between any place in a State and any place in another State;
- (b) between any place in any Territory of the Commonwealth and any place in Australia outside that Territory; and
- (c) between any place in any Territory of the Commonwealth and any other place in that Territory, or for the transport of mails by air between any places in Australia in pursuance of an agreement entered into under section twenty-two of this Act.

(2.) It shall be the duty of the Commission to exercise the powers conferred by the last preceding sub-section, as fully and adequately as may be necessary to satisfy the need for the services specified in that sub-section, and to carry out the purposes of this Act.

Amended by
No. 90, 1947,
s. 4.

(3.) The Commission, with the approval of the Minister, shall have, and may exercise in relation to airline services between any place in Australia and any place outside Australia, the like powers as it has in relation to airline services specified in sub-section (1.) of this section.

Intra-state
services in
pursuance of
powers referred
by State
Parliaments.
Inserted by
No. 90, 1947,
s. 5.

19A.—(1.) Where the Parliament of any State has, prior to the commencement of this section, by any State Act, referred to the Parliament of the Commonwealth the matter of air transport, or the matter of the regulation of air transport, the Commission may, subject to this section, during the period of operation of that State Act, or during any extension of that period—

- (a) establish airline services for the transport for reward of passengers and goods within that State; and
- (b) maintain and operate airline services for any such transport,

and shall have, in relation to any such service, the like powers as it has in relation to airline services specified in sub-section (1.) of the last preceding section.

(2.) The Commission shall not—

- (a) establish any service which it could not lawfully establish but for this section unless the Premier of the State in which the service is to be established has notified the Prime Minister in writing that he consents to the establishment and operation of the service; or
- (b) continue the operation of any service in respect of which consent has been given under the last preceding paragraph after the Premier has notified the Prime Minister in writing that he withdraws his consent to the operation of that service.

(3.) The Commission shall, in respect of any service operated by it in pursuance of consent under the last preceding sub-section by the Premier of a State, pay to the State from time to time amounts equivalent to the licence fees (if any) which would be payable under the law of the State if the service were operated by a person other than the Commission.

20. The Commission may, in the conduct of an air service, transport all such passengers and goods as are offered for that purpose and may demand such fares and charges, and impose such conditions, in respect of that transport, as it determines.

Fares and charges.
Substituted by
No. 102, 1952,
s. 5.

21.—(1.) Subject to this Act, the Commission may—

- (a) acquire by lease or purchase any land, buildings, easements or other property (whether real or personal), rights or privileges which it thinks necessary for the purposes of this Act; and
- (b) exchange, lease, dispose of, turn to account or otherwise deal with, any property, rights or privileges of the Commission.

Power to purchase and dispose of assets.

(2.) The Commission shall not, without the approval of the Minister—

- (a) acquire by purchase any land the cost of acquisition of which exceeds the sum of Five thousand pounds;
- (b) enter into any lease of land for a period exceeding five years; or
- (c) in any manner dispose of any property, right or privilege having an original or book value exceeding the sum of Five thousand pounds.

(3.) The Commission shall not, without the consent of the Minister, enter into any contract in any case where the contract is for the supply, either directly or indirectly, from places outside Australia, of aircraft, equipment or materials of a greater value than Ten thousand pounds.

Contracts for
transport of
mails.

22. The Commission may enter into any agreement or contract with the Minister on behalf of the Commonwealth for the transport of mails by air.

General
contractual
powers of
Commission.

23. Subject to this Act, the Commission may contract for the execution of any work or service authorized by this or any other Act to be executed by the Commission, in such manner, upon such terms, for such sums, and under such stipulations, conditions, and restrictions as the Commission thinks proper.

Commission to
be common
carrier.

24. For the purposes of this Act the Commission shall be deemed to be a common carrier of passengers and goods and (except as by this Act otherwise provided) shall be subject to the obligations and entitled to the privileges of common carriers of passengers and goods.

Alterations
made by
direction of
Minister.

25.—(1.) The Minister may, if he is satisfied that it is in the interests of the development of Australia so to do, direct the Commission to establish, alter or continue to maintain any interstate airline service or Territorial airline service specified by the Minister.

(2.) If, at the direction of the Minister, the Commission establishes, alters or continues to maintain an airline service and satisfies the Minister that the airline service so established, altered or continued to be maintained has been operated at a loss in any financial year and if, after due provision is made for reserves, a loss results in that financial year from the whole of the operations of the Commission, the Commission shall be entitled to be reimbursed by the Commonwealth to the extent of the first-mentioned loss or to the extent of the second-mentioned loss, whichever is the less.

Contracts by
the
Commission—
how made.

26.—(1.) Any contract which, if made between private persons, would by law be required to be in writing and under seal, may be made by the Commission in writing in its corporate name under its common seal, and may be varied or discharged in the same manner.

(2.) Any contract which, if made between private persons, would by law be required to be in writing and signed by the parties to be charged with the contract, may be made by the Commission in writing in its corporate name, and may be varied or discharged in the same manner.

(3.) Every contract made according to the provisions contained in this section and duly executed by the parties to the contract respectively shall be effectual in law and shall be binding upon the Commission and all other parties to the contract, their successors, heirs, executors and administrators.

Commission
may
compound for
breach of
contract.

27. The Commission may compound and agree with any person with whom any contract has been entered into by the Commission in pursuance of, or under the authority of, this Act, or against whom any action or suit is brought for any penalty contained in the

contract, or in any bond or other security for the performance of the contract, or for or on account of any breach or non-performance of the contract, bond or security, for such sum of money or other consideration as the Commission thinks proper.

28. Nothing in this Act shall be construed to confer on the Commission any powers which, for the time being, are exercisable under the Air Navigation Regulations by the Minister or any other authority.

Limitation of powers.

29. The provisions of the Air Navigation Regulations shall, so far as applicable, apply to and in relation to the Commission in like manner as they apply to and in relation to other persons.

Application of Air Navigation Regulations.

Division 3.—Finances of the Commission.

30.—(1.) The Treasurer may make available to the Commission, out of moneys appropriated by the Parliament for the purpose, such amounts as are, in the opinion of the Minister, required by the Commission and the Commission may accept more amounts.

Capital of the Commission.
Substituted by No. 102, 1952, s. 6.

(2.) The capital of the Commission consists of the amounts advanced by the Treasurer to the Commission before the commencement of this section and of the amounts made available by the Treasurer to the Commission under the last preceding sub-section.

(3.) Interest is not payable to the Commonwealth on the capital of the Commission but the Commission shall pay to the Commonwealth, out of the profits of the Commission for a financial year, such amount as the Treasurer determines.

(4.) The capital of the Commission is repayable to the Commonwealth at such times and in such amounts as the Treasurer determines.

(5.) Before making a determination under either of the last two preceding sub-sections, the Treasurer shall consult the Minister and shall have regard to any advice which the Commission has furnished to the Treasurer in relation to the financial affairs of the Commission.

31.—(1.) The Commission may borrow money for temporary purposes on overdraft from the Commonwealth Bank of Australia, or from such other bank as the Treasurer approves, but the aggregate of the amounts borrowed by the Commission under this sub-section and not re-paid shall not exceed One million pounds.

Borrowings by the Commission.
Substituted by No. 102, 1952, s. 6.

(2.) The repayment of amounts borrowed under the last preceding sub-section, and the payment of interest on amounts so borrowed, may be secured against the whole or any part of the assets of the Commission.

32. The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and shall submit those estimates to the Minister.

Commission to prepare annual estimates.

Moneys
uninvested
may be lodged
in Bank.

33. Moneys held by the Commission which are uninvested may be lodged either in an account at call or on fixed deposit, or partly in an account at call and partly on fixed deposit, with the Commonwealth Bank of Australia or with such other bank as the Minister approves, and while so lodged shall be held to be moneys of the Crown.

Application of
moneys.

34. Subject to this Act, the moneys of the Commission may be applied as follows:—

- (a) In payment of the expenses and charges and in discharge of other obligations incurred or undertaken by the Commission in the exercise of its powers, duties and functions under this Act;
- (b) In payment of the remuneration and allowances of the Commissioners and the salaries, wages and allowances of officers and employees of the Commission; and
- (c) In investment in any securities of, or guaranteed by, the Government of the Commonwealth.

Accounts.

35. The Commission shall keep its accounts in such form as is approved by the Treasurer.

Audit.

36.—(1.) The accounts of the Commission shall be subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth.

(2.) The Auditor-General shall report to the Minister the result of each inspection and audit.

Liability of
Commission to
pay rates,
taxes and
charges.

Sub-section (1.)
amended by
No. 102, 1952,
s. 7 (1.) (a).

Sub-sections (2.)
and (3.) added by
No. 102, 1952,
s. 7 (1.) (b).

37.—(1.) The Commission shall pay all rates, taxes and charges imposed by or under any law of the Commonwealth and such other rates, taxes or charges as the Minister specifies.

(2.)* The Commission is not a public authority for the purposes of paragraph (d) of section twenty-three of the *Income Tax and Social Services Contribution Assessment Act 1936-1952*.

(3.) The Commission is not a public transport authority for the purposes of item 77 in the First Schedule to the *Sales Tax (Exemptions and Classifications) Act 1935-1952*.

Profits of the
Commission.

Substituted by
No. 102, 1952,
s. 8.

38.—(1.) For the purposes of this Act, the profits of the Commission for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure incurred in respect of that financial year.

* This sub-section was added by paragraph (b) of sub-section (1.) of section 7 of the *Australian National Airlines Act 1952*. Sub-section (2.) of that section reads—

"(2.) Sub-section (2.) of section thirty-seven of the Principal Act, as added by this section, shall be deemed to have come into operation on the first day of July, One thousand nine hundred and fifty-two".

(2.) For the purposes of the last preceding sub-section, the expenditure of the Commission includes—

- (a) charges and expenses accrued but not paid;
- (b) provision for obsolescence and depreciation of assets;
- (c) provision for insurance;
- (d) provision for staff superannuation; and
- (e) provision for income tax and social services contribution.

(3.) The profits of the Commission for a financial year shall be applied in the first place in payment of such sums as the Treasurer determines under sub-section (3.) of section thirty of this Act; the balance (if any) shall be applied in such manner as the Minister, with the concurrence of the Treasurer, determines.

(4.) Before a determination is made under the last preceding sub-section, the Minister and the Treasurer shall have regard to any advice which the Commission has furnished to them in relation to the financial affairs of the Commission.

* * * * *

S. 39 repeated
by No. 102,
1952, s. 8.

Division 4.—Reports.

40.—(1.) The Commission shall, as soon as possible after the close of each financial year, submit to the Minister an annual report with respect to the operations of the Commission and financial accounts, in respect of that year, in such form as the Treasurer approves.

Annual report
by Commission.

(2.) The annual report and financial accounts, accompanied by a certificate of the Auditor-General, shall be laid before both Houses of the Parliament within fifteen sitting days after their receipt by the Minister.

41. The Commission shall furnish all such reports, documents, and information relating to the operations of the Commission as the Minister requires.

Further reports
to Minister.

PART III.—COMPULSORY ACQUISITION OF AIRCRAFT AND OTHER PROPERTY.

42. The Commission may for the purposes of this Act, by notice served on the owner or published in the *Gazette*, acquire any aircraft or other property (not being land) required for the purposes of the Commission.

Power to
acquire.

43. Upon the service of the notice on the owner or the publication of the notice in the *Gazette* the aircraft or property described in the notice shall, by force of this Act—

Property to
vest in
Commission.

- (a) become the absolute property of the Commission; and
- (b) be freed and discharged from all trusts, obligations, interests, contracts, charges, liens and pledges affecting the aircraft or property,

and the rights and interests of every person in the aircraft or other property (including any rights or interests arising in respect of any moneys advanced in respect of the aircraft or property) shall thereupon be converted into claims for compensation, which may be made and shall be dealt with in accordance with the provisions of this Act.

Duty of owner to deliver up possession of property acquired.

44. Where any property is acquired under section forty-two of this Act, the person from whom the property is acquired, and every person in whose possession or custody or under whose control the property may be, shall deliver up the property in accordance with the terms of the notice by which the acquisition is made.

Penalty: One hundred pounds or imprisonment for six months, or both.

Power to require the doing of acts, &c., to facilitate acquisition of property.

45. For the purpose of enabling the Commission to exercise the power conferred by section forty-two of this Act and for facilitating that exercise, the Commission and any person thereto authorized by the Commission shall have such powers as are prescribed.

Airline licences to be inoperative in certain circumstances.

Sub-section (1.) omitted by No. 90, 1947, s. 6.

Amended by No. 90, 1947, s. 6.

PART IV.—LIMITATIONS IN RESPECT OF AIRLINE SERVICES.

46.—(1.) * * * * *

(2.) Where an airline licence is issued to the Commission in respect of a Territorial airline service and the Commission has established that service, any airline licence held by any person, other than the Commission or a contractor, in respect of any airline service which provides transport by air between any of the scheduled stopping places of the service established by the Commission, at least one of which is within a Territory of the Commonwealth, shall, by virtue of this section (unless it has been issued in respect of a section of an international airline service authorized by the Commonwealth) and insofar as it authorizes transport by air between any of those stopping places of passengers or goods embarked or loaded for transport solely between those stopping places, be inoperative, and shall not be renewed, so long as there is an adequate airline service between those stopping places by reason only of the services operated by the Commission and the services operated by contractors.

Limitation with respect to issue of airline licences.

Amended by No. 90, 1947, s. 7.

47. The licensing authority shall not issue to any person, other than the Commission or a contractor to whom the Commission has requested the licensing authority to issue the licence—

* * * * *

- (b) in respect of a Territorial airline service (not being a section of an international airline service authorized by the Commonwealth)—an airline licence which would authorize transport by air between any scheduled stopping places, at least one of which is within a Territory of the Commonwealth, of any airline service operated by the Commission or any contractor, unless, and except to the extent to which, the licensing authority is satisfied that, having regard to the airline services operated by the Commission and contractors, the issue of the licence is necessary to meet the needs of the public with respect to Territorial airline services.

48. Where the Commission applies for an airline licence for an airline service, and any other person holds an airline licence in respect of a service which provides transport by air between any of the scheduled stopping places of the service, at least one of which is within a Territory of the Commonwealth, it shall—

Notice by Commission of proposal to establish airline service.
Amended by No. 90, 1947, s. 8.

- (a) publish in the *Gazette* and daily newspapers a notice of the fact; and
(b) at least thirty days before establishing the service, publish in the *Gazette* and daily newspapers notice of the day on which the service is to be established.

49. A person shall not enter into a contract—

- (a) to transport by air for reward any person or goods;
(b) to be transported by air for reward; or
(c) to have any other person or any goods transported by air for reward,

Limitations on power to contract.
Amended by No. 90, 1947, s. 9.

in the course of the operation of any prescribed Territorial airline service operated by any person, other than a person holding an airline licence in respect of that service, not being a licence which is inoperative by virtue of section forty-six of this Act.

Penalty: Five hundred pounds.

PART V.—COMPENSATION.

50.—(1.) For the purposes of this Part there shall be a Compensation Board, consisting of a Chairman and two other persons, appointed by the Minister.

Compensation Board.

(2.) The Compensation Board shall include—

- (a) a person who holds, or has held office as a Police, Stipendiary or Special Magistrate, who shall be the Chairman; and
(b) a qualified practising accountant.

(3.) The Minister may appoint one or more persons having specialized knowledge of the subject-matter of the claim to act as assessors to assist the Compensation Board.

(4.) At least one of the assessors appointed to assist the Board or, where only one assessor is appointed, that assessor, shall be a person who is not otherwise in the employ of the Commonwealth or an authority of the Commonwealth.

(5.) There may be paid to any member of the Compensation Board and to any assessor such remuneration (if any) for his services and such travelling allowances (if any) as the Minister directs.

(6.) Where, during or after the hearing of any claim, the Chairman, or either of the other members of the Compensation Board, is unable on account of death, illness or otherwise to proceed with the hearing or determination, the remaining members may continue with the hearing and determination, or the determination, as the case may be.

(7.) A member who has been absent during any part of the hearing of a claim shall not be eligible to take any further part in the hearing and determination of that claim.

(8.) If the Commission and the claimant consent, the Chairman of the Compensation Board may sit alone for the hearing of any claim, and in any such case the determination of the Chairman shall be of the same force and effect as if it were the determination of the Board.

Deputies.

51.—(1.) The Minister may appoint a person (including a member of the Board) to be the Deputy Chairman of the Compensation Board during any absence of the Chairman.

(2.) The Minister may appoint a person to be the Deputy of any member (other than the Chairman) of the Compensation Board during any absence of the member, or at any time when the member is acting as Deputy of the Chairman of the Board.

(3.) A person appointed under this section shall, while acting as Deputy, have all the powers and perform all the functions of the member of the Board for whom he is the Deputy, and any reference in this Act to a member of the Board shall be read as including a reference to the Deputy of a member so acting.

(4.) It shall not be necessary for a person appointed under this section to have any qualification possessed by the member of whom he is appointed to be the Deputy.

Claims for compensation.

52.—(1.) Any person who suffers loss or damage by reason of any acquisition of property under Part III. of this Act or by reason of the application of section forty-six of this Act to an airline licence, shall, subject to this section, be paid such compensation as is determined by agreement between the Commission and the person concerned.

(1A.) An agreement under the last preceding sub-section shall be subject to the approval of the Minister.

(2.) In the absence of any such agreement, the person suffering any such loss or damage may, within six months after the acquisition or application of section forty-six of this Act on which the claim is based or within such further period as the Commission allows, make a claim in writing to the Commission for compensation.

(3.) A claim for compensation under this section shall state—

- (a) the amount of compensation claimed;
- (b) the nature of the interest on which the claim is founded;
- (c) whether the claimant is aware of any, and if so what, interests in the property or airline licence vested in any other person; and
- (d) the claimant's address for service of notices.

(4.) Where any person referred to in sub-section (2.) of this section has failed to make, within the period specified in that sub-section, a claim for compensation under this section, he may, notwithstanding the expiration of that period, apply to the High Court for leave to make a claim.

(5.) If the Court is satisfied that the failure to make a claim within that period was due to lack of knowledge of the acquisition or of the application of section forty-six of this Act to the airline licence or to a mistake or other reasonable cause, the Court may grant him leave to make a claim within such period as is specified by the Court.

(6.) An application to the Court for leave under this section may be made to and determined by a single judge of the Court, sitting as or for the Court or in chambers, and the powers, practice and procedure of the Court in the application shall be as nearly as may be in accordance with its powers, practice and procedure in interlocutory applications in civil actions or suits.

53.—(1.) Where a claim for compensation is made in pursuance of the last preceding section, the Commission shall, as soon as practicable, serve on the claimant either by post at the address given in the claim or personally, a notice stating—

Determination
of
compensation.

(a) the amount of compensation which it considers reasonable; or

(b) that, in its opinion, the claimant is not entitled to any compensation,

as the case may be.

(2.) Where a notice in pursuance of paragraph (a) of the last preceding sub-section is served on the claimant, it shall be deemed to be an offer accepted by the claimant in full satisfaction of all claims for loss or damage suffered by reason of the acquisition or of the application of section forty-six of this Act to the airline licence, and the amount shall be payable to him by the Commission according to the tenor of the notification, unless, within one month or such further period as the Minister allows after receipt of the

notice, he requests the Commission, by notice served either by post at the address given in the notice served on the claimant or personally, to refer the claim to the Compensation Board.

(3.) Where a notice in pursuance of paragraph (b) of sub-section (1.) of this section is served on the claimant, he shall be deemed to have abandoned his claim for compensation and shall not have any right of action in respect of the subject-matter of the claim, unless, within one month or such further period as the Minister allows after the receipt of the notice, he requests the Commission, by notice served either by post at the address given in the notice served on the claimant or personally, to refer the claim to the Compensation Board.

(4.) If a notice in pursuance of sub-section (1.) of this section is not served on the claimant within two months after he makes a claim under the last preceding section, the claimant may by notice served by post or personally request the Commission to refer the claim to the Compensation Board.

(5.) Where the Commission has been requested to refer a claim to the Compensation Board, the Commission shall as soon as practicable forward the claim to the Compensation Board, together with a notice stating the address at which notices may be served by the Board on the Commission.

Assessment by
Compensation
Board.

54.—(1.) Where the Commission refers a claim to the Compensation Board, the Board shall assess the compensation, if any, which it thinks just, and shall, as soon as practicable, serve—

(a) on the Commission, by post at its address for service; and

(b) on the claimant, either personally, or by post at the address given in the claim, or at his last-known place of abode or business,

a notice stating the compensation so assessed.

(2.) Subject to the next succeeding section the compensation so notified shall be deemed to be accepted by the claimant in full satisfaction of all claims for loss or damage suffered by reason of the acquisition or the application of section forty-six of this Act out of which the claim arose, and shall become payable to him by the Commission according to the tenor of the notification.

Applications
for review.

55.—(1.) If either the Commission or the claimant is dissatisfied with the assessment of the Compensation Board, the Commission or the claimant may, within one month after receipt of the notice of the assessment of the Board, apply to the High Court for a review of the assessment.

(2.) An application under the last preceding sub-section shall be made in writing to the Principal Registrar or a Deputy Registrar of the Court, and shall be accompanied by a true copy of the application for endorsement and service.

(3.) Upon receipt of the application, the Principal Registrar or the Deputy Registrar shall appoint a time for the hearing of the application, and shall endorse on the true copy of the application the place and time of hearing and return it to the applicant.

(4.) The applicant shall, not less than one month before the day fixed for the hearing, serve on the other party (in this section referred to as "the respondent") in accordance with the practice of the Court relating to service of writs or summonses, the endorsed copy of the application.

(5.) Upon the day fixed the Court may, on proof of due service of the copy of the application, or if the respondent appears to contest the application, proceed to hear the application, and to determine whether any compensation is payable and, if so, the compensation which it thinks just, and may make an order for payment by the Commission of the compensation so determined.

(6.) The Court may, in any review under this section, award such costs as it thinks fit.

(7.) In any matter not provided for in this Part the powers, practice and procedure of the Court shall be as nearly as may be in accordance with the powers, practice and procedure of the Court in civil actions or suits.

56. In determining the compensation (if any) payable under this Part in respect of loss or damage suffered by reason of the application of section forty-six of this Act to any airline licence, the Commission, the Minister, the Compensation Board or the High Court shall not have regard to any matter arising, or which might have arisen, out of anything done or expected to be done in or in relation to any period after the date on which, but for the application of that section to the licence, it would (if not renewed) have expired by effluxion of time.

Limitation of
compensation.
Amended by
No. 90, 1947,
s. 11.

57. In any case where compensation, or part of the compensation, has not been paid within three months after the loss or damage in respect of which the compensation is payable was suffered, the Commission may, if in its discretion it thinks fit, authorize the payment of interest at such rate (not exceeding four per centum per annum) as it determines on the compensation or part of the compensation for the period commencing three months after that loss or damage was suffered and ending on the date of payment.

Interest on
compensation.

58. No action, other than an action for the recovery of compensation determined by agreement or in pursuance of this Part, shall be maintained against the Commonwealth or the Commission or any other person in respect of any acquisition of property under Part III. or the application of section forty-six of this Act to any airline licence.

Other rights of
action barred.

Rules.

59.—(1.) The Governor-General may make rules as to the conduct of the proceedings of the Compensation Board and, in particular, as to—

- (a) the summoning and examination of witnesses and the production of books, documents and papers;
- (b) the administration of oaths and affirmations;
- (c) the protection of members of the Board and of witnesses summoned to attend or appearing before it;
- (d) the appearance or representation before the Board of the claimant and of the Commission; and
- (e) the fees payable to witnesses.

(2.) The *Acts Interpretation Act* 1901-1941 shall apply to rules made under this section in like manner as it applies to regulations.

PART VI.—PENALTIES AND PROCEDURE.

Recovery of fares or charges.

60. If on demand any person fails to pay the fares or charges due to the Commission in respect of any service rendered by the Commission, the Commission—

- (a) may detain and sell all or any of the goods of the person which are in his possession, and out of the moneys arising from the sale retain the fares or charges so payable, and all charges and expenses of the detention, and shall render the surplus, if any, of the moneys arising by the sale and such of the goods as remain unsold, to the person entitled to that surplus; or
- (b) may recover the fares and charges in any court of competent jurisdiction.

Damage to be made good in addition to penalty.

61. If any person inflicts, through any act, neglect, or default whereby he has, on conviction, incurred any penalty imposed by this or any other Act, any damage upon any aircraft or other property vested in the Commission he shall be liable to pay that damage in addition to the penalty, and the amount of that damage shall be determined by the court by which he was convicted.

Arrest of offenders.

62.—(1.) Any officer, employee or agent of the Commission and any person called by him to his assistance may seize and detain any person who has committed any offence against the provisions of this Act and whose name and residence are unknown to the officer, employee or agent, and may, without any warrant or other authority than this Act, convey him with all convenient despatch before a court of summary jurisdiction.

(2.) The court may proceed with all convenient despatch to the hearing and determination of the complaint against the offender.

(3.) Notwithstanding anything contained in any other Act, any justice or justices of the peace of a State sitting at any place as a court for the summary punishment of offences under the law of the

State shall, at that place, have jurisdiction to hear and determine the complaint against an offender who is seized and detained under this section and who cannot be brought before a Police, Stipendiary or Special Magistrate within seventy-two hours after he has been brought to that place for the purpose of the hearing and determination of the complaint, or, if he was seized at that place, within seventy-two hours after he was so seized.

63. All actions against the Commission or against any person for or arising out of anything done or purporting to have been done under this Act, shall be commenced within six months after the act complained of was committed.

Limitation of actions against the Commission.

64.—(1.) No action against the Commission or any person for or arising out of anything done, or purporting to have been done, by it under this Act—

Notices of occurrence of cause of action and of intended action.

- (a) shall be maintainable unless, as soon as practicable after the occurrence of the cause of action, notice of the occurrence of the cause of action has been delivered to the Commission or the person or at the office of the Commission or the person by or on behalf of the person bringing the action; or
- (b) shall be brought until one month, at least, after a notice in writing of the intended action has been delivered to the Commission or the person, or left at the office of the Commission or the person, by the party intending to commence the action, or by his attorney or agent:

Provided that the want of, or any defect or inaccuracy in, the notice specified in paragraph (a) of this sub-section shall not be a bar to the maintenance of an action if it is found that the Commission or person is not or would not, if a notice were then given and the hearing postponed, be prejudiced in its or his defence by the want of, or the defect or inaccuracy in, the notice, or that the want of, or defect or inaccuracy in, the notice was occasioned by mistake or other reasonable cause.

(2.) The notice of the intended action shall clearly and explicitly state the cause of action and the court in which it is intended to be brought, and upon the back of the notice shall be endorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the attorney or agent, if the notice was served by the attorney or agent.

PART VII.—MISCELLANEOUS.

65.—(1.) Upon the occurrence of any accident in connexion with the operation of any air service, the Commission may require any person, who, in the opinion of the Commission, may have been

Medical examination of persons injured in accident.

injured in the accident, to be examined at the cost of the Commission by one or more duly qualified medical practitioners nominated by the Commission and, unless the examination would thereby be delayed for a period of at least twenty-four hours, the person may require that the examination shall take place in the presence of a medical practitioner to be nominated and paid by the person.

(2.) If any person refuses or fails to undergo examination in accordance with the provisions of the last preceding sub-section, no damages or compensation shall be recoverable against the Commission in respect of personal injury to that person arising out of the accident unless he satisfies the court in which the action is brought that—

- (a) his refusal or failure to undergo examination was reasonable in the circumstances; or
- (b) the Commission is not prejudiced in its defence by the refusal or failure of the person to undergo examination.

Limit of
damages for
personal
injury.

66. Subject to the *Carriage by Air Act 1935*, in any action brought against the Commission to recover damages or compensation in respect of personal injury, the court or jury shall not find or assess nor shall judgment be given or entered for the plaintiff for any amount of money exceeding the amount following, that is to say:—

If the personal injury results in death, Two thousand pounds;

If the personal injury results in permanent disablement, Two thousand pounds;

If the personal injury results in temporary disablement, One thousand pounds.

Application
of the
*Commonwealth
Employees'
Compensation
Act 1930-1944.*

67. The *Commonwealth Employees' Compensation Act 1930-1944* shall apply to employees of the Commission as if they were employees within the meaning of that Act.

Insurance.

68. The Commission may enter into such contracts, agreements or arrangements as it thinks fit for the purpose of insuring, against the risks of injury, loss or damage from accidents occurring in connexion with the operation of air services, passengers or goods carried or about to be carried by aircraft engaged in those air services.

By-laws.

69.—(1.) The Commission may make by-laws, not inconsistent with this Act, prescribing matters providing for or in relation to—

- (a) the operation of the air services, and the conditions governing the performance of any service which the Commission may under this Act carry out or authorize;

- (b) the protection and preservation of property of, or in the custody or under the control of, the Commission;
- (c) the maintenance of order in connexion with the operation of the air services;
- (d) the disposal of unclaimed goods in the possession of the Commission;
- (e) the prohibition of any interference with the air services or any property of the Commission or of any interference with or obstruction of any officer or employee of the Commission;
- (f) the limitation of the liability of, and the conditions governing the making of claims upon, the Commission in respect of any damage to or loss of any goods; and
- (g) the provision of penalties not exceeding Fifty pounds or imprisonment for any period not exceeding three months for the breach of any by-law.

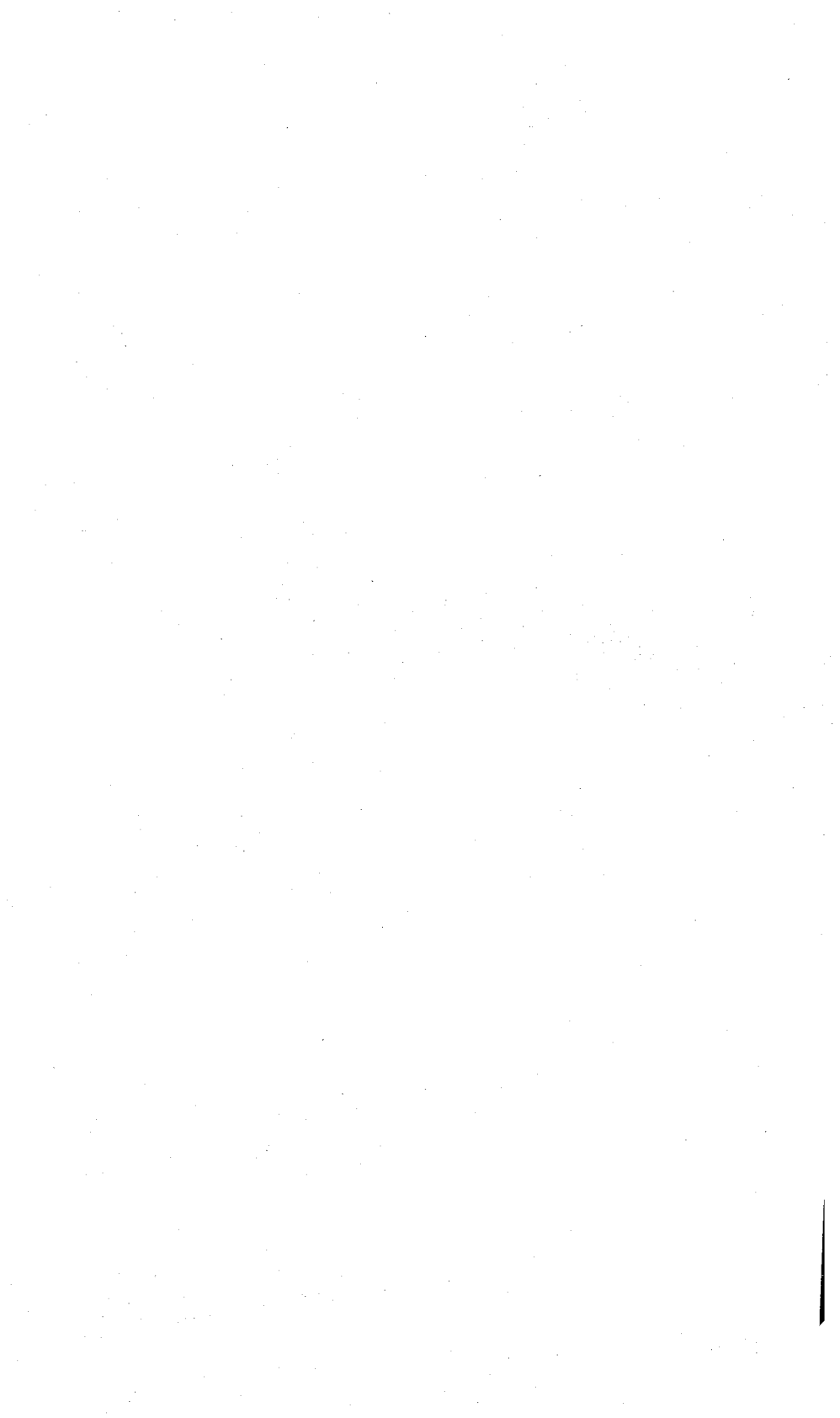
(2.) No by-law shall have any force or effect until it has been—

- (a) approved by the Governor-General; and
- (b) published in the *Gazette*.

(3.) By-laws shall be deemed to be Statutory Rules within the meaning of the *Rules Publication Act* 1903-1941.

(4.) Sections forty-eight and forty-nine of the *Acts Interpretation Act* 1901-1941 shall apply to by-laws in like manner as they apply to regulations.

70. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding a fine of Fifty pounds or imprisonment for any period not exceeding three months, or both, for breaches of the regulations. Regulations.



CIVIL AVIATION AGREEMENT.

No. 100 of 1952.

An Act to approve an Agreement made between the Commonwealth and Australian National Airways Proprietary Limited, and for purposes connected therewith.

[Assented to 18th November, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Civil Aviation Agreement Act* 1952. Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. The agreement made between the Commonwealth and Australian National Airways Proprietary Limited, being the agreement a copy of which is set forth in the Schedule to this Act, is approved. Approval of agreement.
4. The Commonwealth may give such guarantees, and make such advances on loan, as are provided for by the agreement referred to in the last preceding section. Guarantees and advances.
5. The Australian National Airlines Commission constituted under the *Australian National Airlines Act* 1945-1947 shall do all such things as the agreement referred to in section three of this Act provides that the Commission will do. Australian National Airlines Commission to comply with agreement.

THE SCHEDULE.

Section 3.

AN AGREEMENT made the twenty-fourth day of October, One thousand nine hundred and fifty-two BETWEEN the COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and AUSTRALIAN NATIONAL AIRWAYS PROPRIETARY LIMITED, a company incorporated under the laws of the State of Victoria relating to companies and whose registered office is situated at 390 Flinders Street Melbourne in the said State (in this agreement called "the Company") of the other part :

WHEREAS the Australian National Airlines Commission constituted under the *Australian National Airlines Act 1945-1947* of the Commonwealth (in this agreement called "the Commission") and the Company are the major operators of airline services in Australia for the transport of passengers and goods :

AND WHEREAS in order to facilitate trade and commerce among the States, provide for the efficient carriage of mail by air within Australia and assist the defence of the Commonwealth it is expedient in the opinion of the Commonwealth to make provision for the purpose of ensuring—

- (a) the continued existence of the Company, as well as of the Commission, as an operator of airline services within Australia ;
- (b) the maintenance of competition between the Commission and the Company ; and
- (c) the efficient and economical operation of air services within Australia :

AND WHEREAS for the attainment of those purposes it is necessary to make arrangements for the operation of air services within Australia and to provide assistance to the Company in manner provided in this agreement :

NOW IT IS HEREBY AGREED by and between the parties to this agreement as follows :—

Approval by
Parliament.

1. This agreement shall have no force or effect and shall not be binding on either party unless and until it is approved by the Parliament of the Commonwealth.

Commencement.

2. This agreement shall commence and come into full force and effect upon the date upon which it is so approved.

Financial
assistance.

3.—(1.) Subject to this clause, the Commonwealth will, at the request of the Company, guarantee the repayment to the Commonwealth Bank of Australia of a loan or loans not exceeding in all the sum of Three million pounds (£3,000,000) to be made by that bank to the Company for the purchase of not more than six heavy aircraft of the Vickers "Viscount" or other type required by the Company for use in its air services within Australia together with necessary spare engines, spare parts and accessories for those aircraft.

(2.) If, after the commencement of this agreement, the Commission is authorised to purchase new or second-hand heavy aircraft, the Commonwealth will facilitate the borrowing of such amount as may be required by the Company for the purchase of an equal number of heavy aircraft comparable in type and price to those authorised for purchase by the Commission, provided always that the total of all amounts borrowed by the Company in accordance with sub-clause (1.) of this clause and this sub-clause and not repaid shall not at any one time exceed the sum of Four million pounds (£4,000,000).

(3.) In this clause, "facilitate" means :—

- (a) that, in the event of the Company being unable otherwise to borrow upon reasonable terms and conditions the money required to purchase the aircraft referred to in sub-clause (2.) of this clause, the Commonwealth will guarantee the repayment of a loan of such amount as may be required to effect the purchase ; and
- (b) that, in the event of the Company being unable to obtain that loan, the Commonwealth will advance the amount on loan, as and when required, on terms and conditions (including security) substantially the same as those that would have applied had the loan been available on bank overdraft guaranteed in accordance with this clause.

(4.) A guarantee by the Commonwealth in accordance with this clause shall be in such form as the Treasurer shall approve and shall be given only if—

- (a) the moneys are borrowed upon reasonable terms and conditions ;
- (b) proper security is taken by the lender over the aircraft, spare engines, spare parts and accessories purchased by the Company with those moneys ; and

THE SCHEDULE—*continued.*

- (c) the benefit of all security so taken will be transferred to the Commonwealth in the event of the Commonwealth being called upon to make payment under the guarantee.
- (5.) No guarantee shall be given by the Commonwealth under this clause in respect of, nor shall any then existing guarantee apply to, any moneys borrowed by the Company after the expiration of a period of ten years from the date of the commencement of this agreement nor shall any advance be made by the Commonwealth to the Company under this clause after the expiration of that period.
- (6.) The Company will make all arrangements necessary to ensure that, upon the expiration of that period of ten years, all amounts borrowed by it and secured by a guarantee by the Commonwealth, or advanced by the Commonwealth, in pursuance of this clause, together with all interest payable thereon, will be repaid by regular payments in the shortest time practicable, but in any event before the expiration of the period of this agreement.
- (7.) In the event of any default by the Company in the repayment of monies secured by a guarantee, or advanced by the Commonwealth in pursuance of this clause, the Commonwealth shall thereupon be under no obligation to give any further guarantee or to facilitate the raising of any further borrowings by the Company pursuant to this clause.
- (8.) The Company will—
- (a) insure and keep insured against all risks against which it is customary to insure, and to their full insurable value, all aircraft and other assets securing the repayment of moneys borrowed in accordance with this clause; and
 - (b) in the event of any amount becoming payable by the Commonwealth under any guarantee given by it, repay to the Commonwealth upon demand the amount so paid by the Commonwealth.
- 4.—(1.) The Company will pay to the Commonwealth within one year from the date of the commencement of this agreement, and the Commonwealth will accept, the sum of Three hundred and thirty-seven thousand seven hundred and seventeen pounds six shillings (£337,717.6.0) in full satisfaction of all claims by the Commonwealth against the Company for air route charges in respect of the period commencing on the first day of August One thousand nine hundred and forty-seven and ending on the thirtieth day of June One thousand nine hundred and fifty-two. Air route charges.
- (2.) Upon the payment by the Company to the Commonwealth of the sum of Three hundred and thirty-seven thousand seven hundred and seventeen pounds six shillings (£337,717.6.0) referred to in sub-clause (1.) of this clause, the Commonwealth will take steps to discontinue the action instituted by the Commonwealth against the Company in the High Court of Australia by Writ of Summons No. 7 of 1948.
- (3.) In respect of the period commencing from the first day of July One thousand nine hundred and fifty-two and ending on the date of the expiration of this agreement, the air route charges charged to the Company by the Commonwealth shall not, subject to this clause, exceed one-half of the charges set forth in Air Navigation Order Part 99 dated the twenty-seventh day of May One thousand nine hundred and forty-nine, as amended on the first day of August of that year, unless and except to the extent that an increase becomes necessary because of the provision of additional or improved facilities and services or because of higher costs of maintaining and operating facilities and services.
- (4.) In the event of the use of routes not specified in the Appendix to that Order, the additional amounts charged in respect of those routes shall be proportionate to one-half of the charges specified in that Order, increased if necessary in accordance with sub-clause (3.) of this clause.
- (5.) Nothing in this clause shall prevent the Commonwealth from imposing air route charges by whatever legislative means and on whatever basis of calculation it thinks fit which will produce substantially the same aggregate amount over the period referred to in sub-clause (3.) of this clause as the charges calculated in accordance with that sub-clause, increased if necessary in accordance with that sub-clause, together with the additional amounts charged in respect of new routes in accordance with sub-clause (4.) of this clause, would produce.
- 5.—(1.) In providing for the carriage of mail by air, the Commonwealth will take all steps necessary to assure to the Company during the continuance of this agreement, subject to the Company providing efficient services with suitable time-tables in Air Mail.

THE SCHEDULE—*continued.*

accordance with the requirements of the Postmaster-General, a share of the air mail carried on the routes over which both the Commission and the Company operate air services substantially equal to the Commission's share of that mail.

(2.) The rates payable to the Company for the carriage of that mail shall be the same as the rates paid to the Commission.

(3.) Nothing in this clause affects the obligation of the Company to comply with and observe all the terms and conditions of any contract with the Commonwealth in respect of the carriage of that mail.

Government
Business.

6. The Commonwealth agrees to take all steps necessary to ensure that during the continuance of this agreement business transacted on Commonwealth Government warrant in respect of the carriage whether of passengers or of freight is freely available to both the Commission and the Company and that the holder of a Government warrant has a free option as to the service he will use.

Rationalization
of Services.

7.—(1.) The Commission and the Company will take immediate steps to review and will keep under review at all times during the continuance of this agreement, air routes, time-tables, fares and freights and other related matters in respect of routes on which both the Commission and the Company are operating services at the date of the commencement of this agreement, so as to avoid unnecessary overlapping of services and wasteful competition, to provide the most effective and economical services with due regard to the interests of the public and to bring earnings into a proper relation to overall costs.

(2.) If the Commission and the Company are unable to agree on any matter arising under sub-clause (1.) of this clause, a representative of the Commission and a representative of the Company will confer together upon that matter under the Chairman and, if the Commission and the Company are unable to agree, the Chairman shall himself decide the matter in dispute between the Commission and the Company.

(3.) The Commission and the Company will, upon being required so to do by the Chairman, furnish or produce to him all information, documents, books, papers and accounts which he considers necessary to enable him to make a decision on any matter arising under this clause.

(4.) The Commission and the Company will each abide by and accept any decision which is made by the Chairman on any matter arising under this clause on which they are unable to agree, and will give effect to the decision and not take any steps which are inconsistent with the decision.

(5.) Nothing in this clause requires or permits the Commission or the Company to act in any manner inconsistent with the *Air Navigation Act 1920-1950* or with the regulations in force under that Act.

Hire or
purchase of
aircraft.

8.—(1.) The Commission and the Company will each—

(a) prior to purchasing or hiring an aircraft from the Commonwealth or any authority of the Commonwealth or any corporation in which the Commonwealth has an interest which is available for purchase or hire, apply to the Chairman for a certificate of approval;

(b) not purchase or hire any such aircraft without a certificate of approval of the Chairman;

(c) if either of them purchases such an aircraft without a certificate of approval of the Chairman, sell to the other forthwith on demand, at a price in all respects the same as the price paid in respect of the purchase, the aircraft so purchased.

(2.) Nothing in this clause shall prevent either the Commission or the Company hiring an aircraft temporarily to meet emergency requirements.

Certificates of
approval.

9.—(1.) The Chairman shall grant certificates of approval under clause 8 upon application so that available aircraft shall be equally divided between the Commission and the Company.

(2.) In the event of an odd number of aircraft being available, the Chairman shall determine whether the Commission or the Company may purchase the odd aircraft.

(3.) In arriving at his determination under the last preceding sub-clause, the Chairman shall have regard to the comparative aircraft strength of the Commission and the Company at the time, and shall determine the matter so that relative strength is most nearly maintained.

THE SCHEDULE—*continued*.

(4.) Should additional aircraft become subsequently available for purchase or hire, the Chairman shall grant a certificate as to the first aircraft so available to whichever of the Commission or the Company was last previously granted a certificate for a lesser number and that one of them shall be the next recipient of a certificate for the greater number when an odd number of aircraft is again available for purchase or hire.

10.—(1.) The Commonwealth will not exercise any of its powers under or by virtue of an Act, including a power to make regulations, so as to discriminate against the Company. Exercise of Commonwealth powers.

(2.) The Commonwealth will during the continuance of this agreement accord to the Company substantially equal treatment with the Commission in relation to the grant of import licences and the allocation of airport facilities.

11.—(1.) The Company undertakes that, during the continuance of this agreement— Undertakings by Company.

- (a) unless otherwise agreed by the Commonwealth, it will retain for use in its air services within Australia all aircraft, spare engines, spare parts and accessories purchased with monies borrowed by the Company in accordance with clause 3 of this agreement and all aircraft purchased or hired by the Company in accordance with the provisions of clauses 8 and 9 of this agreement;
- (b) it will not sell, mortgage or otherwise charge those aircraft without the consent of the Commonwealth; and
- (c) it will maintain and operate efficient air services for the transport of passengers and goods within Australia and will conduct its operations in a businesslike and economical manner.

(2.) In the event of—

- (a) the Company failing to comply with or observe any of its obligations under sub-clause (1.) of this clause;
- (b) an order being made for the winding-up of the Company other than voluntarily for the purposes of reconstruction;
- (c) the Company assigning this agreement without the prior consent in writing of the Commonwealth,

the Commonwealth may, at its option, by notice in writing to the Company, determine this agreement and, subject to sub-clause (3.) of this clause, the Commonwealth and the Commission shall thereupon be released from each and every of their respective obligations under or pursuant to this agreement.

(3.) The determination of the agreement under sub-clause (2.) of this clause—

- (a) shall not prejudice any rights of the Commonwealth under the agreement which have accrued up to the date of determination; and
- (b) shall not affect any guarantee given by the Commonwealth before the date of determination, but the Company shall immediately repay to the Commonwealth the amount of any loan advanced by the Commonwealth in accordance with clause 3 of this agreement.

12.—(1.) If at any time during the continuance of this agreement the Commonwealth is involved in war or the Minister informs the Company that there is an immediate danger of the Commonwealth being so involved, the Company will, if requested so to do by the Minister, make available for use by the Commonwealth in such manner and for such time as the Commonwealth requires the whole or such part as may be required of its aircraft, spares, accessories, equipment, hangars, workshops, buildings and facilities. State of emergency.

(2.) Subject to the next succeeding sub-clause, the Company shall be entitled to be paid such reasonable compensation for the use of its property under the preceding sub-clause as is determined by mutual agreement or in the absence of agreement by arbitration in accordance with the laws relating to arbitration in force in the State of Victoria.

(3.) Nothing contained in this clause shall be deemed to affect the operation of any Act of the Commonwealth, or any regulation, rule, order or other instrument made under or by virtue of an Act, or any other law, relating to the acquisition or requisition of property in time of war or national emergency.

THE SCHEDULE—*continued*.Supply of
information.

13. During the continuance of this agreement, the Company will furnish to the Minister, at the end of each of its financial years, a copy of the duly audited profit and loss account and balance sheet of the Company for that year.

Chairman.

14. The Chairman referred to in clauses 7, 8, and 9 of this agreement shall be an independent person appointed by agreement between the Commission and the Company or in default of agreement shall be a retired Justice of the High Court of Australia or of the Supreme Court of a State appointed by the Minister.

Legislation.

15. The Commonwealth will introduce in the Parliament of the Commonwealth such legislation as is necessary to ensure that the Commission will do all such things as this agreement provides that the Commission will do.

Period of
agreement.

16. This agreement shall continue in force for fifteen (15) years from its commencing date.

Notices.

17. Any notice or other communication to be given or served by the Commonwealth on the Company under this agreement shall be in writing and shall be deemed to have been duly given or served if signed by or on behalf of the Minister and delivered at or sent by prepaid post addressed to the registered office of the Company and any notice or other communication to be given or served by the Company on the Commonwealth shall be in writing signed by or on behalf of the Secretary of the Company and shall be deemed to have been duly given or served if delivered or sent by prepaid post to the Minister.

18. In this agreement, unless the contrary intention appears—

“air route charges” means the amounts charged by the Commonwealth to owners of Australian aircraft engaged in regular public transport operations in respect of their use of aerodromes, and air route and airway facilities, meteorological services and the search and rescue service maintained and operated by the Commonwealth;

“heavy aircraft” means aircraft of an all-up weight of not less than forty thousand pounds (40,000 lbs.);

“the Minister” means the Minister of State for Civil Aviation of the Commonwealth, and includes any member of the Federal Executive Council for the time being acting for the Minister of State for Civil Aviation;

“the Treasurer” means the Treasurer of the Commonwealth, and includes any member of the Federal Executive Council for the time being acting for the Treasurer.

IN WITNESS whereof the parties have executed this agreement the day and year first hereinbefore written.

SIGNED by the Right Honorable ROBERT GORDON
MENZIES, Prime Minister of the Common-
wealth, for and on behalf of the Common-
wealth, in the presence of—

ROBERT MENZIES.

G. J. YEEND

GIVEN under the Common Seal of AUSTRALIAN
NATIONAL AIRWAYS PROPRIETARY LIMITED
this 24th day of October, 1952 by order of the
Board.

L.S.

IVAN N. HOLYMAN.
Director

J. O. DECLERCK.
Secretary

INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT (AIR NAVIGATION CHARGES).

No. 103 of 1952.

An Act relating to the Assessment of Income Tax and Social Services Contribution in respect of Taxpayers affected by the partial Refund of, or the Settlement of Claims for payment of, Charges in respect of Commonwealth Air Navigation Facilities and Services.

[Assented to 18th November, 1952.]

[Date of commencement, 16th December, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Income Tax and Social Services Contribution Assessment (Air Navigation Charges) Act 1952*. Short title.

2. In this Act, "air navigation charges" means charges in respect of Commonwealth air navigation facilities and services imposed, or purported to have been imposed, under the *Air Navigation Act 1920-1947*, or under that Act as amended, being charges that became payable, or purported to become payable, in relation to operations conducted before the first day of July, One thousand nine hundred and fifty-two, in the course of carrying on a business. Definition.

Application
of Act.

3. This Act applies to a person where air navigation charges were, or purported to be, payable by that person, and—

- (a) that person has paid or agreed to pay an amount to the Commonwealth, being an amount which the Commonwealth has accepted or agreed to accept in full satisfaction of claims by the Commonwealth against that person for those air navigation charges or for so much of those air navigation charges as has not previously been paid; or
- (b) that person has paid the whole or a part of those air navigation charges and has received or is entitled to receive, or has been credited with or is entitled to be credited with, an amount by way of refund or rebate of a part of the amount so paid.

Assessment of
taxpayers to
whom Act
applies.

4.—(1.) For the purposes of the application of the *Income Tax Assessment Act 1936-1948*, or of that Act as amended, in relation to a taxpayer, being a person to whom this Act applies—

- (a) if paragraph (a) of the last preceding section applies to the taxpayer—the taxpayer shall be deemed to have incurred air navigation charges of an amount equal to the sum of the amount referred to in that paragraph paid or agreed to be paid to the Commonwealth and the amount (if any) previously paid for air navigation charges, and shall be deemed not to have incurred any other air navigation charges;
- (b) if paragraph (b) of the last preceding section applies to the taxpayer—the taxpayer shall be deemed to have incurred air navigation charges of an amount equal to the amount remaining after deducting from the amount of air navigation charges paid the amount of the refund or rebate, and shall be deemed not to have incurred any other air navigation charges; and
- (c) notwithstanding that deductions from assessable income in respect of air navigation charges have been allowed or were allowable to the taxpayer before the commencement of this Act, deductions from assessable income in respect of the amount of air navigation charges which, under the preceding paragraphs of this sub-section, the taxpayer is to be deemed to have incurred shall be allowable (in lieu of any deductions that have been so allowed or were so allowable), and those deductions shall be allowable in such amounts, and in respect of such of the years of income in which air navigation charges became, or purported to become, payable, as the Commissioner determines.

(2.) An amount received by, or credited to, a taxpayer by way of refund or rebate of air navigation charges, or an amount of air navigation charges from the payment of which he is released, is not assessable income of the taxpayer for the purposes of the *Income Tax and Social Services Contribution Assessment Act 1936-1952*.

5. For the purposes of this Act, an amount recovered by the Commonwealth from a person by execution of a judgment shall be deemed to have been paid to the Commonwealth by the person.

Amounts
recovered by
Commonwealth
deemed to be
paid.

6. Notwithstanding anything contained in section one hundred and seventy of the *Income Tax and Social Services Contribution Assessment Act 1936-1952*, or in section one hundred and seventy of the *Income Tax Assessment Act 1936-1949* in its application in relation to assessments made under the *Social Services Contribution Assessment Act 1945-1948*, or under that Act as amended, each of those sections shall be deemed to confer on the Commissioner of Taxation, and on any officer to whom the Commissioner has delegated powers under the section, power to amend an assessment at any time by reason of the operation of this Act.

Amendment of
assessments.

AUSTRALIAN NATIONAL AIRLINES.

No. 105 of 1956.

An Act to amend the *Australian National Airlines Act 1945-1952* in relation to the Employment of Persons by the Australian National Airlines Commission.

[Assented to 15th November, 1956.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1.—(1.) This Act may be cited as the *Australian National Airlines Act 1956*. Short title
and citation.

(2.) The *Australian National Airlines Act 1945-1952** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian National Airlines Act 1945-1956*.

2. This Act shall be deemed to have come into operation on the twenty-third day of October, One thousand nine hundred and fifty-six. Commencement.

* Act No. 31, 1945, as amended by No. 90, 1947; and No. 102, 1952.

3. After section eighteen A of the Principal Act the following section is inserted in Division 1 of Part II. :—

Public Service
Arbitration
Act not to
apply.

“18B. The *Public Service Arbitration Act* 1920–1956 does not apply in relation to the employment of officers or employees of the Commission.”.

Saving of
existing
determinations
and pending
proceedings.

4. Notwithstanding the amendment made by this Act—

- (a) if, immediately before the date of commencement of this Act, any proceedings instituted under the *Public Service Arbitration Act* 1920–1956 in relation to the employment of officers or employees of the Australian National Airlines Commission had not been finally determined, those proceedings may be continued, heard and determined, and any application, reference or appeal under that Act in connexion with those proceedings may be made or continued, and heard and determined, as if this Act had not been enacted ; and
- (b) any determination or order which was in force under the *Public Service Arbitration Act* 1920–1956 immediately before the date of commencement of this Act and applied in relation to the employment of officers or employees of the Australian National Airlines Commission, and any determination or order resulting from proceedings referred to in the last preceding paragraph, continues to apply or applies as if section eighteen B had not been inserted in the Principal Act, but is subject to any award, order, determination or agreement made under any other Act after the commencement of this Act, or after the making of that determination or order, whichever is the later.

AIR NAVIGATION (CHARGES) ACT 1952-1957.*

An Act relating to Charges in respect of Commonwealth Air Navigation Facilities and Services.

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Air Navigation (Charges) Act 1952-1957.** Short title.
Short title
amended;
No. 32, 1918,
s. 2.

2. In this Act, "Australia" includes all the Territories of the Commonwealth. Definition.

3. This Act applies throughout Australia. Application.

4. This Act binds the Crown in right of the Commonwealth or of a State. Crown to be bound.

5. Charges are payable, in accordance with the Schedules to this Act, in respect of the use by aircraft of aerodromes, air route and airway facilities, meteorological services and search and rescue services maintained, operated or provided by the Commonwealth. Air navigation charges.

6.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.
Substituted by
No. 87, 1957,
s. 3.

(2.) The regulations may, in respect of a flight not specified in the Table in the First Schedule to this Act, prescribe a factor for the purposes of paragraph 4 of that Schedule.

* The *Air Navigation (Charges) Act 1952-1957* comprises the *Air Navigation (Charges) Act 1952* as amended. Particulars of the Principal Act and of the amending Act are set out in the following table:—

Act.	Number and Year.	Date of Assent.	Date of Commencement.
<i>Air Navigation (Charges) Act 1952</i>	No. 101, 1952	18th November, 1952	16th December, 1952
<i>Air Navigation (Charges) Act 1957</i>	No. 87, 1957	12th December, 1957	1st January, 1958

THE SCHEDULES.

FIRST SCHEDULE.

Section 5.

1.—(1.) Charges are payable, in accordance with this Schedule, by the holders of airline licences (including international airline licences), or of charter licences, under the Air Navigation Regulations.

(2.) Charges are not payable by the holder of a charter licence except in respect of a flight made in the course of regular public transport operations, as defined by the Air Navigation Regulations.

2.—(1.) Charges are payable in respect of flights made between places in Australia by aircraft operated by the holders of licences referred to in the last preceding paragraph—

- (a) in the case of a flight in the course of the operation of an international air service—on or after the date of commencement of this Act; and
- (b) in any other case—on or after the first day of July, One thousand nine hundred and fifty-two.

(2.) This paragraph applies in relation to a flight commencing and ending at the one place in Australia without a landing at any other place in like manner as it applies in relation to a flight between places in Australia.

3. For the purposes of the last preceding paragraph, a flight between two places by way of an intermediate stopping place (not being Canberra, Port Moresby or the capital city of a State) or by way of intermediate stopping places (none of which is Canberra, Port Moresby or the capital city of a State) shall be deemed to be a flight between those two places.

4.—(1.) The amount of a charge payable under paragraph 2 of this Schedule is—

- (a) in the case of a flight specified in the second column of the Table in this Schedule—the amount ascertained by multiplying the unit charge for the aircraft by which the flight is made by the factor specified in the third column of that Table opposite to that flight;
- (b) in the case of a flight in respect of which a factor is prescribed by the Regulations for the purposes of this paragraph—the amount ascertained by multiplying the unit charge for the aircraft by which the flight is made by the factor so prescribed; and
- (c) in the case of any other flight—an amount equal to the unit charge for the aircraft.

(2.) For the purposes of this paragraph—

- (a) a flight from the first-mentioned place in an item in the Table in this Schedule to the second-mentioned place in that item; and
- (b) a flight from the second-mentioned place in such an item to the first-mentioned place in that item,

shall be deemed to be a flight specified in the second column of that Table.

5. Where, in an item in the Table in this Schedule, reference is made to a flight between two places by way of another place, or by way of a particular route, that item applies in respect of a flight between those two places by way of that other place, or by way of that route, as the case may be.

6.—(1.) A charge is payable in respect of the landing in Australia of an aircraft operated by the holder of a licence referred to in paragraph 1 of this Schedule and arriving from a place outside Australia and a charge is payable in respect of the take-off of an aircraft operated by the holder of such a licence and departing to a place outside Australia.

(2.) The amount of a charge payable under the last preceding sub-paragraph is the amount ascertained by multiplying the unit charge for the aircraft by eight.

7.—(1.) The unit charge for an aircraft is—

- (a) where the weight of the aircraft does not exceed 20,000 pounds—the sum of an amount calculated at the rate of Three pence three-farthings for each 1,000 pounds or part of 1,000 pounds of the weight of the aircraft and an amount equal to one-tenth of the amount so calculated; and
- (b) in any other case—the sum of an amount calculated at the rate of Five pence farthing for each 1,000 pounds or part of 1,000 pounds of the weight of the aircraft and an amount equal to one-tenth of the amount so calculated.

Added by
No. 87, 1957,
s. 4.

Sub-paragraph
(1.) substituted
by No. 87, 1957,
s. 5.

Substituted by
No. 87, 1957,
s. 6.

FIRST SCHEDULE—*continued*.

(2.) In this paragraph, "weight", in relation to an aircraft, means the maximum all-up weight of the aircraft as specified in the Certificate of Airworthiness for the aircraft.

8. A charge is not payable in respect of—

- (a) a flight in the course of a proving test of an aircraft or of its equipment;
- (b) a flight undertaken in connexion with the issue or renewal of a Certificate of Airworthiness;
- (c) a flight undertaken solely in connexion with the training or checking of a person as a member of the flight crew of an aircraft;
- (d) a route familiarization flight; or
- (e) such other flights, or the flights included in such classes of flights, as the Minister or the Director-General of Civil Aviation determines,

or in respect of the landing or take-off of an aircraft in the course of such a flight.

9. Charges under this Schedule are debts due to the Commonwealth and are payable—

- (a) in the case of the charge in respect of a flight to which paragraph 2 of this Schedule applies—upon the date of commencement of this Act or upon completion of that flight, whichever is the later; and
- (b) in the case of the charge in respect of the landing in Australia of an aircraft arriving from a place outside Australia or in respect of the take-off of an aircraft departing to a place outside Australia—immediately after that landing or take-off.

Amended by
No. 87, 1957,
s. 7.

Table of Flights.

Table substituted
by No. 87, 1957,
s. 8.

First Column. Item No.	Second Column. Flights.	Third Column. Factors.
1	Canberra-Adelaide	4
2	Canberra-Brisbane	5
3	Canberra-Darwin	10
4	Canberra-Melbourne	3
5	Canberra-Perth	12
6	Canberra-Sydney	1
7	Sydney-Adelaide	5
8	Sydney-Alice Springs	6
9	Sydney-Armidale	2
10	Sydney-Bairnsdale	3
11	Sydney-Baradine	2
12	Sydney-Bathurst	1
13	Sydney-Bourke	2
14	Sydney-Brewarrina	2
15	Sydney-Brisbane	4
16	Sydney-Broken Hill	3
17	Sydney-Burren Junction	2
18	Sydney-Cairns	9
19	Sydney-Carinda	2
20	Sydney-Casino	2
21	Sydney-Charleville	4
22	Sydney-Coff's Harbour	2
23	Sydney-Collarenebri	2
24	Sydney-Coolah	2
25	Sydney-Coolangatta	2
26	Sydney-Cooma	2
27	Sydney-Coonamble	2
28	Sydney-Cootamundra	2
29	Sydney-Corowa	2
30	Sydney-Cowra	1
31	Sydney-Cunnamulla	3
32	Sydney-Darwin	11
33	Sydney-Deniliquin	2
34	Sydney-Dubbo	2
35	Sydney-Evans Head	2

FIRST SCHEDULE—continued.

First Column. Item No.	Second Column. Flights.	Third Column. Factors.
36	Sydney-Forster	1
37	Sydney-Glen Innes	2
38	Sydney-Goodooga	2
39	Sydney-Gooniwindi	3
40	Sydney-Grafton	2
41	Sydney-Griffith	2
42	Sydney-Gunnedah	2
43	Sydney-Hay	2
44	Sydney-Hillston	2
45	Sydney-Hobart	6
46	Sydney-Inverell	2
47	Sydney-Kempsey	2
48	Sydney-Lae	14
49	Sydney-Lake Cargelligo	2
50	Sydney-Launceston	5
51	Sydney-Lord Howe Island	2
52	Sydney-Mallacoota	2
53	Sydney-Mildura	3
54	Sydney-Moree	2
55	Sydney-Moruya	1
56	Sydney-Mungindi	2
57	Sydney-Narrabri	2
58	Sydney-Narrandera	2
59	Sydney-Narromine	2
60	Sydney-Norfolk Island	2
61	Sydney-Nowra	1
62	Sydney-Nyngan	2
63	Sydney-Oakey	3
64	Sydney-Parkes	2
65	Sydney-Perth	13
66	Sydney-Port Moresby	12
67	Sydney-Port Macquarie	2
68	Sydney-St. George	3
69	Sydney-Stanthorpe	3
70	Sydney-Tamworth	2
71	Sydney-Taree	1
72	Sydney-Temora	2
73	Sydney-Tocumwal	2
74	Sydney-Tooraweenah	2
75	Sydney-Toowoomba	4
76	Sydney-Townsville	8
77	Sydney-Wagga Wagga	2
78	Sydney-Walgett	2
79	Sydney-Warren	2
80	Sydney-West Wyalong	2
81	Sydney-Wilcannia	2
82	Sydney-Williamstown	1
83	Sydney-Wollongong	1
84	Brisbane-Barcaldine	3
85	Brisbane-Blackall	3
86	Brisbane-Bourke	3
87	Brisbane-Bowen	3
88	Brisbane-Bundaberg	1
89	Brisbane-Cairns	5
90	Brisbane-Charleville	2
91	Brisbane-Clermont	3
92	Brisbane-Cloncurry	5
93	Brisbane-Coff's Harbour	2
94	Brisbane-Cunnamulla	2
95	Brisbane-Darwin	9

FIRST SCHEDULE—continued.

First Column. Item No.	Second Column. Flights.	Third Column. Factors.
96	Brisbane-Daydream Island	3
97	Brisbane-Emerald	2
98	Brisbane-Evans Head	2
99	Brisbane-Gayndah	1
100	Brisbane-Gladstone	1
101	Brisbane-Glen Innes	2
102	Brisbane-Goondivindi	1
103	Brisbane-Grafton	2
104	Brisbane-Hayman Island	3
105	Brisbane-Heron Island	2
106	Brisbane-Horn Island	7
107	Brisbane-Innisfail	4
108	Brisbane-Inverell	2
109	Brisbane-Kingaroy	1
110	Brisbane-Lae	10
111	Brisbane-Lindeman Island	3
112	Brisbane-Longreach	4
113	Brisbane-Lord Howe Island	2
114	Brisbane-Mackay	3
115	Brisbane-Madang	11
116	Brisbane-Maryborough	1
117	Brisbane-Mitchell	2
118	Brisbane-Monto	2
119	Brisbane-Moree	2
120	Brisbane-Mount Isa	5
121	Brisbane-Oakey	1
122	Brisbane-Port Moresby	8
123	Brisbane-Proserpine	3
124	Brisbane-Quilpie	2
125	Brisbane-Rabaul	12
126	Brisbane-Rockhampton	2
127	Brisbane-Roma	2
128	Brisbane-St. George	2
129	Brisbane-Tamworth	2
130	Brisbane-Tennant Creek	6
131	Brisbane-Thangool	2
132	Brisbane-Townsville	4
133	Brisbane-Townsville, by way of Whitsunday Islands	3
134	Brisbane-Williamtown	3
135	Brisbane-Winton	4
136	Brisbane-Wondai	1
137	Melbourne-Adelaide	4
138	Melbourne-Alice Springs	6
139	Melbourne-Bairnsdale	2
140	Melbourne-Ballarat	1
141	Melbourne-Balranald	2
142	Melbourne-Benalla	1
143	Melbourne-Brisbane	8
144	Melbourne-Broken Hill	3
145	Melbourne-Cowra	3
146	Melbourne-Coolangatta	6
147	Melbourne-Cooma	2
148	Melbourne-Corowa	2
149	Melbourne-Darwin	11
150	Melbourne-Deniliquin	2
151	Melbourne-Devonport	2
152	Melbourne-Dubbo	4
153	Melbourne-Echuca	2
154	Melbourne-Flinders Island	2
155	Melbourne-Hamilton	2

FIRST SCHEDULE—*continued.*

First Column.	Second Column.	Third Column.
Item No.	Flights.	Factors.
156	Melbourne-Hobart	4
157	Melbourne-Kerang	2
158	Melbourne-King Island	2
159	Melbourne-Launceston	3
160	Melbourne-Mildura	3
161	Melbourne-Mount Gambier	2
162	Melbourne-Narrandera	2
163	Melbourne-Nhill	2
164	Melbourne-Perth	12
165	Melbourne-Port Moresby	16
166	Melbourne-St. Helens	3
167	Melbourne-Shepparton	1
168	Melbourne-Swan Hill	2
169	Melbourne-Sydney	4
170	Melbourne-Tocumwal	2
171	Melbourne-Wagga Wagga	2
172	Melbourne-Warrnambool	2
173	Melbourne-West Sale	2
174	Melbourne-Williamstown	5
175	Melbourne-Wynyard	2
176	Adelaide-Alice Springs	5
177	Adelaide-Brisbane	7
178	Adelaide-Broken Hill	2
179	Adelaide-Ceduna	2
180	Adelaide-Cleve	1
181	Adelaide-Cowell	1
182	Adelaide-Darwin	9
183	Adelaide-Forrest	4
184	Adelaide-Hobart	6
185	Adelaide-Kingscote	1
186	Adelaide-Launceston	4
187	Adelaide-Leigh Creek	2
188	Adelaide-Maralinga	2
189	Adelaide-Mildura	2
190	Adelaide-Mount Gambier	2
191	Adelaide-Nhill	2
192	Adelaide-Perth	8
193	Adelaide-Port Lincoln	1
194	Adelaide-Port Pirie	1
195	Adelaide-Renmark	1
196	Adelaide-Tennant Creek	6
197	Adelaide-Whyalla	1
198	Adelaide-Woomera	2
199	Perth-Albany	2
200	Perth-Broome	6
201	Perth-Carnarvon	2
202	Perth-Ceduna	6
203	Perth-Darwin	8
204	Perth-Derby	6
205	Perth-Dubbo	11
206	Perth-Esperance	2
207	Perth-Forrest	4
208	Perth-Geraldton	2
209	Perth-Kalgoorlie	2
210	Perth-Katherine	8
211	Perth-Learmonth	3
212	Perth-Leonora	2
213	Perth-Marble Bar	2
214	Perth-Meekatharra	1
215	Perth-Meekatharra, by way of Geraldton	3

FIRST SCHEDULE—*continued.*

First Column. Item No.	Second Column. Flights.	Third Column. Factors.
216	Perth-Narromine	11
217	Perth-Norseman	2
218	Perth-Onslow	3
219	Perth-Point Cloates	3
220	Perth-Port Hedland, by way of coastal route	4
221	Perth-Port Hedland, by way of inland route	2
222	Perth-Roebourne, by way of coastal route	4
223	Perth-Roebourne, by way of inland route	2
224	Perth-Rottnest Island	1
225	Perth-Southern Cross	1
226	Perth-Wittenoom Gorge	2
227	Perth-Wyndham	7
228	Hobart-Launceston	2
229	Hobart-Devonport	2
230	Hobart-Wynyard	2
231	Darwin-Alice Springs	4
232	Darwin-Cloncurry	4
233	Darwin-Daly Waters	1
234	Darwin-Derby	2
235	Darwin-Dubbo	9
236	Darwin-Groote Eylandt	1
237	Darwin-Hall's Creek	1
238	Darwin-Katherine	1
239	Darwin-Narromine	9
240	Darwin-Townsville	6
241	Darwin-Wagga Wagga	9
242	Darwin-Wyndham	1
243	Darwin-Yirrkala	1
244	Alice Springs-Angus Downs	1
245	Alice Springs-Brunette Downs	1
246	Alice Springs-Creswell Downs	1
247	Alice Springs-Katherine	2
248	Alice Springs-Lucy Creek	1
249	Alice Springs-Mount Isa, by way of Argadargada	1
250	Alice Springs-Mount Isa, by way of Creswell Downs	2
251	Alice Springs-Roper River	2
252	Alice Springs-Tieyon	1
253	Alice Springs-Utopia	1
254	Alice Springs-Wyndham	2
255	Cairns-Cooktown	1
256	Cairns-Horn Island	2
257	Cairns-Lae	6
258	Cairns-Mackay	2
259	Cairns-Madang	7
260	Cairns-Mitchell River Mission	2
261	Cairns-Port Moresby	4
262	Cairns-Proserpine	2
263	Cairns-Rabaul	8
264	Cairns-Wrotham Park	1
265	Charleville-Birdsville	1
266	Charleville-Broken Hill	1
267	Charleville-Cloncurry	2
268	Charleville-Leigh Creek	1
269	Cloncurry-Burketown	1
270	Cloncurry-Jundah	1
271	Cloncurry-Longreach	2
272	Cloncurry-Mornington Island	1
273	Cloncurry-Mount Isa	1
274	Cloncurry-Normanton	1
275	Cooktown-Horn Island	2

FIRST SCHEDULE—*continued*.

First Column. Item No.	Second Column. Flights.	Third Column. Factors.
276	Cowra—West Wyalong	1
277	Derby—Cape Leveque	1
278	Derby—Fitzroy Crossing	1
279	Derby—Glenroy	1
280	Derby—Hall's Creek	1
281	Derby—Port Hedland	2
282	Derby—Wyndham	1
283	Geraldton—Carnarvon	1
284	Geraldton—Meekatharra	1
285	Geraldton—Onslow	1
286	Geraldton—Port Hedland	2
287	Lae—Madang	1
288	Lae—Rabaul	2
289	Port Hedland—Point Cloates	1
290	Port Moresby—Lae	2
291	Port Moresby—Madang	3
292	Port Moresby—Rabaul	4
293	Rockhampton—Cairns	3
294	Rockhampton—Longreach	2
295	Rockhampton—Townsville	2
296	Rockhampton—Townsville by way of Longreach	4
297	Tamworth—Armidale	1
298	Tamworth—Gunnedah	1
299	Tamworth—Inverell	1
300	Tamworth—Port Macquarie	1
301	Townsville—Bowen	1
302	Townsville—Cairns	2
303	Townsville—Cloncurry	2
304	Townsville—Hughenden	1
305	Townsville—Lae	6
306	Townsville—Longreach	2
307	Townsville—Madang	7
308	Townsville—Mount Isa	2
309	Townsville—Port Moresby	4
310	Townsville—Rabaul	8

SECOND SCHEDULE

Section 5.

1. Charges are payable, in accordance with this Schedule, by the registered owners of aircraft registered under the Air Navigation Regulations, not being persons who are the holders of airline licences (including international airline licences), under those Regulations.

2. A charge is payable under this Schedule in respect of an aircraft registered under the Air Navigation Regulations on or after the first day of July, One thousand nine hundred and fifty-two.

3. The amount of the charge payable under this Schedule is—

- (a) in respect of a private aircraft, as defined by the Air Navigation Regulations—twice the unit charge for that aircraft in respect of each week or part of a week comprised in the period of registration of the aircraft;
- (b) in respect of an aerial work aircraft, as so defined—four times the unit charge for that aircraft in respect of each week or part of a week comprised in the period of registration of the aircraft; and
- (c) in respect of a charter aircraft, as so defined—six times the unit charge for that aircraft in respect of each week or part of a week comprised in the period of registration of the aircraft.

SECOND SCHEDULE—*continued*.

4. For the purposes of this Schedule—

- (a) an aircraft which is not an aircraft of any of the classes specified in sub-paragraphs (a), (b) and (c) of the last preceding paragraph shall be deemed to be a private aircraft, as defined by the Air Navigation Regulations;
- (b) the renewal of the registration of an aircraft shall be deemed to be registration of the aircraft; and
- (c) the unit charge for an aircraft is the unit charge referred to in paragraph 7 of the First Schedule to this Act.

5. Where an aircraft referred to in paragraph 3 of this Schedule—

- (a) is, during the period of registration of the aircraft, operated in regular public transport operations otherwise than by the holder of an airline licence (including an international airline licence); or
- (b) is, during the period of registration of the aircraft, operated by the holder of an airline licence (including an international airline licence),

there shall be refunded an amount ascertained in accordance with the formula—

$$A = \frac{BD}{C}$$

where—

- A is the amount of the refund;
- B is the number of days in the period of operation of the aircraft as specified in sub-paragraph (a) or (b) of this paragraph, as the case may be;
- C is the number of days in the period of registration of the aircraft; and
- D is the amount of the charge paid under this Schedule in respect of the aircraft.

6. Where, upon the registration of a private aircraft, a charge has been paid under this Schedule in respect of that aircraft and, during the period of that registration, the aircraft engages in aerial work operations or charter operations, as defined by the Air Navigation Regulations, an additional charge is payable equal to the amount by which the charge paid is less than the charge which would have been payable if the aircraft had been an aerial work aircraft or charter aircraft, as the case may be, at the time of its registration.

7. Where an aircraft in relation to which an additional charge has become payable under the last preceding paragraph by reason of the engagement of the aircraft in aerial work operations engages, during the period of registration of the aircraft, in charter operations, as defined by the Air Navigation Regulations, a further additional charge is payable equal to the amount by which the aggregate of the charge and additional charge paid is less than the charge which would have been payable if the aircraft had been a charter aircraft at the time of its registration.

8. Where, upon the registration of an aerial work aircraft, a charge has been paid under this Schedule in respect of that aircraft and, during the period of that registration, the aircraft engages in charter operations, as defined by the Air Navigation Regulations, an additional charge is payable equal to the amount by which the charge paid is less than the charge which would have been payable if the aircraft had been a charter aircraft at the time of its registration.

9.—(1.) The Minister or the Director-General of Civil Aviation may authorize such remission or refund of the whole or any part of the charge or additional charge (including further additional charge) payable or paid under this Schedule in respect of an aircraft as he thinks just having regard to the nature, locality or extent of the operations of the aircraft. Substituted by No. 87, 1957, s. 9.

(2.) A remission under this paragraph may be granted subject to such conditions with respect to the operation of the aircraft as the Minister or the Director-General of Civil Aviation thinks fit and, if any such condition is not complied with, the remission shall be deemed not to have had effect.

10.—(1.) Charges and additional charges (including further additional charges) under this Schedule are debts due to the Commonwealth.

SECOND SCHEDULE—*continued*.

(2.) Charges under this Schedule are payable upon the date of commencement of this Act or upon registration of the aircraft, whichever is the later.

(3.) Additional charges (including further additional charges) under this Schedule are payable upon the aircraft first engaging in the operations by virtue of the engagement in which the additional charge (or further additional charge) becomes payable.

THIRD SCHEDULE.

Section 5.

1. Charges are payable, in accordance with this Schedule, by the owners of foreign aircraft, as defined by the Air Navigation Regulations, being aircraft which are not operated by the holders of airline licences (including international airline licences) under those Regulations.

2. A charge is payable under this Schedule in respect of an aircraft which enters Australia from a place outside Australia on or after the date of commencement of this Act.

3.—(1.) The amount of the charge payable under this Schedule is—

- (a) in respect of a private aircraft, as defined by the Air Navigation Regulations—twice the unit charge for that aircraft in respect of each week or part of a week comprised in the period from the date on which the aircraft entered Australia until the date of the departure of the aircraft from Australia;
- (b) in respect of an aerial work aircraft, as so defined—four times the unit charge for that aircraft in respect of each week or part of a week comprised in the period from the date on which the aircraft entered Australia until the date of the departure of the aircraft from Australia; and
- (c) in respect of a charter aircraft, as so defined—six times the unit charge for that aircraft in respect of each week or part of a week comprised in the period from the date on which the aircraft entered Australia until the date of the departure of the aircraft from Australia.

(2.) For the purposes of the last preceding sub-paragraph, the unit charge for an aircraft is the unit charge referred to in paragraph 7 of the First Schedule to this Act.

4. Charges under this Schedule—

- (a) are debts due to the Commonwealth;
- (b) accrue from week to week; and
- (c) are payable on demand made by the Director-General of Civil Aviation to the pilot in command of the aircraft.

5. A charge is not payable under this Schedule in respect of such aircraft, or the aircraft included in such classes of aircraft, as the Minister or the Director-General of Civil Aviation determines.

6.—(1.) The Minister or the Director-General of Civil Aviation may authorize such remission or refund of the whole or part of the charge payable under this Schedule in respect of an aircraft as he thinks just having regard to the nature, locality or extent of the proposed operations of the aircraft in Australia.

(2.) A remission under this paragraph may be granted subject to such conditions with respect to the operation of the aircraft as the Minister or the Director-General of Civil Aviation thinks fit and, if any such condition is not complied with, the remission shall be deemed not to have had effect.

CIVIL AVIATION AGREEMENT.

No. 86 of 1957.

An Act relating to a proposed Agreement between the Commonwealth, the Australian National Airlines Commission and certain Companies in connexion with Airline Services, and to amend the *Civil Aviation Agreement Act 1952*.

[Assented to 12th December, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Civil Aviation Agreement Act 1957*. Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. The execution on behalf of the Commonwealth of an agreement in accordance with the form in the Schedule to this Act is approved. Approval of execution of agreement.

4. The Australian National Airlines Commission is empowered to enter into an agreement in accordance with the form in the Schedule to this Act and to carry out its obligations and avail itself of its rights under the agreement. Australian National Airlines Commission empowered to enter into agreement.

Amendment of
Civil Aviation
Agreement Act
1952.

5.—(1.) Section four of the *Civil Aviation Agreement Act* 1952 is amended by adding at the end thereof the following sub-section:—

“(2.) The last preceding sub-section shall be deemed to authorize the giving of a guarantee of the payment by Australian National Airways Proprietary Limited of amounts payable by that Company under arrangements made in substitution for the original arrangements with respect to a loan made before the commencement of this sub-section, being a loan the repayment of which was guaranteed under that sub-section.”.

(2.) The *Civil Aviation Agreement Act* 1952, as amended by this section, may be cited as the *Civil Aviation Agreement Act* 1952-1957.

THE SCHEDULE.

Sections 3 and 4.

THIS AGREEMENT is made the _____ day of _____ One thousand nine hundred and _____ BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement referred to as “the Commonwealth”) of the first part, the AUSTRALIAN NATIONAL AIRLINES COMMISSION constituted under the *Australian National Airlines Act* 1945-1956 of the Commonwealth (in this agreement referred to as “the Commission”) of the second part, AUSTRALIAN NATIONAL AIRWAYS PROPRIETARY LIMITED a company incorporated under the laws of the State of Victoria relating to companies and whose registered office is situated at 289 William Street Melbourne in the said State (in this agreement referred to as “the Company”) of the third part, ANSETT AIRWAYS PROPRIETARY LIMITED a company incorporated under the laws of the State of Victoria relating to companies and whose registered office is situated at Commonwealth Aerodrome Essendon in the said State of the fourth part, and ANSETT TRANSPORT INDUSTRIES LIMITED a company incorporated under the laws of the State of Victoria relating to companies and whose registered office is situated at 465 Swanston Street Melbourne in the said State of the fifth part:

WHEREAS by an agreement (in this agreement called “the Civil Aviation Agreement”) made the Twenty-fourth day of October, One thousand nine hundred and fifty-two between the Commonwealth and the Company and set forth in the schedule to the *Civil Aviation Agreement Act* 1952, the Commonwealth and the Company agreed, inter alia, to rationalize certain airline services operated by the Commission and the Company:

AND WHEREAS by the *Civil Aviation Agreement Act* 1952, the Parliament of the Commonwealth of Australia approved the Civil Aviation Agreement and provided that the Commission should do all such things as the Civil Aviation Agreement provided that the Commission would do:

AND WHEREAS Ansett Transport Industries Limited has purchased all the issued shares in Australian National Airways Proprietary Limited and has the controlling interest in Ansett Airways Proprietary Limited:

AND WHEREAS one of the objects of the parties to this agreement is to secure and maintain a position in which there are two, and not more than two, operators of trunk route airline services, one being the Commission, each capable of effective competition with the other, and the parties intend that this agreement shall be construed having regard to that object:

AND WHEREAS the parties to this agreement are desirous of extending certain of the provisions of the Civil Aviation Agreement as to rationalization of services to certain other routes:

AND WHEREAS the parties to the Civil Aviation Agreement are desirous, as part of the steps referred to in clause 7 of that agreement, to review and to keep under review at all times during the continuance of the Civil Aviation Agreement air routes, timetables, fares and freights and other related matters in respect of certain routes, and for the purpose of this agreement, of establishing a committee as set out in this agreement:

THE SCHEDULE—continued.

NOW THIS AGREEMENT WITNESSETH that it is agreed by and between the parties to this agreement as follows:

1. The Commission, the Company and Ansett Transport Industries Limited, and all airline companies or firms in which Ansett Transport Industries Limited has a controlling interest (all of which Commission, companies and firms are in this agreement collectively referred to as "the airline operators") will take immediate steps to review and will keep under review at all times during the continuance of this agreement air routes, time-tables, fares and freights and other related matters in respect of routes (in addition to the routes specified in sub-clause (1.) of clause 7 of the Civil Aviation Agreement) on which both the Commission and any one of the other airline operators operate, or propose to operate, so as to avoid unnecessary overlapping of services and wasteful competition, to provide the most effective and economical services with due regard to the interests of the public and to bring earnings into a proper relation to over-all costs. Extension of rationalization.
2. The provisions of sub-clauses (2.), (3.) and (4.) of clause 7 and clause 14 of the Civil Aviation Agreement shall apply in respect of clause 1 of this agreement in the same manner, *mutatis mutandis*, as they apply in respect of sub-clause (1.) of clause 7 of the Civil Aviation Agreement. Extended application of certain provisions of Civil Aviation Agreement.
3. The parties will take immediate steps to establish a Rationalization Committee (in this agreement referred to as "the Committee") which shall be constituted from time to time by—
 - (a) a person nominated by the Minister who shall be known as the Co-ordinator;
 - (b) a member nominated by the Commission; and
 - (c) a member nominated by the Company.Establishment of Rationalization Committee.
- 4.—(1.) If the airline operators concerned are unable to agree on any matter arising under sub-clause (1.) of clause 7 of the Civil Aviation Agreement or clause 1 of this agreement, the matter in dispute may be referred to the Committee by any one of those airline operators. Functions of the Committee.
 - (2.) The Commonwealth and the airline operators will each, upon being required so to do by the Co-ordinator, furnish or produce to the Committee all information, documents, books, papers and accounts which the Co-ordinator considers necessary to enable the Committee to consider any matter referred to the Committee under this clause.
 - (3.) The Committee will consider the matter and, if the members nominated by the Commission and the Company are, after such consideration, still unable to agree, the Co-ordinator shall decide the matter and, subject to the next succeeding sub-clause, his decision shall be final and binding on the airline operators.
 - (4.) Where the Co-ordinator pursuant to this clause makes a decision on a matter referred to in this clause—
 - (a) the Commission or the Company, in the case of a matter arising under sub-clause (1.) of clause 7 of the Civil Aviation Agreement; or
 - (b) one of the airline operators, in the case of a matter arising under clause 1 of this agreement,
 may elect to have the matter decided in accordance with sub-clause (2.) of clause 7 of the Civil Aviation Agreement, in its application by virtue of that agreement or by virtue of clause 2 of this agreement, as the case may be.
 - (5.) The Co-ordinator shall give reasons in writing for each of his decisions and, where a matter is to be determined in accordance with sub-clause (2.) of clause 7 of the Civil Aviation Agreement, whether applying by virtue of that agreement or by virtue of clause 2 of this agreement, the Co-ordinator shall furnish those reasons to the Chairman appointed in pursuance of clause 14 of the Civil Aviation Agreement.
5. As soon as practicable, and in any case not later than twenty-five months after the date of this agreement, Ansett Airways Proprietary Limited will cease to operate airline services and will not, during the continuance of this agreement, resume the operation of an airline service or services. Ansett Airways to cease operation of airline services.
6. Ansett Transport Industries Limited will do everything within its power to ensure that the airline companies or firms in which it has a controlling interest will do all such acts and things as this agreement provides that they will do and that those companies and firms will not do anything inconsistent with the provisions or purposes of this agreement. Compliance with agreement.
7. For the purposes of the Civil Aviation Agreement any act or omission on the part of the Company prior to the date of this agreement shall be deemed not to constitute a breach of the Civil Aviation Agreement or a default in the repayment of moneys secured by a guarantee or guarantees given by the Commonwealth pursuant to the provisions of the Civil Aviation Agreement. Past omissions of company.

THE SCHEDULE—*continued.*

Air Navigation
Act.

8. Nothing in this agreement requires or permits the airline operators to act in any manner inconsistent with the *Air Navigation Act* 1920-1950 or with the regulations in force under that Act.

Period of
agreement.

9. This agreement shall continue in force until the termination of the Civil Aviation Agreement.

AIRLINES EQUIPMENT.

No. 70 of 1958.

An Act to make provision with respect to Financial and Rationalization Arrangements in connexion with the Equipment of certain Domestic Airlines.

[Assented to 10th October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Airlines Equipment Act 1958*. Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-
ment.
3. This Act is divided into Parts, as follows:— Parts.
 - Part I.—Preliminary (Sections 1–4).
 - Part II.—Financial Arrangements in relation to the Australian National Airlines Commission (Sections 5–7).
 - Part III.—Financial Arrangements in relation to Australian National Airways Proprietary Limited and certain other Companies (Sections 8–10).
 - Part IV.—Rationalization of Aircraft Fleets (Sections 11–15).

Definitions.

4. In this Act, unless the contrary intention appears—

“the Commission” means the Australian National Airlines Commission;

“the Company” means Ansett Transport Industries Limited, and includes every company or firm in which Ansett Transport Industries Limited has from time to time a controlling interest and which owns or operates aircraft.

PART II.—FINANCIAL ARRANGEMENTS IN RELATION TO THE
AUSTRALIAN NATIONAL AIRLINES COMMISSION.

5.—(1.) Section thirty-one of the *Australian National Airlines Act 1945–1956* is repealed and the following section inserted in its stead:—

Borrowing by
the
Commission.

“31.—(1.) The Commission may, with the approval of the Treasurer, borrow moneys from time to time in such amounts as the Minister certifies are, in his opinion, necessary for meeting its obligations or discharging its functions under this Act.

“(2.) The Treasurer may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend to the Commission, on such terms as he thinks fit, moneys which the Commission is authorized to borrow under the last preceding sub-section and the borrowing of which by the Commission from the Commonwealth is approved by the Minister.

“(3.) The Commission may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

“(4.) The Treasurer may, with the concurrence of the Minister, on behalf of the Commonwealth, guarantee the repayment by the Commission of amounts borrowed under this section otherwise than from the Commonwealth and the payment of interest on amounts so borrowed.

“(5.) The amounts borrowed by the Commission and not repaid shall not at any time exceed Three million pounds.

“(6.) The moneys that may be borrowed by the Commission under this section are in addition to the amounts that constitute the capital of the Commission under the last preceding section.

“(7.) The Commission shall not borrow moneys except in accordance with this section.”.

(2.) The *Australian National Airlines Act 1945–1956*, as amended by this Act, may be cited as the *Australian National Airlines Act 1945–1958*.

6. Notwithstanding anything contained in section thirty-one of the *Australian National Airlines Act 1945-1956*, as amended by this Act, the Commission may borrow, in addition to the amounts that it is authorized to borrow under that section, the moneys (not exceeding the equivalent of Three million dollars in the currency of the United States of America) that the Treasurer is, under the *Loan (Australian National Airlines Commission) Act 1958*, authorized to lend to the Commission in connexion with the purchase by the Commission of a Lockheed Electra aircraft and related spare parts and equipment.

Borrowing by the Commission for the purchase of a Lockheed Electra aircraft.

7.—(1.) The purchase by the Commission from Qantas Empire Airways Limited of one of the five Lockheed Electra aircraft referred to in the loan agreement a copy of which is set out in the Schedule to the *Loan (Qantas Empire Airways Limited) Act 1958* is approved, and the Commission may, without prejudice to its powers of borrowing moneys, accept credit from Qantas Empire Airways Limited up to an amount not exceeding the equivalent of Two million two hundred and fifty thousand dollars in the currency of the United States of America in connexion with the purchase.

Purchase by the Commission of a further Lockheed Electra aircraft from Qantas Empire Airways Limited.

(2.) Nothing in the *Loan (Qantas Empire Airways Limited) Act 1958* shall be deemed to prevent Qantas Empire Airways Limited from selling to the Commission the aircraft in relation to which the last preceding sub-section applies.

PART III.—FINANCIAL ARRANGEMENTS IN RELATION TO AUSTRALIAN NATIONAL AIRWAYS PROPRIETARY LIMITED AND CERTAIN OTHER COMPANIES.

8.—(1.) In order to further the objects and purposes referred to in the recitals to the agreement approved by the *Civil Aviation Agreement Act 1952*, the Treasurer may, on behalf of the Commonwealth, at the request of Ansett Transport Industries Limited and subject to the conditions required by this Part—

Guarantee of certain loans.

- (a) for the purpose of enabling the purchase by Ansett Transport Industries Limited or Australian National Airways Proprietary Limited of two Lockheed Electra aircraft and related spare parts and equipment, guarantee the repayment of, and the payment of interest on, a loan or loans of an amount or amounts not exceeding in the whole the equivalent of Three million pounds made to either of those companies, each such loan being repayable within a period not exceeding seven years from the date on which the loan moneys are received; and
- (b) for the purpose of enabling the purchase by Ansett Transport Industries Limited or Australian National Airways Proprietary Limited of six Fokker Friendship aircraft and related spare parts and equipment,

guarantee the repayment of, and the payment of interest on, a loan or loans of an amount or amounts not exceeding in the whole the equivalent of Two million pounds made to either of those companies, each such loan being repayable within a period not exceeding six years from the date on which the loan moneys are received.

(2.) The guarantee of a loan or loans under this section does not affect the rights of Australian National Airways Proprietary Limited under clause three of the agreement approved by the *Civil Aviation Agreement Act 1952*.

Financial
conditions of
guarantees,

9. For the purposes of the protection of the financial interests of the Commonwealth, the Treasurer shall not give a guarantee under the last preceding section in respect of a loan unless—

- (a) the moneys are borrowed upon reasonable terms and conditions;
- (b) proper security is taken by the lender over the aircraft and related spare parts and equipment to which the loan relates;
- (c) the loan arrangements contain such provision as the Treasurer considers necessary for the transfer to the Commonwealth of the benefit of securities in the event of the Commonwealth being called upon to make payment under the guarantee;
- (d) undertakings to the satisfaction of the Treasurer are given that the aircraft and other assets over which security for the payment of moneys to which the guarantee relates—
 - (i) will be insured, and kept insured, against all risks against which it is customary to insure, and to their full insurable value;
 - (ii) will not be sold, mortgaged or charged except by way of security to the lender in respect of the loan; and
 - (iii) will not be taken out of Australia for a destination that is not in Australia or a Territory of the Commonwealth except after the furnishing of such security as the Treasurer may require; and
- (e) such other conditions as the Treasurer thinks necessary are fulfilled.

Rationalization
conditions of
guarantees.

10.—(1.) The Treasurer shall not give a guarantee under this Part unless undertakings are given to the satisfaction of the Minister for compliance by the Company with the obligations specified in section thirteen of this Act so long as any moneys

in respect of which a guarantee is given under this Part remain unpaid or any liability to the Commonwealth arising out of such a guarantee remains undischarged and such other undertakings are given by the Company as the Minister considers necessary.

(2.) While the Company is subject to the obligations specified in section thirteen of this Act, the Commission is, by force of this Act, also subject to those obligations.

PART IV.—RATIONALIZATION OF AIRCRAFT FLEETS.

11. In this Part, unless the contrary intention appears— Definitions.

“ aircraft capacity ”, in relation to aircraft, means, in respect of a period, the number of revenue traffic ton-miles capable of being performed by the aircraft in the period;

“ competitive route ” means a route over which air services are operated both by the Commission and by the Company, and “ non-competitive route ” means any other route;

“ revenue load factor ”, in relation to an aircraft, means, in respect of a period, the percentage that the revenue value of the work performed on the flights made by the aircraft during that period is of the revenue value of the work that could have been performed on those flights, ascertained in accordance with the equation—

$$A = \frac{100 (B + CD)}{E}$$

where—

A is the revenue load factor;

B is the number of passenger ton-miles performed by the aircraft in the period, based on a passenger weight (including free baggage) of two hundred pounds;

C is the non-passenger revenue traffic ton-miles performed by the aircraft in the period;

D is the ratio of the revenue yield per ton-mile of non-passenger traffic to the revenue yield per ton-mile of passenger traffic; and

E is the total revenue traffic ton-miles for which the aircraft could have been used on the flights performed in the period;

“ ton ” means two thousand pounds weight;

“ traffic ” means traffic in respect of passengers, cargo and mails.

Determination
by Minister
of overall
aircraft
capacity.

12.—(1.) The Minister shall, from time to time, in relation to a specified future period—

- (a) estimate the total traffic on—
 - (i) each of the competitive routes;
 - (ii) the non-competitive routes of the Commission; and
 - (iii) the non-competitive routes of the Company; and
- (b) determine the maximum aircraft capacity of the aircraft required by the Commission and the Company, respectively, for the purposes of—
 - (i) carrying one-half of the total traffic estimated by the Minister in respect of the competitive routes; and
 - (ii) operating its services on non-competitive routes.

(2.) For the purposes of this section, the Minister shall have regard to—

- (a) rates of traffic increase;
- (b) the types, speeds and reasonable extent of utilization of the aircraft proposed to be used;
- (c) the revenue load factor that would be the optimum revenue load factor for the operation of aircraft on each route during the period concerned, due consideration being given to the interests of the public and the maintenance of a proper relation between revenue and costs;
- (d) the necessity for the overhaul and maintenance of aircraft;
- (e) the necessity for having aircraft available to meet emergency situations;
- (f) aircrew training requirements;
- (g) any services operated otherwise than by the Commission or the Company on non-competitive routes; and
- (h) any other factors affecting the stability of the domestic air transport industry.

(3.) Where the Minister makes an estimate and a determination under sub-section (1.) of this section, he shall, not less than twenty-eight days before the commencement of the relevant period, give notice of the terms of the estimate and of the determination to the Commission and to Ansett Transport Industries Limited and shall, in the notice, specify the portion of the determined aircraft capacity that is related to traffic on the competitive routes.

13. The obligations that are, in accordance with section ten of this Act, to become applicable to the Company and the Commission upon the giving of a guarantee on behalf of the Commonwealth under section eight of this Act are the following:—

Conditional
obligations of
Commission
and Company.

- (a) where the Minister has made a determination under the last preceding section in relation to a period—an obligation not to provide, on the competitive routes, during that period, air services capable of performing a number of revenue traffic ton-miles in excess of the aircraft capacity specified in respect of the competitive routes in the notice under sub-section (3.) of the last preceding section;
- (b) where, at any time during a period in relation to which the Minister has made a determination under the last preceding section, the Minister—
 - (i) notifies the Commission or Ansett Transport Industries Limited that he is satisfied that the aircraft owned, operated, or otherwise available for use, by the Commission or the Company, as the case may require, exceed the aircraft required to provide, in that period, the aircraft capacity determined in relation to the Commission or the Company, as the case may be, and to fulfil any arrangements for the use by an operator other than the Commission or the Company of any aircraft operated by the Commission or the Company, as the case may be; and
 - (ii) directs the disposal of aircraft to a specified extent (being the extent which the Minister considers necessary to eliminate the excess),
an obligation to comply with the direction within the time specified by the Minister;
- (c) an obligation not to purchase, lease or otherwise obtain the use of any aircraft unless the Minister has certified in writing that, in his opinion, the obtaining of the aircraft will not result in the Commission or the Company, as the case may be, having the use of any aircraft in excess of the aircraft required to provide the aircraft capacity determined from time to time under the last preceding section, and that, in his opinion, the obtaining of an aircraft of the type proposed to be obtained will not, having regard to the types of aircraft operated by the Commission and

the Company or in respect of which any other certificate under this paragraph has been or is proposed to be issued, be detrimental to the stability of the domestic air transport industry; and

- (d) an obligation to furnish to the Minister, within such times as the Minister specifies, such information in respect of traffic as the Minister requires.

Consultation
between airlines
and Director-
General.

14.—(1.) The Director-General of Civil Aviation may, from time to time, convene conferences to be attended by representatives of the Department of Civil Aviation, the Commission and the Company, for the purpose of considering matters relevant to the making of estimates and determinations by the Minister under this Part.

(2.) The Director-General shall report to the Minister any conclusions arrived at or views expressed at a conference held in pursuance of this section, and the Minister shall, before making an estimate or determination under this Part, give full consideration to any such conclusion or views.

Minister
to accord
Commission
and Company
equal treatment.

15. The Minister shall not, in the exercise of his powers under this Part, unfairly discriminate in favour of the Commission or the Company as against the other.

LOAN (AUSTRALIAN NATIONAL AIRLINES COMMISSION).

No. 71 of 1958.

An Act to approve the raising by way of Loan of Moneys in the Currency of the United States of America to be lent to the Australian National Airlines Commission, and for purposes connected therewith.

[Assented to 10th October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Loan (Australian National Airlines Commission) Act 1958*. Short title

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-
ment.

3.—(1.) In this Act, “the Loan Agreement” means the agreement entered into between the Commonwealth and various lenders in the United States of America a copy of which is set out in the Schedule to this Act. Interpretation.

(2.) For the purposes of this Act, the promissory notes delivered by the Commonwealth under the Loan Agreement shall be deemed to form part of the Loan Agreement.

Approval of borrowing.

4. The borrowing by the Treasurer, on behalf of the Commonwealth, in accordance with the Loan Agreement, of moneys in the currency of the United States of America not exceeding in the whole Three million dollars is approved.

Application of moneys.

5.—(1.) For the purpose of making available to the Australian National Airlines Commission moneys required by the Commission in connexion with the purchase by the Commission of a Lockheed Electra aircraft and related spare parts and equipment, the Treasurer shall, on behalf of the Commonwealth, lend to the Commission, upon such terms and conditions as he determines, amounts equivalent to the moneys borrowed under the Loan Agreement.

(2.) The moneys required for the purpose of loans under the last preceding sub-section are payable out of the Loan Fund, which is to the necessary extent appropriated accordingly.

Expenses and charges.

6. The expenses of borrowing, and interest and other charges payable, under the Loan Agreement, shall be paid out of the Consolidated Revenue Fund.

Repayment of loan moneys.

7. Moneys borrowed under the Loan Agreement shall be repaid out of the Consolidated Revenue Fund in accordance with the provisions of the Loan Agreement.

Appropriation of Consolidated Revenue Fund.

8. The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of the last two preceding sections.

National Debt Sinking Fund Act not to apply.

9. The *National Debt Sinking Fund Act* 1923–1950 does not apply in relation to moneys borrowed under the Loan Agreement.

THE SCHEDULE.

Section 3.

LOAN AGREEMENT dated September 10, 1958 between Commonwealth of Australia (the "Commonwealth"), the banks named in Section 1 hereof (the "Banks") and J. P. Morgan & Co. Incorporated, as Agent (the "Agent").

The Commonwealth has requested the Banks to make loans to it for the purpose of enabling the Commonwealth to make available to The Australian National Airlines Commission trading as Trans-Australia Airlines ("Trans-Australia") amounts in United States dollars ("dollars") required by Trans-Australia to finance approximately 75% of the purchase price of one Lockheed Electra aircraft and related spare parts and equipment. Upon the terms hereof the Banks are prepared to make loans for such purpose. Accordingly, the parties agree as follows:

THE SCHEDULE—*continued.*

SECTION 1. Subject to the provisions of this Agreement each Bank agrees to make loans to the Commonwealth at the latter's request, from time to time from the date hereof until June 30, 1959, in an aggregate amount not exceeding the amounts set forth below opposite its name:

Bank of America National Trust & Savings Assn.	300 Montgomery Street, San Francisco 20, California	\$1,062,500
The Cleveland Trust Com- pany	Euclid Avenue, Cleveland 1, Ohio	375,000
The First National City Bank of New York	55 Wall Street, New York 15, New York	1,062,500
J. P. Morgan & Co. In- corporated	23 Wall Street, New York 8, New York	500,000
		\$3,000,000

The loans to be made by the Banks pursuant to this Section (the "Loans") will be evidenced by Promissory Notes (the "Notes") of the Commonwealth, duly executed by the Treasurer of the Commonwealth and by any person at the time Consul General, Acting Consul General or Consul of the Commonwealth in New York City. Each of the Notes will be substantially in the form of Exhibit A hereto (appropriately completed in accordance with this Section), will be dated the date of the Loan which it evidences, will be payable in dollars in ten equal semiannual instalments on June 30 and December 31 of each year, commencing December 31, 1959 and ending June 30, 1964, and will bear interest at the rate of 4½% per annum on the unpaid balance from time to time thereof from the date thereof to the date of payment. The Commonwealth will pay interest on the Notes, in dollars, semiannually on the last day of June and December in each year. Interest is to be computed on the basis of a year of 365 days.

SECTION 2. Each borrowing by the Commonwealth will be in the amount of \$750,000 or multiple thereof and will be divided among the Banks pro rata to their commitments. The Commonwealth will give to the Agent at least seven business days' written or telegraphic notice of the date on which any Loan is required and the amount of such Loan. The Agent will give at least three business days' written or telegraphic notice to each Bank of such date and of the proportionate amount of the Loan to be made by such Bank.

SECTION 3. Payments of principal and interest on the Notes will be made to the Agent, at its office at 23 Wall Street, New York 8, New York, in dollars in Federal Reserve Funds for the account of the holders of the Notes pro rata to the principal amount for the time being of the Notes held by them. All payments of commitment fees pursuant to this Agreement will be made to the Agent in dollars for the account of the Banks pro rata to their commitment.

SECTION 4. The Commonwealth represents, warrants and agrees that the principal of and interest on the Notes will be free of all present or future taxes imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that the right to receive payment of the principal of or interest on any Note is or comes to be beneficially owned by any person residing in or ordinarily a resident of the Commonwealth.

SECTION 5. The Commonwealth represents and warrants (a) that there has been no material adverse change in the financial, economic or political conditions of the Commonwealth from the conditions set forth in the Prospectus dated April 22, 1958 relating to the Commonwealth's Fifteen Year 4½% Bonds Due May 1, 1973; and (b) that the proceeds of the Loans will be made available to Trans-Australia to enable Trans-Australia to finance approximately 75% of the purchase price of one Lockheed Electra aircraft and related spare parts and equipment.

SECTION 6. The obligation of each Bank to make each Loan hereunder is subject to the performance by the Commonwealth of all its obligations under this Agreement, to the accuracy of its representations and warranties herein contained and to the satisfaction on the date of such Loan of the following further conditions:

(a) The Agent shall have received a Note to such Bank in the amount of the Loan by such Bank;

THE SCHEDULE—*continued.*

(b) Before the first Loan the Banks shall have received a certified copy of an opinion of the Solicitor-General or Acting Solicitor-General of the Commonwealth, in a form satisfactory to the Banks, to the effect that (i) the Loans and the Notes have been duly authorized in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable thereto; (ii) the Notes, when signed by the Treasurer of the Commonwealth and by a person referred to in Section 1 and delivered in accordance herewith, will constitute valid, binding, absolute and unconditional obligations of the Commonwealth, for the performance of which the full faith and credit of the Commonwealth is pledged; and (iii) this Agreement has been duly authorized and executed in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable hereto and all the provisions hereof are valid and binding as against the Commonwealth; and

(c) All legal matters relating to each Loan, and the Notes shall be satisfactory to counsel for the Banks, Messrs. Davis Polk Wardwell Sunderland & Kiendl, and to such Australian counsel as they may consult.

SECTION 7. The Commonwealth will pay to the Agent, in dollars, a commitment fee computed at the rate of $\frac{1}{2}$ of 1% per annum (on the basis of a year of 365 days), in respect of the period from July 25, 1958 to June 30, 1959 on the daily average unused amounts which the Banks were obligated to lend under Section 1 hereof. The accrued portion of such commitment fee will be paid on December 31, 1958 and on June 30, 1959.

SECTION 8. The Commonwealth agrees that, from the date hereof until the payment in full of the Loans:

(a) If the Commonwealth sells, offers for public subscription or in any manner disposes of any bonds or loans constituting external debt of the Commonwealth secured by lien on any revenue or asset of the Commonwealth, the Loans and the Notes will be secured equally and ratably therewith and the Commonwealth will make appropriate provision to that end, where necessary;

(b) From time to time, at the request of any Bank, the Commonwealth will promptly deliver to such Bank copies of all reports and other documents filed by the Commonwealth with the United States Securities and Exchange Commission; and

(c) The Banks may accept and rely upon requests for advances, notices or other communications from the Commonwealth, relative to the transactions hereby contemplated, if signed by any person at the time Consul General, Acting Consul General or Consul of the Commonwealth in New York City.

SECTION 9. If any principal or interest on any Note is not paid when due, and if any such default continues for ten days, the Agent, by written notice mailed to the Commonwealth, addressed to The Commonwealth Treasury, Canberra, Australia, shall if requested in writing by any of the Banks, declare the entire principal amount of each Note, and accrued interest thereon, to be, and the same will become, forthwith due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived. Simultaneously with the giving of any such notice to the Commonwealth, the Agent will notify all holders of the Notes thereof.

SECTION 10. Each of the Banks and each subsequent holder of Notes by its acceptance thereof, irrevocably authorizes the Agent to receive all payments of principal of and interest on the Notes and all commitment fees, as provided in Sections 3 and 7, and to take all other action delegated to it hereunder or reasonably incidental thereto. Neither the Agent nor any of its directors, officers or employees shall be liable for any action taken or omitted in the absence of negligence or wilful misconduct. The Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with it. The Agent shall promptly notify the Commonwealth of any such notice received by it.

SECTION 11. The Commonwealth will reimburse the Agent and the Banks for their out-of-pocket expenses (including counsel fees) in connection with this Agreement and the loans hereunder.

THE SCHEDULE—*continued.*

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first above written.

COMMONWEALTH OF AUSTRALIA
By JOS. FRANCIS

BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN.
By V. C. RICHARDS V.P.

THE CLEVELAND TRUST COMPANY
By GEO. F. PRYOR V.P.
and WM. SERNE JR. A.V.P.

THE FIRST NATIONAL CITY BANK OF NEW YORK
By EDWIN THORNE V.P.

J. P. MORGAN & CO. INCORPORATED
By J. DELAFIELD DUBOIS V.P.

J. P. MORGAN & CO. INCORPORATED, as Agent
By J. DELAFIELD DUBOIS V.P.

EXHIBIT A

New York, N.Y.

§ For value received, COMMONWEALTH OF AUSTRALIA ("the Commonwealth") hereby promises to pay to the order of _____, at the principal office of J. P. Morgan & Co. Incorporated (the "Agent"), at 23 Wall Street, New York, N.Y., the principal sum of \$ _____ in lawful money of the United States of America, by ten semi-annual instalments of \$ _____ each. The first semi-annual instalment shall be payable on December 31, 1959 and a subsequent semi-annual instalment shall be payable on the last day of each December and June thereafter until the principal sum is paid in full.

The Commonwealth also hereby promises to pay interest on so much of said principal sum as is from time to time unpaid, from the date hereof, in like money, at said office, semi-annually on the last day of June and December in each year, at the rate of 4½% per annum.

This note is one of the Notes referred to in the Loan Agreement dated _____, 1958 between the Commonwealth, the Agent, and certain banks named therein and is entitled to the benefits therein provided. Upon the terms provided in such Loan Agreement the principal hereof and accrued interest hereon may become payable prior to stated maturity.

The principal hereof and interest hereon will be paid free of all taxes now or at any time hereafter imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that this note is beneficially owned by any person residing in or ordinarily a resident of the Commonwealth.

COMMONWEALTH OF AUSTRALIA

By

Treasurer of the Commonwealth of Australia

LOAN (QANTAS EMPIRE AIRWAYS LIMITED).

No. 72 of 1958.

An Act to approve the raising by way of Loan of Moneys in the Currency of the United States of America to be lent to Qantas Empire Airways Limited, and for purposes connected therewith.

[Assented to 10th October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Loan (Qantas Empire Airways Limited) Act 1958.* Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

Interpretation.

3.—(1.) In this Act—

“the Loan Agreement” means the agreement between the Commonwealth and The Chase Manhattan Bank, whose principal office is in the City of New York in the United States of America, a copy of which is set out in the First Schedule to this Act, as varied by the document a copy of which is set out in the Second Schedule to this Act ;

“the Qantas Agreement” means the agreement between the Commonwealth and Qantas Empire Airways Limited referred to in the Loan Agreement.

(2.) For the purposes of this Act, the promissory notes delivered by the Commonwealth under the Loan Agreement shall be deemed to form part of the Loan Agreement.

Approval of borrowing.

4. The borrowing by the Treasurer, on behalf of the Commonwealth, in accordance with the Loan Agreement, of moneys in the currency of the United States of America not exceeding in the whole Thirteen million dollars is approved.

Application of moneys.

5.—(1.) The Treasurer shall, on behalf of the Commonwealth, in accordance with the Qantas Agreement, lend to Qantas Empire Airways Limited amounts equivalent to the moneys borrowed under the Loan Agreement.

(2.) The moneys required for the purpose of loans under the last preceding sub-section are payable out of the Loan Fund, which is to the necessary extent appropriated accordingly.

Payments in respect of principal and interest.

6. In the event of any moneys being required for the purpose of the making by the Commonwealth of a payment to The Chase Manhattan Bank under the Loan Agreement in respect of a liability for principal or interest that has not been discharged by a payment to that Bank by Qantas Empire Airways Limited in accordance with the Qantas Agreement, the moneys so required shall be paid out of the Consolidated Revenue Fund.

Expenses and charges.

7. The expenses of borrowing under the Loan Agreement, and commitment fee and charges, other than interest, payable by the Commonwealth under the Loan Agreement, shall be paid out of the Consolidated Revenue Fund.

Appropriation of Consolidated Revenue Fund.

8. The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of the last two preceding sections.

National Debt Sinking Fund Act not to apply.

9. The *National Debt Sinking Fund Act* 1923–1950 does not apply in relation to moneys borrowed under the Loan Agreement.

THE SCHEDULES.

FIRST SCHEDULE.

Section 3.

LOAN AGREEMENT dated June 17, 1958 between COMMONWEALTH OF AUSTRALIA ("the Commonwealth") and THE CHASE MANHATTAN BANK ("Chase").

The Commonwealth has requested Chase to make advances to it for the purpose of enabling the Commonwealth to make available to Qantas Empire Airways Limited ("Qantas") amounts in United States dollars ("dollars") required by Qantas to pay the purchase price of five Lockheed Electra aircraft and related spare parts and equipment. Upon the terms hereof Chase is prepared to make advances for such purpose. Accordingly, the parties agree as follows—:

§1. On the terms hereof Chase will make advances to the Commonwealth at the latter's request, from time to time from the date hereof until December 31, 1959, up to an aggregate amount of \$13,000,000. The obligation of Chase to make advances up to such amount is called Chase's "commitment" and the aggregate of all the advances made to the Commonwealth is called "the Loan". Each advance will be in the amount of \$1,000,000 or a multiple thereof. The Commonwealth will repay the Loan, in dollars, in ten equal semi-annual instalments. The first instalment will be due and payable June 30, 1960 and a subsequent instalment will be due and payable on the last day of each December and June thereafter until the amount of the Loan has been repaid. So much of the Loan as is to be repaid by the first six instalments will bear interest at the rate of 4½% per annum and the remainder of the Loan will bear interest at the rate of 4¾% per annum. The Commonwealth will pay interest on the amount of the Loan for the time being outstanding, in dollars, semi-annually on the last day of June and December in each year until the Loan is repaid.

§2. The Commonwealth will give Chase at least five business days notice of the date on which any advance is required and the amount of the advance required. On the date on which each advance is required Chase will make the amount of the advance available to the Commonwealth, either by credit to such account on Chase's books as the Commonwealth designates or by Chase's check in New York Clearing House funds, as the Commonwealth elects. On the date on which the first advance is required, Chase will open in its books a loan account in the name of the Commonwealth ("the Loan Account") and will debit to the Loan Account the amount of each advance as and when it is made. The Commonwealth will promptly make the proceeds of each advance available to Qantas pursuant to the Qantas Agreement referred to in §6.A.

§3. Semi-annually on the last day of June and December in each year, the Commonwealth will pay interest on the debit balance from time to time appearing on the Loan Account at the rate of 4½% per annum on 60% of such debit balance from time to time and at the rate of 4¾% per annum on 40% of the debit balance from time to time, both rates being computed on the daily average of the amount of the debit balance on the basis of a year of 360 days. As evidence of the Loan the Commonwealth will, on or before December 31, 1959, deliver to Chase two promissory notes of the Commonwealth ("the Notes"), duly executed by the Treasurer of the Commonwealth and by any person at the time Consul General, Acting Consul General or Consul of the Commonwealth in New York City. Each of the Notes will be substantially in the form of Exhibit A hereto and appropriately completed in accordance with §1. One of the Notes will evidence so much of the Loan as is to be repaid by the first six instalments and the other will evidence so much of the Loan as is to be repaid by the remaining four instalments. Upon delivery of the Notes, the Loan Account will be closed and no further interest will be payable by the Commonwealth in respect of the Loan Account.

§4. The Commonwealth represents, warrants and agrees that the principal of and interest on the Loan will be free of all present or future taxes imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that the right to receive payment of the principal of or interest on the Loan is or comes to be beneficially owned by any person residing in or ordinarily a resident of the Commonwealth.

§5. The Commonwealth represents and warrants that there has been no material adverse change in the financial, economic or political conditions of the Commonwealth from the conditions set forth in the Prospectus dated April 22, 1958 relating to the Commonwealth's Fifteen Year 4½% Bonds Due May 1, 1973.

§6. Chase's obligation to make each advance to the Commonwealth is subject to the performance by the Commonwealth of all its obligations under this agreement, to the accuracy of its representations and warranties herein contained, and to the satisfaction on the date of such advance of the following further conditions :

FIRST SCHEDULE—continued.

A. There shall then be in force, and before the first advance Chase shall have received an executed duplicate of, an agreement between the Commonwealth and Qantas ("the Qantas Agreement"), in a form satisfactory to Chase, which shall include provisions to the effect that (i) upon receiving the proceeds of each advance hereunder the Commonwealth will promptly lend to Qantas an amount in dollars equal to the amount of such advance; (ii) payments of principal of and interest on the loans to Qantas will be due on dates and in amounts corresponding to the dates and amounts of the payments due on the Loan; and (iii) Qantas agrees with the Commonwealth, for the benefit of Chase, that on each date when an amount of principal and/or interest is due on the Loan Qantas will pay such amount, in dollars, directly to Chase for application in payment of the corresponding principal of and/or interest on the Loan, such payment by Qantas to discharge, *pro tanto*, its obligations to the Commonwealth. Chase hereby agrees that each such payment received by Chase from Qantas will be promptly applied by Chase on the Loan and, when applied, will discharge, *pro tanto*, the obligations of the Commonwealth in respect of the Loan.

B. Before the first advance Chase shall have received an opinion of the Solicitor-General or Acting Solicitor-General of the Commonwealth, in a form satisfactory to Chase, to the effect that (i) the Loan and the Notes have been duly authorized in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable thereto; (ii) the Notes, when signed by the Treasurer of the Commonwealth and an Authorized Representative and delivered in accordance herewith, will constitute valid, binding, absolute and unconditional obligations of the Commonwealth, for the performance of which the full faith and credit of the Commonwealth is pledged; and (iii) this agreement has been duly authorized and executed in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable hereto and all the provisions hereof are valid and binding as against the Commonwealth.

C. All legal matters relative to each advance, the Notes and the Qantas Agreement shall be satisfactory to Chase's counsel, Messrs. Milbank, Tweed, Hope & Hadley, and to such Australian counsel as they may consult.

§7. The Commonwealth will pay to Chase, in dollars, commitment fee computed at the rate of $\frac{1}{2}$ of 1% per annum (on the basis of a year of 360 days), for the period from May 15, 1958 to December 31, 1959, on the daily average amount of Chase's commitment which has not been advanced to the Commonwealth. Accrued commitment fee will be paid on the last day of June and December in each year.

§8. The Commonwealth agrees that, from the date hereof until the payment in full of the Loan—:

A. If the Commonwealth sells, offers for public subscription or in any manner disposes of any bonds or loans constituting external debt of the Commonwealth secured by lien on any revenue or asset of the Commonwealth, the Loan and the Notes will be secured equally and ratably therewith and the Commonwealth will make appropriate provision to that end, where necessary.

B. From time to time, at the request of Chase, the Commonwealth will promptly deliver to Chase copies of all reports and other documents filed by the Commonwealth with the United States Securities and Exchange Commission.

C. Chase may accept and rely upon requests for advances, notices or other communications from the Commonwealth, relative to the transactions hereby contemplated, if signed by any person at the time Consul General, Acting Consul General or Consul of the Commonwealth in New York City.

§9. If any principal of or interest on the Loan or any Note is not paid when due or if the Notes are not duly delivered in accordance with §3, and if any such default continues for ten days, Chase may, by written notice mailed to the Commonwealth, addressed to it at The Commonwealth Treasury, Canberra, Australia, declare the entire principal amount of the Loan and each Note, and accrued interest thereon, to be, and the same will become, forthwith due and payable.

§10. The Commonwealth will reimburse Chase for its out-of-pocket expenses (including counsel fees) in connection with this agreement and the advances hereunder.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed as of the date first above written.

COMMONWEALTH OF AUSTRALIA

By Jos. Francis

Australian Consul General at New York

THE CHASE MANHATTAN BANK

By J. P. Mitchell

Vice President

FIRST SCHEDULE—*continued*.

EXHIBIT A

New York, N.Y.

December 31, 1959

For value received, COMMONWEALTH OF AUSTRALIA ("the Commonwealth") hereby promises to pay to the order of THE CHASE MANHATTAN BANK ("the Payee"), at the Payee's principal office at 18 Pine Street, New York, N.Y., the principal sum of \$ [insert 60% or 40% of the Loan, as the case may be], in lawful money of the United States of America, by [insert six or four, as the case may be] semi-annual instalments of \$ [insert 1/6th or 1/4th, as the case may be, of the principal sum] each. The first semi-annual instalment shall be payable on June 30, [insert 1960 or 1963, as the case may be] and a subsequent semi-annual instalment shall be payable on the last day of each December and June thereafter until the principal sum is paid in full.

The Commonwealth also hereby promises to pay interest on so much of said principal sum as is from time to time unpaid, from the date hereof, in like money, at said office, semi-annually on the last day of June and December in each year, at the rate of [insert 4½ or 4¼, as the case may be] % per annum.

This note is one of the Notes referred to in the Loan Agreement dated June 17, 1958 between the Commonwealth and the Payee and is entitled to the benefits therein provided. Upon the terms provided in such Loan Agreement the principal hereof and accrued interest hereon may become payable prior to stated maturity.

The principal hereof and interest hereon will be paid free of all taxes now or at any time hereafter imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that this note is beneficially owned by any person residing in or ordinarily a resident of the Commonwealth.

COMMONWEALTH OF AUSTRALIA

By
Treasurer of the Commonwealth of
Australia

SECOND SCHEDULE.

Section 3.

THE CHASE MANHATTAN BANK
NEW YORK

June 17, 1958

Commonwealth of Australia
Australian Consulate-General
636 Fifth Avenue
NEW YORK 20, N.Y.

Attention of Sir Josiah Francis, Consul-General

Gentlemen:

We refer to our Loan Agreement with you, dated June 17, 1958, in which it is provided in the third sentence of Section 1, that each advance will be in the amount of \$1,000,000 or a multiple thereof. In the interest of simplifying the computations involved in making these advances, we should appreciate your agreeing with us that instead of \$1,000,000, each advance shall be in the amount of \$1,300,000.

If this change is acceptable to you, kindly so indicate by signing and returning to us the attached copy of this letter.

With many thanks,

Sincerely yours,

J. P. MITCHELL

Vice President

Enc.

Agreed:

COMMONWEALTH OF AUSTRALIA

By Jos. Francis

Australian Consul General at New York

CIVIL AVIATION (DAMAGE BY AIRCRAFT).

No. 81 of 1958.

An Act to approve Ratification by Australia of the Rome Convention on Damage caused by Foreign Aircraft to third Parties on the Surface, to give effect to that Convention, and to make provision with respect to the Liabilities of certain Operators of Aircraft in respect of damage on the Surface to which that Convention does not apply.

[Assented to 10th October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Civil Aviation (Damage by Aircraft) Act 1958*. Short title.

2.—(1.) Parts I. and IV. of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commence-
ment.

(2.) Part II. of this Act shall come into operation on a date to be fixed by Proclamation, not being earlier than the ninetieth day after the deposit on behalf of Australia of an instrument of ratification of the Convention.

(3.) Part III. of this Act shall come into operation on a date to be fixed by Proclamation.

Parts.

3. This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–7).

Part II.—Damage to which the Rome Convention applies (Sections 8–15).

Part III.—Other Damage to which this Act applies (Sections 16–19).

Part IV.—Regulations (Section 20).

Definitions.

4. In this Act, unless the contrary intention appears—

“Australia” includes the Territories of the Commonwealth;

“contracting State” means a country, other than Australia, which is bound by the provisions of the Convention;

“the Convention” means the Convention on Damage caused by Foreign Aircraft to third Parties on the Surface opened for signature at Rome on the seventh day of October, One thousand nine hundred and fifty-two, being the Convention a copy of the authentic text of which in the English language is set out in the Schedule to this Act.

Extension to Territories.

5. This Act extends to every Territory of the Commonwealth.

Act to bind Crown.

6. This Act binds the Crown in right of the Commonwealth or of any State.

Approval of ratification of Rome Convention.

7. Approval is given to ratification by Australia of the Convention.

PART II.—DAMAGE TO WHICH THE ROME CONVENTION APPLIES.

Convention to have the force of law.

8.—(1.) The provisions of the Convention have the force of law in Australia.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

Actions under Convention.

9.—(1.) Where damage in relation to which the Convention applies occurs in Australia, an action under the Convention in respect of the damage does not lie in Australia except in a Court having jurisdiction in relation to the place where the damage occurs.

(2.) Where an action under the Convention is pending in the Supreme Court of a State or Territory of the Commonwealth, an action under the Convention arising out of the same incident (other than an action instituted before the institution of the action in the Supreme Court) does not lie in any other Court of that State or Territory.

(3.) Where actions under the Convention arising out of a single incident are pending in two or more Courts of a State or Territory of the Commonwealth (whether or not one of those Courts is the Supreme Court), the Supreme Court of that State or Territory may, upon the application of the defendant in any such action (or, if there is more than one defendant, upon the application of any defendant), order any such action to be removed into the Supreme Court, and any such order may be made on such terms and conditions as the Supreme Court thinks fit.

(4.) For the purposes of section thirty-eight of the *Judiciary Act 1903-1955*, an action under the Convention shall be deemed not to be a matter arising directly under a treaty.

(5.) For the purposes of this section, the Territory of Papua and the Territory of New Guinea shall be deemed to constitute one Territory of the Commonwealth.

10.—(1.) A Court in which two or more actions under the Convention are pending, being actions arising out of a single incident, may make such orders as it thinks fit, upon such terms and conditions as it thinks fit, for the purpose of ensuring, so far as the interests of justice and convenience permit, that all of those actions are consolidated for disposal in a single proceeding.

Consolidation
of actions.

(2.) The last preceding sub-section does not prejudice any power of a Court under any other law with respect to any actions to which that sub-section is applicable.

11.—(1.) The provisions of this section apply in relation to the liability imposed by the Convention on a person in respect of the death of another person.

Liability in
respect of
death.

(2.) The action to enforce the liability may be brought by the personal representative of the deceased person or by one of the persons who suffered damage by reason of the death, but only one action shall be brought in Australia in respect of the death of any one person and the action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(3.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the deceased person and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the deceased person.

(4.) In awarding damages, the Court is not limited to the financial loss resulting from the death of the deceased person.

(5.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the Court (or, where the action is tried with a jury, the jury) directs.

(6.) The Court may, at any stage of the proceedings, make any such order as appears to the Court to be just and equitable in view of the provisions of the Convention limiting the liability of the defendant.

Proceeds of insurance policies in relation to death or injury.

12. In assessing damages in respect of liability under the Convention in relation to the death of, or personal injury to, a person, there shall not be taken into account—

- (a) a sum paid or payable on the death of, or personal injury to, that person under a contract of insurance;
- (b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union ; or
- (c) in the case of death, a premium that would have become payable under a contract of insurance in respect of the life of that person if he had lived after the time at which he died.

Actions against contracting States as operators of aircraft.

13.—(1.) A contracting State shall, for the purposes of an action under the Convention brought in a Court in Australia to enforce a claim in respect of damage for which, under the Convention, the contracting State is liable as operator of the aircraft concerned or as being otherwise connected with that aircraft, be deemed to have submitted to the jurisdiction of that Court.

(2.) Nothing in this section authorizes the issue of execution against the property of a contracting State.

Evidence of certain matters.

14.—(1.) The Minister may, by notice published in the *Gazette*, from time to time declare—

- (a) that a country specified in the notice is a country which has ratified or adhered to the Convention and the date on which the ratification or adherence became effective;

- (b) that a country has, at the time of deposit of its instrument of ratification of or adherence to the Convention, declared that its acceptance of the Convention does not apply to a territory or territories specified in the notice;
- (c) that a country specified in the notice has extended the application of the Convention to a territory or territories specified in the notice, and the date as from which the extension took effect;
- (d) that a country specified in the notice has made a declaration under paragraph 3 of Article 37 of the Convention in relation to a territory specified in the notice; or
- (e) that a country specified in the notice has denounced the Convention in respect of all of the territories for the foreign relations of which that country is responsible, or in respect of any such territory specified in the notice, and the date upon which the denunciation became effective.

(2.) A notice under this section is evidence of the matters declared.

15.—(1.) The regulations may prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to the Convention and, in particular, matters in relation to—

Regulations
for giving
effect to
Convention.

- (a) the manner in which requirements may be made under Chapter III. of the Convention and the authority that is to be the appropriate authority in Australia for any purpose in relation to that Chapter; and
- (b) the manner in which evidence may be given, in proceedings under the Convention, of a certificate of airworthiness of an aircraft or the identity of the registered owner of an aircraft.

(2.) The regulations for carrying out or giving effect to Article 20 of the Convention may include regulations—

- (a) prescribing the Courts in Australia by which judgments referred to in that Article may be enforced and the formalities that are to be complied with before such a judgment may be so enforced;
- (b) in matters arising under that Article or the regulations—
 - (i) conferring original jurisdiction on the High Court;
 - (ii) investing any Court of a State with federal jurisdiction; or

- (iii) conferring jurisdiction on a court of a Territory of the Commonwealth;
- (c) providing that an application to a Court in Australia for execution of a judgment referred to in that Article shall be made by way of, or be preceded by, an application for registration of the judgment in that Court;
- (d) providing that a Court to which such an application for registration of a judgment is made may refuse registration of the judgment, or set aside registration, upon any ground upon which, under that Article, execution of the judgment may be refused or where, for any other reason, the judgment is found not to be enforceable under that Article; and
- (e) prohibiting, restricting or regulating actions or proceedings in Courts in Australia upon foreign judgments in respect of liability under the Convention, for the purpose of preventing the use of such actions or proceedings as a means of evading the limitations contained in Article 20 of the Convention on rights of execution of those judgments.

PART III.—OTHER DAMAGE TO WHICH THIS ACT APPLIES.

Application
of Part.

16.—(1.) This Part applies to an aircraft registered in Australia which, while being used for the purposes of, or moved in the course of, trade and commerce between Australia and another country, is in flight in Australia—

- (a) in the course of a journey of the aircraft between a place in Australia and a place outside Australia (either with or without intermediate stopping places in Australia); or
- (b) in the course of a journey of the aircraft between two places in Australia, if passengers or goods are being carried in the aircraft in part performance of a contract for their carriage by a single carrier between a place in Australia and a place outside Australia.

(2.) This Part also applies in relation to an aircraft, not being an aircraft registered in Australia or in a Contracting State, which is being used for the purposes of, or moved in the course of, trade and commerce between Australia and another country and is in flight in Australia.

(3.) For the purposes of this section, an aircraft shall be deemed to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

17.—(1.) Subject to this section, the provisions of the Convention (other than Chapter III., Articles 20, 23, 27, 28 and 29 and Chapter VI.) apply, by virtue of this section, in relation to an aircraft to which this Part applies.

Application of provisions of Convention.

(2.) For the purposes of this section, references to the Convention in the provisions of the Convention that apply by virtue of this section shall be read as references to the provisions of the Convention that apply by virtue of this section, as so applying.

(3.) The provisions of Chapter II., and of Articles 19 and 21, of the Convention do not apply to an aircraft referred to in sub-section (2.) of the last preceding section, and, in the application of the provisions of the Convention which do apply to such an aircraft, every reference to the limits of liability provided by Chapter II. of the Convention shall be deemed to be omitted.

18. The provisions of sections nine, ten, eleven and twelve of this Act apply for the purposes of this Part in like manner as they apply for the purposes of Part II., but, in the application of those provisions, any reference to the Convention shall be read as a reference to the provisions of the Convention that apply by virtue of this Part, as so applying.

Application of certain provisions of Part II.

19.—(1.) The Minister may, by notice in writing, prohibit a person from operating an aircraft in circumstances in which the aircraft would be an aircraft to which this Part applies unless there is in force a certificate in writing issued by the Minister certifying that that person is insured to the satisfaction of the Minister against liability under this Part to an extent corresponding to the extent to which an operator may be required to be insured under Chapter III. of the Convention.

Minister may require operator to be insured.

(2.) A person to whom a notice under this section has been given shall not, while the notice is in force, contravene the notice.

(3.) For the purposes of this section and of any notice under this section, a person shall be deemed to operate an aircraft if the circumstances are such that that person would, if the aircraft were one to which the Convention applies, be the operator of that aircraft for the purposes of the Convention.

PART IV.—REGULATIONS.

20. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

THE SCHEDULE.

Section 4.

CONVENTION ON DAMAGE CAUSED BY FOREIGN AIRCRAFT
TO THIRD PARTIES ON THE SURFACE.

THE STATES SIGNATORY to this Convention

MOVED by a desire to ensure adequate compensation for persons who suffer damage caused on the surface by foreign aircraft, while limiting in a reasonable manner the extent of the liabilities incurred for such damage in order not to hinder the development of international civil air transport, and also

CONVINCED of the need for unifying to the greatest extent possible, through an international convention, the rules applying in the various countries of the world to the liabilities incurred for such damage,

HAVE APPOINTED to such effect the undersigned Plenipotentiaries who, duly authorised, HAVE AGREED AS FOLLOWS:

CHAPTER I.—PRINCIPLES OF LIABILITY

Article 1

1. Any person who suffers damage on the surface shall, upon proof only that the damage was caused by an aircraft in flight or by any person or thing falling therefrom, be entitled to compensation as provided by this Convention. Nevertheless there shall be no right to compensation if the damage is not a direct consequence of the incident giving rise thereto, or if the damage results from the mere fact of passage of the aircraft through the airspace in conformity with existing air traffic regulations.

2. For the purpose of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of actual take-off until the moment when the landing run ends. In the case of an aircraft lighter than air, the expression "in flight" relates to the period from the moment when it becomes detached from the surface until it becomes again attached thereto.

Article 2

1. The liability for compensation contemplated by Article 1 of this Convention shall attach to the operator of the aircraft.

2. (a) For the purposes of this Convention the term "operator" shall mean the person who was making use of the aircraft at the time the damage was caused, provided that if control of the navigation of the aircraft was retained by the person from whom the right to make use of the aircraft was derived, whether directly or indirectly, that person shall be considered the operator.

(b) A person shall be considered to be making use of an aircraft when he is using it personally or when his servants or agents are using the aircraft in the course of their employment, whether or not within the scope of their authority.

3. The registered owner of the aircraft shall be presumed to be the operator and shall be liable as such unless, in the proceedings for the determination of his liability, he proves that some other person was the operator and, in so far as legal procedures permit, takes appropriate measures to make that other person a party in the proceedings.

Article 3

If the person who was the operator at the time the damage was caused had not the exclusive right to use the aircraft for a period of more than fourteen days, dating from the moment when the right to use commenced, the person from whom such right was derived shall be liable jointly and severally with the operator, each of them being bound under the provisions and within the limits of liability of this Convention.

Article 4

If a person makes use of an aircraft without the consent of the person entitled to its navigational control, the latter, unless he proves that he has exercised due care to prevent such use, shall be jointly and severally liable with the unlawful user for damage giving a right to compensation under Article 1, each of them being bound under the provisions and within the limits of liability of this Convention.

THE SCHEDULE—*continued.**Article 5*

Any person who would otherwise be liable under the provisions of this Convention shall not be liable if the damage is the direct consequence of armed conflict or civil disturbance, or if such person has been deprived of the use of the aircraft by act of public authority.

Article 6

1. Any person who would otherwise be liable under the provisions of this Convention shall not be liable for damage if he proves that the damage was caused solely through the negligence or other wrongful act or omission of the person who suffers the damage or of the latter's servants or agents. If the person liable proves that the damage was contributed to by the negligence or other wrongful act or omission of the person who suffers the damage, or of his servants or agents, the compensation shall be reduced to the extent to which such negligence or wrongful act or omission contributed to the damage. Nevertheless there shall be no such exoneration or reduction if, in the case of the negligence or other wrongful act or omission of a servant or agent, the person who suffers the damage proves that his servant or agent was acting outside the scope of his authority.

2. When an action is brought by one person to recover damages arising from the death or injury of another person, the negligence or other wrongful act or omission of such other person, or of his servants or agents, shall also have the effect provided in the preceding paragraph.

Article 7

When two or more aircraft have collided or interfered with each other in flight and damage for which a right to compensation as contemplated in Article 1 results, or when two or more aircraft have jointly caused such damage, each of the aircraft concerned shall be considered to have caused the damage and the operator of each aircraft shall be liable, each of them being bound under the provisions and within the limits of liability of this Convention.

Article 8

The persons referred to in paragraph 3 of Article 2 and in Articles 3 and 4 shall be entitled to all defences which are available to an operator under the provisions of this Convention.

Article 9

Neither the operator, the owner, any person liable under Article 3 or Article 4, nor their respective servants or agents, shall be liable for damage on the surface caused by an aircraft in flight or any person or thing falling therefrom otherwise than as expressly provided in this Convention. This rule shall not apply to any such person who is guilty of a deliberate act or omission done with intent to cause damage.

Article 10

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

CHAPTER II.—EXTENT OF LIABILITY

Article 11

1. Subject to the provisions of Article 12, the liability for damage giving a right to compensation under Article 1, for each aircraft and incident, in respect of all persons liable under this Convention, shall not exceed:

- (a) 500,000 francs for aircraft weighing 1,000 kilogrammes or less;
- (b) 500,000 francs plus 400 francs per kilogramme over 1,000 kilogrammes for aircraft weighing more than 1,000 but not exceeding 6,000 kilogrammes;
- (c) 2,500,000 francs plus 250 francs per kilogramme over 6,000 kilogrammes for aircraft weighing more than 6,000 but not exceeding 20,000 kilogrammes;
- (d) 6,000,000 francs plus 150 francs per kilogramme over 20,000 kilogrammes for aircraft weighing more than 20,000 but not exceeding 50,000 kilogrammes;
- (e) 10,500,000 francs plus 100 francs per kilogramme over 50,000 kilogrammes for aircraft weighing more than 50,000 kilogrammes.

2. The liability in respect of loss of life or personal injury shall not exceed 500,000 francs per person killed or injured.

3. "Weight" means the maximum weight of the aircraft authorised by the certificate of airworthiness for take-off, excluding the effect of lifting gas when used.

THE SCHEDULE—continued.

4. The sums mentioned in francs in this Article refer to a currency unit consisting of 65 $\frac{1}{2}$ milligrammes of gold of millesimal fineness 900. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment, or, in cases covered by Article 14, at the date of the allocation.

Article 12

1. If the person who suffers damage proves that it was caused by a deliberate act or omission of the operator, his servants or agents, done with intent to cause damage, the liability of the operator shall be unlimited; provided that in the case of such act or omission of such servant or agent, it is also proved that he was acting in the course of his employment and within the scope of his authority.

2. If a person wrongfully takes and makes use of an aircraft without the consent of the person entitled to use it, his liability shall be unlimited.

Article 13

1. Whenever, under the provisions of Article 3 or Article 4, two or more persons are liable for damage, or a registered owner who was not the operator is made liable as such as provided in paragraph 3 of Article 2, the persons who suffer damage shall not be entitled to total compensation greater than the highest indemnity which may be awarded under the provisions of this Convention against any one of the persons liable.

2. When the provisions of Article 7 are applicable, the person who suffers the damage shall be entitled to be compensated up to the aggregate of the limits applicable with respect to each of the aircraft involved, but no operator shall be liable for a sum in excess of the limit applicable to his aircraft unless his liability is unlimited under the terms of Article 12.

Article 14

If the total amount of the claims established exceeds the limit of liability applicable under the provisions of this Convention, the following rules shall apply, taking into account the provisions of paragraph 2 of Article 11:

- (a) If the claims are exclusively in respect of loss of life or personal injury or exclusively in respect of damage to property, such claims shall be reduced in proportion to their respective amounts.
- (b) If the claims are both in respect of loss of life or personal injury and in respect of damage to property, one half of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life and personal injury and, if insufficient, shall be distributed proportionately between the claims concerned. The remainder of the total sum distributable shall be distributed proportionately among the claims in respect of damage to property and the portion not already covered of the claims in respect of loss of life and personal injury.

CHAPTER III.—SECURITY FOR OPERATOR'S LIABILITY*Article 15*

1. Any Contracting State may require that the operator of an aircraft registered in another Contracting State shall be insured in respect of his liability for damage sustained in its territory for which a right to compensation exists under Article 1 by means of insurance up to the limits applicable according to the provisions of Article 11.

2. (a) The insurance shall be accepted as satisfactory if it conforms to the provisions of this Convention and has been effected by an insurer authorised to effect such insurance under the laws of the State where the aircraft is registered or of the State where the insurer has his residence or principal place of business, and whose financial responsibility has been verified by either of those States.

(b) If insurance has been required by any State under paragraph 1 of this Article, and a final judgment in that State is not satisfied by payment in the currency of that State, any Contracting State may refuse to accept the insurer as financially responsible until such payment, if demanded, has been made.

3. Notwithstanding the last preceding paragraph the State overflowed may refuse to accept as satisfactory insurance effected by an insurer who is not authorised for that purpose in a Contracting State.

THE SCHEDULE—continued.

4. Instead of insurance, any of the following securities shall be deemed satisfactory if the security conforms to Article 17:

- (a) a cash deposit in a depository maintained by the Contracting State where the aircraft is registered or with a bank authorised to act as a depository by that State;
- (b) a guarantee given by a bank authorised to do so by the Contracting State where the aircraft is registered, and whose financial responsibility has been verified by that State;
- (c) a guarantee given by the Contracting State where the aircraft is registered, if that State undertakes that it will not claim immunity from suit in respect of that guarantee.

5. Subject to paragraph 6 of this Article, the State overflown may also require that the aircraft shall carry a certificate issued by the insurer certifying that insurance has been effected in accordance with the provisions of this Convention, and specifying the person or persons whose liability is secured thereby, together with a certificate or endorsement issued by the appropriate authority in the State where the aircraft is registered or in the State where the insurer has his residence or principal place of business certifying the financial responsibility of the insurer. If other security is furnished in accordance with the provisions of paragraph 4 of this Article, a certificate to that effect shall be issued by the appropriate authority in the State where the aircraft is registered.

6. The certificate referred to in paragraph 5 of this Article need not be carried in the aircraft if a certified copy has been filed with the appropriate authority designated by the State overflown or, if the International Civil Aviation Organization agrees, with that Organization, which shall furnish a copy of the certificate to each contracting State.

7. (a) Where the State overflown has reasonable grounds for doubting the financial responsibility of the insurer, or of the bank which issues a guarantee under paragraph 4 of this Article, that State may request additional evidence of financial responsibility, and if any question arises as to the adequacy of that evidence the dispute affecting the States concerned shall, at the request of one of those States, be submitted to an arbitral tribunal which shall be either the Council of the International Civil Aviation Organization or a person or body mutually agreed by the parties.

(b) Until this tribunal has given its decision the insurance or guarantee shall be considered provisionally valid by the State overflown.

8. Any requirements imposed in accordance with this Article shall be notified to the Secretary General of the International Civil Aviation Organization who shall inform each Contracting State thereof.

9. For the purpose of this Article, the term "insurer" includes a group of insurers, and for the purpose of paragraph 5 of this Article, the phrase "appropriate authority in a State" includes the appropriate authority in the highest political subdivision thereof which regulates the conduct of business by the insurer.

Article 16

1. The insurer or other person providing security required under Article 15 for the liability of the operator may, in addition to the defences available to the operator, and the defence of forgery, set up only the following defences against claims based on the application of this Convention:

- (a) that the damage occurred after the security ceased to be effective. However, if the security expires during a flight, it shall be continued in force until the next landing specified in the flight plan, but no longer than twenty-four hours; and if the security ceases to be effective for any reason other than the expiration of its term, or a change of operator, it shall be continued until fifteen days after notification to the appropriate authority of the State which certifies the financial responsibility of the insurer or the guarantor that the security has ceased to be effective, or until effective withdrawal of the certificate of the insurer or the certificate of guarantee if such a certificate has been required under paragraph 5 of Article 15, whichever is the earlier;
- (b) that the damage occurred outside the territorial limits provided for by the security, unless flight outside of such limits was caused by *force majeure*, assistance justified by the circumstances, or an error in piloting, operation or navigation.

THE SCHEDULE—continued.

2. The State which has issued or endorsed a certificate pursuant to paragraph 5 of Article 15 shall notify the termination or cessation, otherwise than by the expiration of its term, of the insurance or other security to the interested contracting States as soon as possible.

3. Where a certificate of insurance or other security is required under paragraph 5 of Article 15 and, the operator is changed during the period of the validity of the security, the security shall apply to the liability under this Convention of the new operator, unless he is already covered by other insurance or security or is an unlawful user, but not beyond fifteen days from the time when the insurer or guarantor notifies the appropriate authority of the State where the certificate was issued that the security has become ineffective or until the effective withdrawal of the certificate of the insurer if such a certificate has been required under paragraph 5 of Article 15, whichever is the shorter period.

4. The continuation in force of the security under the provisions of paragraph 1 of this Article shall apply only for the benefit of the person suffering damage.

5. Without prejudice to any right of direct action which he may have under the law governing the contract of insurance or guarantee, the person suffering damage may bring a direct action against the insurer or guarantor only in the following cases:

- (a) where the security is continued in force under the provisions of paragraph 1 (a) and (b) of this Article;
- (b) the bankruptcy of the operator.

6. Excepting the defences specified in paragraph 1 of this Article, the insurer or other person providing security may not, with respect to direct actions brought by the person suffering damage based upon application of this Convention, avail himself of any grounds of nullity or any right of retroactive cancellation.

7. The provisions of this Article shall not prejudice the question whether the insurer or guarantor has a right of recourse against any other person.

Article 17

1. If security is furnished in accordance with paragraph 4 of Article 15, it shall be specifically and preferentially assigned to payment of claims under the provisions of this Convention.

2. The security shall be deemed sufficient if, in the case of an operator of one aircraft, it is for an amount equal to the limit applicable according to the provisions of Article 11, and in the case of an operator of several aircraft, if it is for an amount not less than the aggregate of the limits of liability applicable to the two aircraft subject to the highest limits.

3. As soon as notice of a claim has been given to the operator, the amount of the security shall be increased up to a total sum equivalent to the aggregate of:

- (a) the amount of the security then required by paragraph 2 of this Article, and
- (b) the amount of the claim not exceeding the applicable limit of liability.

This increased security shall be maintained until every claim has been disposed of.

Article 18

Any sums due to an operator from an insurer shall be exempt from seizure and execution by creditors of the operator until claims of third parties under this Convention have been satisfied.

CHAPTER IV.—RULES OF PROCEDURE AND LIMITATION OF ACTIONS

Article 19

If a claimant has not brought an action to enforce his claim or if notification of such claim has not been given to the operator within a period of six months from the date of the incident which gave rise to the damage, the claimant shall only be entitled to compensation out of the amount for which the operator remains liable after all claims made within that period have been met in full.

Article 20

1. Actions under the provisions of this Convention may be brought only before the courts of the Contracting State where the damage occurred. Nevertheless, by agreement between any one or more claimants and any one or more defendants, such claimants may take action before the courts of any other Contracting State, but no

THE SCHEDULE—*continued.*

such proceedings shall have the effect of prejudicing in any way the rights of persons who bring actions in the State where the damage occurred. The parties may also agree to submit disputes to arbitration in any Contracting State.

2. Each Contracting State shall take all necessary measures to ensure that the defendant and all other parties interested are notified of any proceedings concerning them and have a fair and adequate opportunity to defend their interests.

3. Each Contracting State shall so far as possible ensure that all actions arising from a single incident and brought in accordance with paragraph 1 of this Article are consolidated for disposal in a single proceeding before the same court.

4. Where any final judgment, including a judgment by default, is pronounced by a court competent in conformity with this Convention, on which execution can be issued according to the procedural law of that court, the judgment shall be enforceable upon compliance with the formalities prescribed by the laws of the Contracting State, or of any territory, State or province thereof, where execution is applied for:

- (a) in the Contracting State where the judgment debtor has his residence or principal place of business or,
- (b) if the assets available in that State and in the State where the judgment was pronounced are insufficient to satisfy the judgment, in any other Contracting State where the judgment debtor has assets.

5. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application is made for execution may refuse to issue execution if it is proved that any of the following circumstances exist:

- (a) the judgment was given by default and the defendant did not acquire knowledge of the proceedings in sufficient time to act upon it;
- (b) the defendant was not given a fair and adequate opportunity to defend his interests;
- (c) the judgment is in respect of a cause of action which had already, as between the same parties, formed the subject of a judgment or an arbitral award which, under the law of the State where execution is sought, is recognized as final and conclusive;
- (d) the judgment has been obtained by fraud of any of the parties;
- (e) the right to enforce the judgment is not vested in the person by whom the application for execution is made.

6. The merits of the case may not be reopened in proceedings for execution under paragraph 4 of this Article.

7. The court to which application for execution is made may also refuse to issue execution if the judgment concerned is contrary to the public policy of the State in which execution is requested.

8. If, in proceedings brought according to paragraph 4 of this Article, execution of any judgment is refused on any of the grounds referred to in sub-paragraphs (a), (b) or (d) of paragraph 5 or paragraph 7 of this Article, the claimant shall be entitled to bring a new action before the courts of the State where execution has been refused. The judgment rendered in such new action may not result in the total compensation awarded exceeding the limits applicable under the provisions of this Convention. In such new action the previous judgment shall be a defence only to the extent to which it has been satisfied. The previous judgment shall cease to be enforceable as soon as the new action has been started.

The right to bring a new action under this paragraph shall, notwithstanding the provisions of Article 21, be subject to a period of limitation of one year from the date on which the claimant has received notification of the refusal to execute the judgment.

9. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application for execution is made shall refuse execution of any judgment rendered by a court of a State other than that in which the damage occurred until all the judgments rendered in that State have been satisfied.

The court applied to shall also refuse to issue execution until final judgment has been given on all actions filed in the State where the damage occurred by those persons who have complied with the time limit referred to in Article 19, if the judgment debtor proves that the total amount of compensation which might be awarded by such judgments might exceed the applicable limit of liability under the provisions of this Convention.

Similarly such court shall not grant execution when, in the case of actions brought in the State where the damage occurred by those persons who have complied with the time limit referred to in Article 19, the aggregate of the judgments exceeds the applicable limit of liability, until such judgments have been reduced in accordance with Article 14.

THE SCHEDULE—continued.

10. Where a judgment is rendered enforceable under this Article, payment of costs recoverable under the judgment shall also be enforceable. Nevertheless the court applied to for execution may, on the application of the judgment debtor, limit the amount of such costs to a sum equal to ten *per centum* of the amount for which the judgment is rendered enforceable. The limits of liability prescribed by this Convention shall be exclusive of costs.

11. Interest not exceeding four *per centum* per annum may be allowed on the judgment debt from the date of the judgment in respect of which execution is granted.

12. An application for execution of a judgment to which paragraph 4 of this Article applies must be made within five years from the date when such judgment became final.

Article 21

1. Actions under this Convention shall be subject to a period of limitation of two years from the date of the incident which caused the damage.

2. The grounds for suspension or interruption of the period referred to in paragraph 1 of this Article shall be determined by the law of the court trying the action; but in any case the right to institute an action shall be extinguished on the expiration of three years from the date of the incident which caused the damage.

Article 22

In the event of the death of the person liable, an action in respect of liability under the provisions of this Convention shall lie against those legally responsible for his obligations.

*CHAPTER V.—APPLICATION OF THE CONVENTION AND GENERAL PROVISIONS**Article 23*

1. This Convention applies to damage contemplated in Article I caused in the territory of a Contracting State by an aircraft registered in the territory of another Contracting State.

2. For the purpose of this Convention a ship or aircraft on the high seas shall be regarded as part of the territory of the State in which it is registered.

Article 24

This Convention shall not apply to damage caused to an aircraft in flight, or to persons or goods on board such aircraft.

Article 25

This Convention shall not apply to damage on the surface if liability for such damage is regulated either by a contract between the person who suffers such damage and the operator or the person entitled to use the aircraft at the time the damage occurred, or by the law relating to workmen's compensation applicable to a contract of employment between such persons.

Article 26

This Convention shall not apply to damage caused by military, customs or police aircraft.

Article 27

Contracting States will, as far as possible, facilitate payment of compensation under the provisions of this Convention in the currency of the State where the damage occurred.

Article 28

If legislative measures are necessary in any Contracting State to give effect to this Convention, the Secretary General of the International Civil Aviation Organization shall be informed forthwith of the measures so taken.

Article 29

As between Contracting States which have also ratified the International Convention for the Unification of Certain Rules relating to Damage caused by Aircraft to Third Parties on the Surface opened for signature at Rome on the 29 May 1933, the present Convention upon its entry into force shall supersede the said Convention of Rome.

THE SCHEDULE—*continued*.*Article 30*

For the purposes of this Convention:

"Person" means any natural or legal person, including a State.

"Contracting State" means any State which has ratified or adhered to this Convention and whose denunciation thereof has not become effective.

"Territory of a State" means the metropolitan territory of a State and all territories for the foreign relations of which that State is responsible, subject to the provisions of Article 36.

CHAPTER VI.—FINAL PROVISIONS .

Article 31

This Convention shall remain open for signature on behalf of any State until it comes into force in accordance with the provisions of Article 33.

Article 32

1. This Convention shall be subject to ratification by the signatory States.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

Article 33

1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification. It shall come into force, for each State which deposits its instrument of ratification after that date, on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the United Nations by the Secretary General of the International Civil Aviation Organization.

Article 34

1. This Convention shall, after it has come into force, be open for adherence by any non-signatory State.
2. The adherence of a State shall be effected by the deposit of an instrument of adherence with the International Civil Aviation Organization and shall take effect as from the ninetieth day after the date of the deposit.

Article 35

1. Any Contracting State may denounce this Convention by notification of denunciation to the International Civil Aviation Organization.
2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation; nevertheless, in respect of damage contemplated in Article 1 arising from an incident which occurred before the expiration of the six months period, the Convention shall continue to apply as if the denunciation had not been made.

Article 36

1. This Convention shall apply to all territories for the foreign relations of which a Contracting State is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article or paragraph 3 of Article 37.
2. Any State may at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Convention does not apply to any one or more of the territories for the foreign relations of which such State is responsible.
3. Any Contracting State may subsequently, by notification to the International Civil Aviation Organization, extend the application of this Convention to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article or paragraph 3 of Article 37. The notification shall take effect as from the ninetieth day after its receipt by the Organization.
4. Any Contracting State may denounce this Convention, in accordance with the provisions of Article 35, separately for any or all of the territories for the foreign relations of which such State is responsible.

THE SCHEDULE—*continued.**Article 37*

1. When the whole or part of the territory of a Contracting State is transferred to a non-contracting State, this Convention shall cease to apply to the territory so transferred, as from the date of the transfer.

2. When part of the territory of a Contracting State becomes an independent State responsible for its own foreign relations, this Convention shall cease to apply to the territory which becomes an independent State, as from the date on which it becomes independent.

3. When the whole or part of the territory of another State is transferred to a Contracting State, the Convention shall apply to the territory so transferred as from the date of the transfer; provided that, if the territory transferred does not become part of the metropolitan territory of the Contracting State concerned, that Contracting State may, before or at the time of the transfer, declare by notification to the International Civil Aviation Organization that the Convention shall not apply to the territory transferred unless a notification is made under paragraph 3 of Article 36.

Article 38

The Secretary General of the International Civil Aviation Organization shall give notice to all signatory and adhering States and to all States members of the Organization or of the United Nations:

- (a) of the deposit of any instrument of ratification or adherence and the date thereof, within thirty days from the date of the deposit, and
- (b) of the receipt of any denunciation or of any declaration or notification made under Article 36 or 37 and the date thereof, within thirty days from the date of the receipt.

The Secretary General of the Organization shall also notify these States of the date on which the Convention comes into force in accordance with paragraph 1 of Article 33.

Article 39

No reservations may be made to this Convention.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Convention.

DONE at Rome on the seventh day of the month of October of the year One Thousand Nine Hundred and Fifty-two in the English, French and Spanish languages, each text being of equal authenticity.

This Convention shall be deposited with the International Civil Aviation Organization where, in accordance with Article 31, it shall remain open for signature, and the Secretary General of the Organization shall send certified copies thereof to all signatory and adhering States and to all States members of the Organization or the United Nations.

[Here follow the signatures of the Plenipotentiaries of the States on behalf of which the Convention was signed.]

CIVIL AVIATION (CARRIERS' LIABILITY).

No. 2 of 1959.

An Act relating to Carriage by Air.

[Assented to 21st April, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1959*. Short title.

2.—(1.) Parts I., III. and V. of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commence-
ment.

(2.) Parts II. and IV. of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

3. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1–9).

Part II.—Carriage to which the Warsaw Convention and the Hague Protocol apply (Sections 10–19).

Part III.—Carriage to which the Warsaw Convention without the Hague Protocol applies (Sections 20–25).

Part IV.—Other Carriage to which this Act applies (Sections 26–41).

Part V.—Miscellaneous (Sections 42–43).

Repeal and
saving.

4.—(1.) The *Carriage by Air Act* 1935 is repealed.

(2.) Notwithstanding the last preceding sub-section, the provisions of the *Carriage by Air Act* 1935 continue to apply in relation to causes of action that arose before the date of commencement of this section, and Part III. of this Act does not apply in relation to any such cause of action.

Definitions.

5. In this Act, unless the contrary intention appears—

“Australia” includes the Territories of the Commonwealth;

“the Hague Protocol” means the Protocol to amend the Warsaw Convention opened for signature at The Hague on the twenty-eighth day of September, One thousand nine hundred and fifty-five;

“the Warsaw Convention” means the Convention for the Unification of Certain Rules Relating to International Carriage by Air opened for signature at Warsaw on the twelfth day of October, One thousand nine hundred and twenty-nine, and includes the Additional Protocol to that Convention with reference to Article 2 of that Convention.

Extension to
Territories.

6. This Act extends to every Territory of the Commonwealth.

Act to bind
Crown.

7. This Act binds the Crown in right of the Commonwealth or of any State.

Approval of
ratification of
Hague Protocol.

8. Approval is given to ratification by Australia of the Hague Protocol.

Texts of
Conventions.

9.—(1.) Subject to sub-section (3.) of this section, the text of the Warsaw Convention shall, for the purposes of this Act, be deemed to be the text set out in the First Schedule to this Act, being a translation into the English language of the authentic text in the French language of that Convention.

(2.) Subject to the next succeeding sub-section, the text of the Hague Protocol shall, for the purposes of this Act, be deemed to be the text set out in the Second Schedule to this Act, being a copy of the authentic text in the English language of that Protocol.

(3.) If any inconsistency is shown between the text set out in the First Schedule or the Second Schedule to this Act and the authentic text in the French language of the Warsaw Convention or of the Hague Protocol, as the case may be, the authentic French text prevails.

(4.) A certificate in writing under the hand of the Minister of State for External Affairs that a document to which the certificate is annexed is a true copy of the authentic text in the French language of the Warsaw Convention or of the Hague Protocol is evidence that the document is such a true copy.

PART II.—CARRIAGE TO WHICH THE WARSAW CONVENTION AND THE HAGUE PROTOCOL APPLY.

10. In this Part, “the Convention” means the Warsaw Convention and the Hague Protocol read and interpreted together as one single instrument in accordance with Article XIX. of the Hague Protocol. Definition.

11.—(1.) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage. Convention to have force of law.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

12.—(1.) The provisions of this section apply in relation to liability imposed by the Convention on a carrier in respect of the death of a passenger (including the injury that resulted in the death). Liability in respect of death.

(2.) Subject to section fourteen of this Act, the liability under the Convention is in substitution for any civil liability of the carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3.) Subject to the next succeeding sub-section, the liability is enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

(4.) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5.) For the purposes of sub-section (3.) of this section, the members of the passenger's family shall be deemed to be the wife or husband, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members

of the passenger's family, an illegitimate person or an adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adoptors.

(6.) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in Australia in respect of the death of any one passenger, and the action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8.) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10.) The court may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of the provisions of the Convention limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

(11.) The second sentence of paragraph 4 of Article 22 of the Warsaw Convention, as amended by the Hague Protocol, shall not be construed as applying to an action to which this section applies that is wholly or partly for the benefit of a person or persons other than the plaintiff, but the court may, in such an action, deal with any question of costs in such manner as it thinks proper having regard to the operation of that sentence in cases to which it applies.

13. Subject to the next succeeding section, the liability of a carrier under the Convention in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

14. Nothing in the Convention or in this Part shall be deemed to exclude any liability of a carrier—

Certain
liabilities
not excluded.

- (a) to indemnify an employer of a passenger in respect of liability of that employer under a law of the Commonwealth or of a State or Territory of the Commonwealth providing for compensation to workmen or employees in respect of accidents arising out of or in the course of their employment; or
- (b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger,

but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with the Convention.

15. In assessing damages in respect of liability under the Convention there shall not be taken into account by way of reduction of the damages—

Proceeds
of insurance
policies, &c.

- (a) a sum paid or payable on the death of, or personal injury to, a passenger under a contract of insurance;
- (b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;
- (c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
- (d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
- (e) in the case of death, a premium that would have become payable under a contract of insurance in respect of the life of the deceased passenger if he had lived after the time at which he died.

16.—(1.) Effect shall be given to Article 21 of the Warsaw Convention in accordance with the provisions of this section.

Contributory
negligence.

(2.) If, in an action against a carrier under the Convention, the carrier proves that the damage was caused by or contributed to by the negligence of the passenger or the consignor, the damages recoverable shall be assessed in accordance with this section.

(3.) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with the Convention and there had been no negligence on the part of the passenger or consignor.

(4.) The damages determined under the last preceding sub-section shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger or the consignor in the responsibility for the damage.

(5.) If the damages as reduced in accordance with the last preceding sub-section exceed the maximum liability of the carrier fixed by or in accordance with the Convention, the court shall further reduce the damages to that maximum amount.

Actions
against Parties
to the
Convention
who undertake
carriage by air.

17.—(1.) A Party to the Convention which has not availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention shall, for the purposes of an action under the Convention brought in a court in Australia to enforce a claim in respect of carriage undertaken by that Party, be deemed to have submitted to the jurisdiction of that court.

(2.) Nothing in this section authorizes the issue of execution against the property of a Party to the Convention.

Evidence of
certain matters.

18.—(1.) The Minister may, by notice published in the *Gazette*, from time to time declare—

- (a) that a country specified in the notice is a country which has ratified or adhered to the Hague Protocol and the date on which the ratification or adherence became effective;
- (b) that a country specified in the notice has, at the time of deposit of its instrument of ratification of or adherence to the Hague Protocol, declared that its acceptance of that Protocol does not apply to a territory or territories specified in the notice;
- (c) that a country specified in the notice has duly made a declaration under Article XXVI. of the Hague Protocol and the date on which the declaration became effective;
- (d) that a country specified in the notice has duly extended the application of the Hague Protocol to a territory or territories specified in the notice;
- (e) the extent (if any) to which a Party to the Hague Protocol has availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention; or
- (f) that a country specified in the notice has denounced the Hague Protocol in respect of all of the territories for the foreign relations of which that country is responsible or in respect of any such territory specified in the notice, and the date upon which the denunciation became effective.

(2.) A notice in force under this section is evidence of the matters declared.

19. For the purposes of section thirty-eight of the *Judiciary Act* 1903-1955, an action under the Convention shall be deemed not to be a matter arising directly under a treaty. Jurisdiction of State courts preserved.

PART III.—CARRIAGE TO WHICH THE WARSAW CONVENTION WITHOUT THE HAGUE PROTOCOL APPLIES.

20.—(1.) In this Part, “the Convention” means the Warsaw Convention as in force, unaffected by the Hague Protocol, between Australia and any other countries. Interpretation.

(2.) For the purposes of this Part, a reference in the Convention to the territory of a High Contracting Party to the Convention shall be read as a reference to the territories in respect of which a Party declared, in pursuance of section twenty-two of this Act, to be a High Contracting Party to the Convention is declared, in pursuance of that section, to be bound by the Convention.

21.—(1.) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage. Provisions of Convention to have force of law.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

22.—(1.) The Minister may, by notice published in the *Gazette*, from time to time declare— Evidence of certain matters.

- (a) who are the High Contracting Parties to the Convention;
- (b) the territory in respect of which any such Party is bound by the Convention; and
- (c) the extent (if any) to which any Party has availed himself of the provisions of the Additional Protocol to the Convention.

(2.) A notice in force under this section is evidence of the matters declared.

(3.) A notice published by the Governor-General in the *Gazette*, before the date of commencement of this Part, under sub-section (3.) of section three of the *Carriage by Air Act* 1935 and in force immediately before that date shall, for the purposes of this Act, be deemed to be a notice published by the Minister under this section.

Conversion of
francs.

23. Any sum in francs mentioned in Article 22 of the Convention shall, for the purposes of an action against a carrier, be converted into Australian currency at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court or jury.

Adoption of
certain
provisions
of Part II.

24. The provisions of sections twelve to seventeen (inclusive) of this Act, except sub-section (11.) of section twelve, apply for the purposes of this Part as if contained in this Part.

Duration of
Part.

25.—(1.) This Part shall continue in force until a date to be fixed by Proclamation, being a date not earlier than the date upon which a denunciation by Australia of the Convention in accordance with Article 39 of the Convention takes effect.

(2.) Upon the date fixed in pursuance of the last preceding sub-section, this Part shall be deemed to be repealed and the provisions of section eight of the *Acts Interpretation Act* 1901–1957 shall apply as if this Part had been repealed by an Act other than this Act.

PART IV.—OTHER CARRIAGE TO WHICH THIS ACT APPLIES.

Definitions.

26.—(1.) In this Part, unless the contrary intention appears—
“airline licence” means an airline licence in force under the Air Navigation Regulations;

“baggage”, in relation to a passenger, means—

(a) registered baggage; or

(b) baggage, personal effects or other articles, not being registered baggage, in the possession of the passenger, or in the possession of another person (being a person accompanying the passenger or a servant or agent of the carrier) on behalf of the passenger, while the passenger is on board an aircraft for the purposes of carriage to which this Part applies or during the course of any of the operations of embarking or disembarking;

“commercial transport operations” means operations in which an aircraft is used, for hire or reward, for the carriage of passengers or cargo;

“contract” includes an arrangement made without consideration;

“registered baggage”, in relation to a passenger, means baggage, personal effects or other articles registered with the carrier as baggage intended to be carried under a contract for carriage of the passenger to which this Part applies;

“the Air Navigation Regulations” means the Air Navigation Regulations in force under the *Air Navigation Act* 1920–1950, and includes those Regulations as in force by virtue of a law of a State.

(2.) For the purposes of this Part, where, by reason of a contract of charter or other contract between the holder of an airline licence and another person, persons or baggage are or is carried, or are or is to be carried, in an aircraft while it is being operated by the holder of the airline licence, that contract shall be deemed to be a contract of carriage providing for that carriage.

27.—(1.) This Part applies to the carriage of a passenger where the passenger is or is to be carried in an aircraft being operated by the holder of an airline licence in the course of commercial transport operations, or in an aircraft being operated in the course of trade and commerce between Australia and another country, under a contract for the carriage of the passenger—

Application
of Part.

- (a) between a place in a State and a place in another State;
 - (b) between a place in a Territory of the Commonwealth and a place in Australia outside that Territory;
 - (c) between a place in a Territory of the Commonwealth and another place in that Territory; or
 - (d) between a place in Australia and a place outside Australia,
- not being carriage to which the Warsaw Convention, or the Warsaw Convention as affected by the Hague Protocol, applies.

(2.) Where the carrier is the Australian National Airlines Commission, this Part applies in relation to carriage between a place in a State and a place in the same State in like manner as it applies in relation to carriage between a place in a State and a place in another State.

(3.) For the purposes of this section, where, under a contract of carriage, the carriage is to begin and end in the one State or Territory of the Commonwealth (whether at the one place or not) but is to include a landing or landings at a place or places outside that State or Territory, the carriage shall be deemed to be carriage between the place where the carriage begins and that landing place, or such one of those landing places as is most distant from the place where the carriage begins, as the case may be.

(4.) For the purposes of this section, where—

- (a) the carriage of a passenger between two places is to be performed by two or more carriers in successive stages ;
- (b) the carriage has been regarded by the parties as a single operation, whether it has been agreed upon by a single contract or by two or more contracts; and
- (c) this Part would apply to that carriage if it were to be performed by a single carrier under a single contract,

this Part applies in relation to a part of that carriage notwithstanding that that part consists of carriage between a place in a State and a place in the same State.

Liability of the
carrier for
death or injury.

28. Subject to this Part, where this Part applies to the carriage of a passenger, the carrier is liable for damage sustained by reason of the death of the passenger or any personal injury suffered by the passenger resulting from an accident which took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Liability of the
carrier in
respect of
baggage.

29.—(1.) Where this Part applies to the carriage of a passenger, the carrier is liable under this Part, and not otherwise, for damage sustained in the event of the destruction or loss of, or injury to, baggage of the passenger, if the occurrence which causes the destruction, loss or injury takes place during the period of the carriage by air unless the carrier proves that he and his servants and agents took all necessary measures to avoid the destruction, loss or injury or that it was impossible for him or them to take such measures.

(2.) For the purposes of the last preceding sub-section but subject to the next succeeding sub-section, the period of the carriage by air comprises—

- (a) in relation to baggage other than registered baggage—the period during which the passenger is on board the aircraft or is in the course of any of the operations of embarking or disembarking; and
- (b) in relation to registered baggage—the period during which the baggage is in the charge of the carrier, whether on board the aircraft or elsewhere.

(3.) In proceedings under this section in respect of registered baggage, if the carrier proves that the baggage was, within a period of twelve hours after the arrival of the aircraft at the place to which the baggage was to be carried in the aircraft, available for collection by the passenger at a place at which, under the contract, the baggage was to be or could be made available to the passenger, the period of the carriage by air shall not be deemed to include any time after the expiration of that period of twelve hours.

(4.) In the application of section thirty-nine of this Act in relation to an action under this Part in respect of baggage other than registered baggage, the carrier shall be deemed to have proved that the damage was caused by the negligence of the passenger, except so far as the passenger proves that he was not responsible for the damage.

(5.) Where, in relation to carriage referred to in sub-section (4.) of section twenty-seven of this Act, registered baggage has been destroyed, lost or injured in circumstances in which, if the carriage had been performed by a single carrier, that carrier would be subject to liability under this section, the carriers

(other than a carrier who proves that the baggage was not in his charge at the time of the destruction, loss or injury) are jointly and severally subject to that liability.

30.—(1.) For the purposes of an action under this Part, evidence proving receipt of registered baggage, without complaint, by the person entitled to delivery is evidence that the baggage has been delivered in good condition and in accordance with the contract of carriage.

Complaint
to be made in
respect of
baggage.

(2.) An action does not lie against a carrier under this Part in respect of baggage, except in case of fraud on the part of the carrier, unless the passenger, or a person acting on his behalf, has complained by writing delivered to the carrier or served on the carrier by post or in such other manner as is prescribed—

(a) in the case of injury to registered baggage or of loss or destruction of part only of an item of registered baggage—within the period of three days after the date of receipt by or on behalf of the passenger of the baggage, or of the remainder of that item of baggage, as the case may be;

(b) in the case of loss or destruction of the whole of an item of registered baggage—within the period of twenty-one days from the date on which the baggage should have been placed at the disposal of the passenger; or

(c) in the case of injury to, or loss or destruction of, baggage other than registered baggage—within the period of three days from the date on which the carriage of the passenger ended.

(3.) A court having jurisdiction in actions under this Part in respect of baggage may, by order, grant leave to a person to institute or continue an action in that court in relation to baggage notwithstanding that there has been a failure to complain in accordance with the last preceding sub-section within the time fixed by that sub-section, where the court is satisfied that it is just and equitable to do so by reason of special circumstances.

(4.) Sub-section (2.) of this section does not apply in relation to an action in respect of which leave has been granted under the last preceding sub-section.

31.—(1.) Subject to the regulations relating to passenger tickets, the liability of the carrier under this Part in respect of each passenger, by reason of his injury or death, is limited to the sum of Seven thousand five hundred pounds or such higher sum as is specified in the contract of carriage.

Limitation of
liability.

(2.) Subject to the regulations relating to baggage checks, the liability of the carrier under this Part in respect of the

baggage of any one passenger, being baggage that is or includes registered baggage, is limited to the sum of One hundred pounds or such higher sum as is specified in the contract of carriage.

(3.) The liability of the carrier under this Part in respect of the baggage, other than registered baggage, of any one passenger is limited to the sum of Ten pounds or such higher sum as is specified in the contract of carriage.

Contracting out.

32.—(1.) Any provision of an agreement tending to relieve the carrier of liability in accordance with this Part or to fix a lower limit than the appropriate limit of liability provided by this Part is null and void, but the nullity of such a provision does not involve the nullity of the whole contract of carriage.

(2.) The last preceding sub-section does not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of goods carried.

Servants and agents of carrier.

33.—(1.) If an action in respect of any damage is brought against a servant or agent of a carrier, the servant or agent, if he proves that he acted within the scope of his employment or authority, is entitled to avail himself of the limits of liability, if any, which the carrier himself would be entitled to invoke under section thirty-one of this Act in an action against him in respect of that damage.

(2.) The aggregate of the amounts recoverable from the carrier, his servants and agents shall not exceed the limits referred to in the last preceding sub-section.

(3.) The right to bring an action against a servant or agent of a carrier in respect of any damage, being damage which gave rise to a cause of action against the carrier under this Part, is extinguished if the action is not brought within the time specified in the next succeeding section.

Limitation of actions.

34. The right of a person to damages under this Part is extinguished if an action is not brought by him or for his benefit within two years after the date of arrival of the aircraft at the destination, or, where the aircraft did not arrive at the destination—

(a) the date on which the aircraft ought to have arrived at the destination; or

(b) the date on which the carriage stopped, whichever is the later.

Liability in respect of death.

35.—(1.) The provisions of this section apply in relation to liability imposed by this Part on a carrier in respect of the death of a passenger (including the injury that resulted in the death).

(2.) Subject to section thirty-seven of this Act, the liability under this Part is in substitution for any civil liability of the

carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3.) Subject to the next succeeding sub-section, the liability is enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

(4.) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5.) For the purposes of sub-section (3.) of this section, the members of the passenger's family shall be deemed to be the wife or husband, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members of the passenger's family, an illegitimate person or an adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adoptors.

(6.) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in respect of the death of any one passenger, and such an action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8.) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10.) The court may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of the provisions of this Part limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

Liability in respect of injury.

36. Subject to the next succeeding section, the liability of a carrier under this Part in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

Certain liabilities not excluded.

37. Nothing in this Part shall be deemed to exclude any liability of a carrier—

- (a) to indemnify an employer of a passenger in respect of liability of that employer under a law of the Commonwealth or of a State or Territory of the Commonwealth providing for compensation to workmen or employees in respect of accidents arising out of or in the course of their employment; or
- (b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger,

but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with this Part.

Proceeds of insurance policies, &c.

38. In assessing damages in respect of liability under this Part there shall not be taken into account by way of reduction of the damages—

- (a) a sum paid or payable on the death of, or injury to, a passenger under a contract of insurance;
- (b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;
- (c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
- (d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
- (e) a premium that would have become payable under a contract of insurance in respect of the life of a deceased passenger if he had lived beyond the time at which he died.

Contributory negligence.

39.—(1.) If, in an action against a carrier under this Part, the carrier proves that the damage was caused or contributed to by the negligence of the passenger, the damages recoverable shall be assessed in accordance with this section.

(2.) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with this Part and there had been no negligence on the part of the passenger.

(3.) The damages determined under the last preceding sub-section shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger in the responsibility for the damage.

(4.) If the damages as reduced in accordance with the last preceding sub-section exceed the maximum liability of the carrier fixed by or in accordance with this Part, the court shall further reduce the damages to that maximum amount.

40. The regulations may make provision relating to passenger tickets and baggage checks in respect of passengers or baggage in relation to whom or which this Part applies, being provision for—

Regulations relating to passenger tickets and baggage checks.

- (a) the circumstances in which such tickets and checks must be issued by carriers;
- (b) matters to be included in such tickets and checks; and
- (c) the non-application of a provision of section thirty-one of this Act (except in cases where the limit of liability under that provision is a sum specified in the contract of carriage) where specified provisions of the regulations relating to the issue, form and contents of such tickets or checks have not been complied with.

41. The regulations may provide for applying, with such exceptions, adaptations and modifications as are prescribed, the provisions of the Warsaw Convention and the Hague Protocol and any of the provisions of this Act to and in relation to the carriage of cargo, being carriage in relation to which, if it were the carriage of passengers, this Part would apply, but so that no adaptation or modification of the provisions of Article 22 of the Warsaw Convention, as replaced by Article XI. of the Hague Protocol, shall have the effect of limiting the liability of the carrier to a sum less than the sum to which his liability would be limited if those provisions were applied without adaptation or modification.

Application of Part to cargo.

PART V.—MISCELLANEOUS.

42.—(1.) Where a person travels in an aircraft without the consent of the carrier and Part II., Part III. or Part IV. of this Act would apply in relation to the carriage of that person if he were a passenger carried under a contract for his carriage for reward between the place where he boarded the aircraft and his place of disembarkation, the liability (if any) of the carrier, or of his servants or agents, in respect of that person and his baggage is subject to the limits as to amounts that are applicable in respect of passengers under that Part.

Stowaways.

(2.) This section does not impose any liability on a carrier or a servant or agent of a carrier to which he is not subject apart from this section.

(3.) For the purposes of this section, the place of disembarkation of a person shall be deemed to be the next scheduled stopping place after the place at which he boards the aircraft or, if he continues on board after the aircraft leaves that next scheduled stopping place, the scheduled stopping place next after the last stopping place from which the aircraft departed with that person on board.

Regulations.

43. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, the Warsaw Convention or the Warsaw Convention as affected by the Hague Protocol.

THE SCHEDULES.

FIRST SCHEDULE.

Section 9 (1.).

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR.

CHAPTER I.—SCOPE.—DEFINITIONS.

Article 1.

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention the expression "international carriage" means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

Article 2.

1. The Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. This Convention does not apply to carriage performed under the terms of any international postal Convention.

FIRST SCHEDULE—*continued.*

CHAPTER II.—DOCUMENTS OF CARRIAGE.

SECTION 1.—PASSENGER TICKET.

Article 3.

1. For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

2. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

SECTION 2.—BAGGAGE CHECK.

Article 4.

1. For the carriage of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

2. The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

3. The baggage check shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the baggage will be made to the bearer of the baggage check;
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with Article 22 (2);
- (h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

4. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (d) (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

SECTION 3.—AIR WAYBILL.

Article 5.

1. Every carrier of cargo has the right to require the consignor to make out and hand over to him a document called an "air waybill"; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6.

1. The air waybill shall be made out by the consignor in three original parts and be handed over with the cargo.

2. The first part shall be marked "for the carrier", and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

FIRST SCHEDULE—*continued*.

3. The carrier shall sign on acceptance of the cargo.
4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.
5. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7.

The carrier of cargo has the right to require the consignor to make out separate air waybills when there is more than one package.

Article 8.

The air waybill shall contain the following particulars:—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the cargo;
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them;
- (i) the weight, the quantity and the volume or dimensions of the cargo;
- (j) the apparent condition of the cargo and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
- (l) if the cargo is sent for payment on delivery, the price of the cargo, and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with Article 22 (2);
- (n) the number of parts of the air waybill;
- (o) the documents handed to the carrier to accompany the air waybill;
- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
- (q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9.

If the carrier accepts cargo without an air waybill having been made out, or if the air waybill does not contain all the particulars set out in Article 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

Article 10.

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo which he inserts in the air waybill.
2. The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11.

1. The air waybill is *prima facie* evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.
2. The statements in the air waybill relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12.

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the aerodrome of departure or destination, or by stopping it in the course of the journey

FIRST SCHEDULE—continued.

on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring it to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the air waybill or the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13.

1. Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage set out in the air waybill.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 14.

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15.

1. Articles 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill.

Article 16.

1. The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his servants or agents.

2. The carrier is under no obligation to inquire into the correctness or sufficiency of such information or documents.

*CHAPTER III.—LIABILITY OF THE CARRIER.**Article 17.*

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18.

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.

FIRST SCHEDULE—*continued.*

2. The carriage by air within the meaning of the preceding paragraph comprises the period during which the baggage or cargo is in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

3. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or trans-shipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Article 19.

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

Article 20.

1. The carrier is not liable if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

2. In the carriage of cargo and baggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 21.

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22.

1. In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

4. The sums mentioned above shall be deemed to refer to the French franc consisting of 654 milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

Article 23.

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 24.

1. In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

2. In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

FIRST SCHEDULE—continued.

Article 25.

1. The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to wilful misconduct.

2. Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any servant or agent of the carrier acting within the scope of his employment.

Article 26.

1. Receipt by the person entitled to delivery of baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of baggage and seven days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the baggage or cargo has been placed at his disposal.

3. Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27.

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28.

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

2. Questions of procedure shall be governed by the law of the Court seised of the case.

Article 29.

1. The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating the period of limitation shall be determined by the law of the Court seised of the case.

Article 30.

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

2. In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, or damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

FIRST SCHEDULE—*continued.*

CHAPTER IV.—PROVISIONS RELATING TO COMBINED CARRIAGE.

Article 31.

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V.—GENERAL AND FINAL PROVISIONS.

Article 32.

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33.

Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34.

This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35.

The expression "days" when used in this Convention means current days not working days.

Article 36.

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37.

1. This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

2. As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

3. It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

Article 38.

1. This Convention shall, after it has come into force, remain open for accession by any State.

FIRST SCHEDULE—*continued.*

2. The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.

3. The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39.

1. Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

2. Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40.

1. Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

2. Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which has been thus excluded by his original declaration.

3. Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

Article 41.

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

[Here follow the signatures of the Plenipotentiaries of the States (including Australia) on behalf of which the Convention was signed.]

ADDITIONAL PROTOCOL.

(With reference to Article 2.)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

[Here follow the signatures of the Plenipotentiaries of the States (including Australia) on behalf of which the Additional Protocol was signed.]

SECOND SCHEDULE.

Section 9 (2).

PROTOCOL

to Amend the Convention for the Unification of Certain Rules
Relating to International Carriage by Air
Signed at Warsaw on 12 October 1929

THE GOVERNMENTS UNDERSIGNED

CONSIDERING that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929,

HAVE AGREED as follows:

CHAPTER I.—AMENDMENTS TO THE CONVENTION.

Article I.

In Article 1 of the Convention—

a) paragraph 2 shall be deleted and replaced by the following:—

“2. For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.”

b) paragraph 3 shall be deleted and replaced by the following:—

“3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.”

Article II.

In Article 2 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

“2. This Convention shall not apply to carriage of mail and postal packages.”

Article III.

In Article 3 of the Convention—

a) paragraph 1 shall be deleted and replaced by the following:—

“1. In respect of the carriage of passengers a ticket shall be delivered containing:

- a) an indication of the places of departure and destination;
- b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- c) a notice to the effect that, if the passenger's journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.”

SECOND SCHEDULE—continued.

b) paragraph 2 shall be deleted and replaced by the following:—

“2. The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph 1 c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.”

Article IV.

In Article 4 of the Convention—

a) paragraphs 1, 2 and 3 shall be deleted and replaced by the following:—

“1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph 1, shall contain:

- a) an indication of the places of departure and destination;
- b) if the places of departure and destination are within the Territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- c) a notice to the effect that; if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.”

b) paragraph 4 shall be deleted and replaced by the following:—

“2. The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph 1 c)) does not include the notice required by paragraph 1 c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

Article V.

In Article 6 of the Convention—

paragraph 3 shall be deleted and replaced by the following:—

“3. The carrier shall sign prior to the loading of the cargo on board the aircraft.”

Article VI.

Article 8 of the Convention shall be deleted and replaced by the following:—

“The air waybill shall contain:

- a) an indication of the places of departure and destination;
- b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo.”

SECOND SCHEDULE—*continued.**Article VII.*

Article 9 of the Convention shall be deleted and replaced by the following:—

“If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

Article VIII.

In Article 10 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

“2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.”

Article IX.

To Article 15 of the Convention—

the following paragraph shall be added:—

“3. Nothing in this Convention prevents the issue of a negotiable air waybill.”

Article X.

Paragraph 2 of Article 20 of the Convention shall be deleted.

Article XI.

Article 22 of the Convention shall be deleted and replaced by the following:—

“Article 22

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed two hundred and fifty thousand francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. *a)* In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to five thousand francs per passenger.

4. The limits prescribed in this article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

SECOND SCHEDULE—continued.

5. The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment."

Article XII.

In Article 23 of the Convention, the existing provision shall be renumbered as paragraph 1 and another paragraph shall be added as follows:—

"2. Paragraph 1 of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried."

Article XIII.

In Article 25 of the Convention—

paragraphs 1 and 2 shall be deleted and replaced by the following:—

"The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment."

Article XIV.

After Article 25 of the Convention, the following article shall be inserted:—

"Article 25 A

1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.

2. The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

3. The provisions of paragraphs 1 and 2 of this article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result."

Article XV.

In Article 26 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

"2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal."

Article XVI.

Article 34 of the Convention shall be deleted and replaced by the following:—

"The provisions of Articles 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business."

SECOND SCHEDULE—continued.

Article XVII.

After Article 40 of the Convention, the following Article shall be inserted:—

"Article 40 A

1. In Article 37, paragraph 2 and Article 40, paragraph 1, the expression *High Contracting Party* shall mean *State*. In all other cases, the expression *High Contracting Party* shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.

2. For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible."

CHAPTER II.—SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED.

Article XVIII.

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

CHAPTER III.—FINAL CLAUSES.

Article XIX.

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955*.

Article XX.

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, paragraph 1, it shall remain open for signature on behalf of any State which up to that date has ratified or adhered to the Convention or which has participated in the Conference at which this Protocol was adopted.

Article XXI.

1. This Protocol shall be subject to ratification by the signatory States.
2. Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.
3. The instruments of ratification shall be deposited with the Government of the People's Republic of Poland.

Article XXII.

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the People's Republic of Poland.

Article XXIII.

1. This Protocol shall, after it has come into force, be open for adherence by any non-signatory State.
2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.
3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People's Republic of Poland and shall take effect on the ninetieth day after the deposit.

SECOND SCHEDULE—*continued.**Article XXIV.*

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the People's Republic of Poland.

2. Denunciation shall take effect six months after the date of receipt by the Government of the People's Republic of Poland of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article XXV.

1. This Protocol shall apply to all territories for the foreign relations of which a State Party to this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article.

2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Protocol does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

3. Any State may subsequently, by notification to the Government of the People's Republic of Poland, extend the application of this Protocol to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article. The notification shall take effect on the ninetieth day after its receipt by that Government.

4. Any State Party to this Protocol may denounce it, in accordance with the provisions of Article XXIV, paragraph 1, separately for any or all of the territories for the foreign relations of which such State is responsible.

Article XXVI.

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People's Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

Article XXVII.

The Government of the People's Republic of Poland shall give immediate notice to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations and to the International Civil Aviation Organization:

- a) of any signature of this Protocol and the date thereof;
- b) of the deposit of any instrument of ratification or adherence in respect of this Protocol and the date thereof;
- c) of the date on which this Protocol comes into force in accordance with Article XXII, paragraph 1;
- d) of the receipt of any notification of denunciation and the date thereof;
- e) of the receipt of any declaration or notification made under Article XXV and the date thereof; and
- f) of the receipt of any notification made under Article XXVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at The Hague on the twenty-eighth day of the month of September of the year One Thousand Nine Hundred and Fifty-five, in three authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People's Republic of Poland with which, in accordance with Article XX, it shall remain open for signature, and that Government shall send certified copies thereof to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations, and to the International Civil Aviation Organization.

[Here follow the signatures of the Plenipotentiaries of the States (including Australia) on behalf of which the Protocol was signed.]

No. 3 of 1959.

[Assented to 21st April, 1959.]

1.—(1.) This Act may be cited as the *Australian National Airlines Act 1959*. Short title
and citation.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian National Airlines Act 1945-1959*.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent. Commence-
ment.

(2.) Sections thirteen, twenty, twenty-one and twenty-two of this Act shall come into operation on a date to be fixed by Proclamation.

* Act No. 31, 1945, as amended by No. 90, 1947; No. 102, 1952; No. 105, 1956; and No. 70, 1958.

3. Section three of the Principal Act is repealed and the following section inserted in its stead:—

Parts.

“ 3. This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–5).

Part II.—The National Airline Services.

Division 1.—Establishment and Constitution of the Australian National Airlines Commission (Sections 6–18B).

Division 2.—Powers, Functions and Duties of the Commission (Sections 19–29).

Division 3.—Finances of the Commission (Sections 30–38).

Division 4.—Reports (Sections 40–41).

Part VI.—Penalties and Procedure (Sections 60–63).

Part VII.—Miscellaneous (Sections 65–70).”.

Definitions.

4. Section four of the Principal Act is amended—

(a) by omitting the definition of “ Acting Commissioner ” and inserting in its stead the following definition:—

“ “ Acting Commissioner ’ means a person appointed under section ten of this Act to act as a Commissioner; ”;

(b) by omitting the definitions of “ adequate airline service ”, “ Chairman ”, “ contractor ” and “ owner ”;

(c) by inserting after the definition of “ Territorial airline service ” the following definition:—

“ “ the Chairman ’ means the Chairman of the Commission, and includes a Commissioner acting as Chairman under section ten of this Act; ”; and

(d) by omitting the definition of “ the licensing authority ” and inserting in its stead the following definition:—

“ “ the Vice-Chairman ’ means the Vice-Chairman of the Commission, and includes a Commissioner appointed under section ten of this Act to act as the Vice-Chairman; ”.

5. Section six of the Principal Act is amended by adding at the end thereof the following sub-section:—

“ (5.) The exercise or performance of the powers or functions of the Commission is not affected by reason only of there being a vacancy in the office of a Commissioner.”.

6. Section seven of the Principal Act is amended by omitting from sub-section (1.) the words "five Commissioners" and inserting in their stead the words "six Commissioners".

Composition of Commission.

7.—(1.) Section eight of the Principal Act is repealed and the following section inserted in its stead:—

"8.—(1.) A Commissioner shall be appointed to hold office for a period not exceeding five years.

Term of office of Commissioners.

"(2.) A Commissioner is eligible for re-appointment."

(2.) The last preceding sub-section does not affect the term of office of a Commissioner holding office at the commencement of this section.

8.—(1.) Sections nine to fifteen (inclusive) of the Principal Act are repealed and the following sections inserted in their stead:—

"9. A Commissioner shall be paid such remuneration and allowances as the Governor-General determines.

Remuneration of Commissioners.

"10.—(1.) Where the Minister grants leave of absence to a Commissioner under the next succeeding section, the Minister may appoint a person to act as a Commissioner during that absence, and a person so appointed has all the powers and functions of a Commissioner.

Absence of Commissioners.

"(2.) Where the Minister grants leave of absence to the Chairman of the Commission under the next succeeding section, the Vice-Chairman shall act as Chairman during the absence.

"(3.) Where the Minister grants leave of absence to the Vice-Chairman of the Commission under the next succeeding section, or where the Vice-Chairman is or will be acting as Chairman, the Commission may appoint a Commissioner (other than an Acting Commissioner) to act as Vice-Chairman during the absence, or during the period for which the Vice-Chairman acts as Chairman, as the case may be.

"11. The Minister may grant leave of absence to a Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Leave of absence.

"12. The Governor-General may terminate the appointment of a Commissioner for inability, inefficiency or misbehaviour.

Dismissal of Commissioner.

Resignation of
Commissioners.

“ 13. A Commissioner or an Acting Commissioner may resign his office by writing under his hand addressed to the Governor-General or the Minister, as the case may be, but the resignation is not effective unless it has been accepted by the Governor-General or the Minister, as the case may be.

Vacation of
office.

“ 14.—(1.) If a Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Minister, from three consecutive meetings of the Commission; or
- (c) fails to comply with his obligations under the next succeeding sub-section,

the Governor-General shall, by notice in the *Gazette*, declare that the office of the Commissioner is vacant, and thereupon the office shall be deemed to be vacant.

“ (2.) A Commissioner who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

“ (3.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the Commission, and the Commissioner—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

“ (4.) Sub-section (2.) of this section does not apply in relation to a contract between a Commissioner and the Commission for the carriage of the Commissioner or another person or of any goods.

"15.—(1.) The Commission shall hold such meetings as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs. Meetings of Commission.

"(2.) The Minister may at any time convene a meeting of the Commission.

"(3.) The Chairman shall, on receipt of a written request signed by not less than two Commissioners, call a meeting of the Commission.

"(4.) The Chairman shall preside at all meetings of the Commission at which he is present.

"(5.) In the event of the absence of the Chairman from a meeting of the Commission, the Vice-Chairman shall preside at that meeting.

"(6.) In the event of the absence of both the Chairman and the Vice-Chairman from a meeting of the Commission, the Commissioners present shall appoint one of their number to preside at that meeting.

"(7.) At a meeting of the Commission, three Commissioners constitute a quorum.

"(8.) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present.

"(9.) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

"(10.) The general manager shall, as far as practicable, attend all meetings of the Commission but, if the Commission so directs, he shall retire from a meeting."

(2.) A determination under section nine of the Principal Act, as amended by this Act, may have effect on or from a date not earlier than the first day of July, One thousand nine hundred and fifty-seven.

9. Section seventeen of the Principal Act is amended—

(a) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

"(4.) The regulations may provide that persons who possess prescribed educational qualifications may, notwithstanding the provisions of the last

Appointment
of officers.

preceding sub-section, but subject to such conditions (if any) as are prescribed, be appointed to clerical offices in the Service of the Commission without having passed the prescribed entrance examination, and such persons may be appointed accordingly.”; and

- (b) by omitting from sub-section (7.) the words “Fifteen hundred pounds” and inserting in their stead the words “Two thousand five hundred pounds”.

Intra-state
services in
pursuance of
powers referred
by State
Parliaments.

10.—(1.) Section nineteen A of the Principal Act is amended by omitting from sub-section (1.) the words “prior to the commencement of this section” and inserting in their stead the words “prior to the commencement of section ten of the *Australian National Airlines Act 1959*”.

(2.) On and after the date of commencement of this section, the provisions of the Principal Act, as amended by the provisions of this Act that come into operation on that date, in their application to or in relation to airline services referred to in section nineteen A of that Act, as so amended, shall be deemed to have effect by virtue of this Act.

Power to
purchase and
dispose of
assets.

11. Section twenty-one of the Principal Act is amended by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

“(2.) The Commission shall not, without the approval of the Minister—

- (a) purchase any land for a consideration exceeding Twenty thousand pounds;
- (b) enter into a lease of land for a period exceeding ten years; or
- (c) dispose of any property, right or privilege where the consideration for the disposal, or the value of the property, right or privilege, exceeds Fifty thousand pounds.

“(3.) The Commission shall not, without the approval of the Minister, enter into a contract for the supply of aircraft, equipment or materials to the Commission for a consideration exceeding Fifty thousand pounds.”.

Contracts for
transport of
mails.

12. Section twenty-two of the Principal Act is amended by omitting the words “the Minister on behalf of”.

Commission to
be common
carrier.

13. Section twenty-four of the Principal Act is repealed.

14. Section thirty of the Principal Act is amended by omitting from sub-section (1.) the word "more" and inserting in its stead the word "those". Capital of the Commission.

15. Sections thirty-three, thirty-four, thirty-five and thirty-six of the Principal Act are repealed and the following sections inserted in their stead:—

" 33.—(1.) The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves. Bank accounts.

" (2.) The Commission shall pay all moneys received by it into an account referred to in this section.

" 34.—(1.) Subject to this Act, the moneys of the Commission shall be applied only— Application of moneys.

(a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Commission under this Act ;

(b) in payment of the remuneration and allowances of the Commissioners; and

(c) in making payments to the Commonwealth as provided by this Act.

" (2.) Moneys of the Commission not immediately required for the purposes of the Commission may be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

" 35. The Commission shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of the Commission and the incurring of liabilities by the Commission. Proper accounts to be kept.

" 36.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission, and shall forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing. Audit.

" (2.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under the last preceding sub-section.

" (3.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission

relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets of the Commission.

“(4.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

“(5.) The Auditor-General or an officer authorized by him may require a Commissioner or an officer of the Commission to furnish him with such information in the possession of the Commissioner or officer or to which the Commissioner or officer has access as the Auditor-General or authorized officer considers necessary for the purpose of the performance of the functions of the Auditor-General under this Act, and the Commissioner or officer of the Commission shall comply with the requirement.”.

Profits of
Commission.

16. Section thirty-eight of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

“(1.) For the purposes of this Act, the profits of the Commission for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure properly chargeable against that revenue.

“(2.) For the purposes of the last preceding sub-section, the expenditure of the Commission properly chargeable against the revenue received or receivable in respect of a financial year includes—

- (a) charges and expenses accrued in that year but not paid;
- (b) provision made in that year for obsolescence and depreciation of assets;
- (c) provision made in that year for the overhaul of aircraft, engines and operating equipment;
- (d) provision made in that year in lieu of insurance;
- (e) provision made in that year for staff superannuation; and
- (f) provision made in that year for income tax,

but does not include expenditure charged against amounts provided out of the revenue of a previous year or expenditure in payment of charges and expenses accrued in a previous year.”.

17. Section forty of the Principal Act is repealed and the following section inserted in its stead:—

“40.—(1.) The Commission shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

Annual report
of
Commission.

"(2.) Before furnishing the financial statements to the Minister, the Commission shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the Commission;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act;
- (d) as to the adequacy of provision in the nature of reserves made in the accounts of the Commission; and
- (e) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

"(3.) The Minister shall lay the report and financial statements of the Commission, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister."

18. Parts III., IV. and V. of the Principal Act are repealed.

Repeal of
Parts III.,
IV. and V.
Recovery of
fares or
charges.

19. Section sixty of the Principal Act is amended by omitting from paragraph (a) the word "his" and inserting in its stead the word "its".

20. Section sixty-three of the Principal Act is amended—

- (a) by omitting the words "six months" and inserting in their stead the words "two years"; and
- (b) by adding at the end thereof the following sub-section:—

"(2.) This section does not apply to an action to which a period of limitation is applicable by virtue of the *Civil Aviation (Damage by Aircraft) Act 1958* or the *Civil Aviation (Carriers' Liability) Act 1959*."

Limitation
of actions
against the
Commission.

21. Section sixty-four of the Principal Act is repealed.

22.—(1.) Section sixty-six of the Principal Act is repealed and the following section inserted in its stead:—

"66.—(1.) In an action brought against the Commission to recover damages or compensation in respect of personal injury or death (including proceedings for the recovery of contribution from the Commission brought by a tort-feasor who is liable in respect of the same injury or death) the plaintiff is not entitled to recover an amount exceeding Seven thousand five hundred pounds.

Notices of
occurrence of
cause of action
and of intended
action.

Limit of
damages for
personal injury
or death.

“(2.) This section does not apply in relation to the liability of the Commission by virtue of the *Civil Aviation (Damage by Aircraft) Act 1958* or the *Civil Aviation (Carriers' Liability) Act 1959*.”.

(2.) The amendment made by this section does not apply in relation to a cause of action that arose before the commencement of this section.

By-laws.

23. Section sixty-nine of the Principal Act is amended by inserting in sub-section (1.), after the words “this Act” (first occurring), the words “or any other Act”.

AIRPORTS (BUSINESS CONCESSIONS).

No. 89 of 1959.

An Act to provide for the Grant of Leases, Licences and Trading Rights in connexion with Commonwealth Airports.

[Assented to 3rd December, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Airports (Business Concessions) Act 1959*. Short title.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3. In this Act, unless the contrary intention appears— Definitions.
“ airport ” means—

- (a) an aerodrome owned, or held under lease, by the Commonwealth and operated in pursuance of the *Air Navigation Act 1920-1950* or of the regulations under that Act; or

- (b) such part of an aerodrome owned, or held under lease, by the Commonwealth and under the control of a part of the Defence Force as is made available for civil aviation purposes in pursuance of arrangements made by the Minister administering that Act;

“lease” includes a sub-lease.

Act to bind
Crown.

4. This Act binds the Crown in right of a State.

Application
of Act to
Territories.

5.—(1.) Except in accordance with a Proclamation under this section, this Act does not apply in a Territory of the Commonwealth forming part of the Commonwealth or extend to a Territory of the Commonwealth not forming part of the Commonwealth.

(2.) The Governor-General may, by Proclamation, declare that, on and after a date specified in the Proclamation, this Act shall apply in a Territory so specified, being a Territory of the Commonwealth forming part of the Commonwealth, or shall extend to a Territory so specified, being a Territory of the Commonwealth not forming part of the Commonwealth.

(3.) Where, in a Territory of the Commonwealth to which this Act extends, the Commonwealth operates an aerodrome in pursuance of the *Air Navigation Act* 1920–1950 or of the regulations under that Act on land that is owned by the Crown in right of the Territory or by the Administration of the Territory and has been made available for the purposes of the aerodrome otherwise than by a lease, this Act applies in relation to that aerodrome as if it were an airport as defined in section three of this Act, except that the Minister is not authorized to grant a lease in respect of land within such an aerodrome.

Leases and
licences.

6.—(1.) The Minister may, on behalf of the Commonwealth—

- (a) grant leases and licences in respect of land within an airport on such terms and conditions, and subject to payment of such rent or other consideration, as the Minister thinks fit; and
- (b) exercise any power or remedy of the Commonwealth in respect of any such lease or licence.

(2.) This section has effect notwithstanding anything contained in the *Lands Acquisition Act* 1955–1957.

Prohibition
on trading,
&c., without
authority.

7.—(1.) Except in accordance with an authority granted under the next succeeding section and the terms and conditions of that authority, a person shall not, within an airport, either personally or by his servant or agent, or as the servant or agent of another person—

- (a) sell, for delivery within the airport, or supply, any goods or services;

- (b) carry on, or solicit for, any business; or
- (c) erect, display or distribute, or communicate by sound, any advertisement or public notice.

(2.) A person who contravenes the last preceding sub-section is guilty of an offence punishable, upon a first conviction, by a fine of not more than One hundred pounds and, upon a second or subsequent conviction, by a fine of not less than Fifty pounds and not more than Five hundred pounds.

(3.) Sub-section (1.) of this section does not apply to or in relation to—

- (a) the making or performance, by an operator of air transport services, of contracts for the carriage of passengers or goods by air or for the carriage by that operator between the airport and any premises of that operator of passengers or goods that have been, or are to be, carried by that operator by air;
- (b) the advertising, by an operator of air transport services, of those services or other transport services or of tourist facilities; or
- (c) the sale or supply to the owner or operator of aircraft of goods or services required for the maintenance or operation of the aircraft or for use or consumption—
 - (i) aboard the aircraft; or
 - (ii) at the airport by persons employed by him.

(4.) This section does not affect the enforcement of any civil remedy against a person.

8.—(1.) The Minister may, on behalf of the Commonwealth, by writing under his hand, grant to a person an authority to do, either personally, or by his servants or agents, or both, any act or thing referred to in sub-section (1.) of the last preceding section. Authority to trade, &c.

(2.) An authority under this section—

- (a) may be included in, or granted in relation to, a lease or licence in respect of particular land within an airport; and
- (b) shall, subject to the next succeeding section, be granted for such period, on such terms and conditions and for such consideration as the Minister thinks fit.

9.—(1.) The holder of an authority under this Act, and the servants and agents of such a holder, may, subject to the terms and conditions of the authority, act in accordance with the authority without obtaining or having any other authority, licence, permit or registration. Exercise of authorities.

(2.) Subject to the next succeeding sub-section, the Minister may, having regard to the special needs of the travelling public, specify in the terms and conditions of an authority under this

Act the days on which, and the times during which, the authority may be exercised, and the authority may lawfully be exercised on those days and during those times.

(3.) An authority under this Act to sell or supply intoxicating liquor shall contain terms and conditions under which the holder is subject to requirements, prohibitions and restrictions as to the days on which, and the times during which, such liquor may be sold or supplied corresponding to, and to other requirements, prohibitions and restrictions corresponding, as nearly as possible, to, those that apply, under the law of the State or Territory in which the airport is situated, in relation to the sale or supply of such liquor in pursuance of a licence under that law of the kind that most nearly corresponds with the authority under this Act.

(4.) An authority under this Act shall contain such terms and conditions as the Minister thinks necessary for the purpose of preventing the sale or supply of goods or services, in pursuance of the authority, to persons resorting to the airport solely or principally for the purpose of purchasing or obtaining goods or services at times outside the days and hours of trading or business that would be applicable, under the law of the State or Territory of the Commonwealth in which the airport is situated, in relation to like transactions in the part of that State or Territory in which the airport is situated.

(5.) Except as provided in this section, a lease, licence or authority under this Act does not exempt a person from compliance with the law of a State or Territory of the Commonwealth.

Inspection of
premises, &c.

10.—(1.) An authority under this Act shall contain such terms and conditions in relation to the inspection of premises, the keeping and inspection of books and records and the inspection and sampling of goods as the Minister considers necessary for the purposes of this Act.

(2.) The Governor-General may, for the purposes of this Act, arrange with the Governor of a State for the performance by members of the Police Force of the State or by persons employed in the public service of the State, for the Government of the Commonwealth, of any work or services, and for the payment to be made by the Commonwealth for any such work or services.

Periods of
leases, &c.

11.—(1.) Subject to this section, a lease, licence or authority under this Act, other than a lease, licence or authority for purposes directly related to the operation of air transport services, shall not be granted—

(a) for a period exceeding—

(i) in the case of a building lease or an authority included in, or granted in relation to, such a lease—ninety-nine years; or

(ii) in any other case—twenty-one years; or

(b) except after tenders have been publicly invited or after public auction.

(2.) Paragraph (b) of the last preceding sub-section does not apply in relation to a lease, licence or authority granted—

(a) for a period not exceeding three years; or

(b) in pursuance of an option of renewal.

(3.) Nothing in this section affects any rights (including an option of renewal) granted before the commencement of this Act.

(4.) For the purposes of this section the period of a lease, licence or authority shall be deemed to include any period for which it is renewable under an option of renewal.

12.—(1.) A lease or licence in respect of land within an airport granted by or on behalf of the Commonwealth before the date of commencement of this Act and in force immediately before that date continues in force as if granted under this Act, and accordingly any power or remedy of the Commonwealth, or of any person on behalf of the Commonwealth, in respect of any such lease or licence is exercisable by the Minister.

Saving of
existing leases
and licences.

(2.) In relation to an airport in a Territory of the Commonwealth, a reference in this section to the date of commencement of this Act shall be read as a reference to the date specified in a Proclamation under section five of this Act as the date on and after which this Act shall apply in, or extend to, that Territory.

13. In the application of section fifty-seven of the *Lands Acquisition Act 1955–1957* in relation to land within an airport, references in that section to the Minister shall be read as references to the Minister of State for the time being administering this Act or any Minister or member of the Executive Council for the time being acting for and on behalf of that Minister.

Warrants to
obtain
possession
of land.

14.—(1.) The Minister may, by writing under his hand, certify that, on a specified date or during a specified period, an airport, within the meaning of this Act, existed at a place, and had the boundaries, described, by reference to a map or otherwise, in the certificate and may, in the certificate, certify as to the existence, situation and description of any physical features (including buildings or other erections) of or upon the airport at that date or within that period.

Evidence
of certain
matters.

(2.) In a prosecution under this Act, a certificate under this section is evidence of the matters certified.

(3.) A document purporting to be a certificate under this section and to be signed by a person by virtue of a delegation to that person of the powers of the Minister under this section may be admitted in evidence as such a certificate without proof of the delegation or of the signature of that person.

Delegation.

15.—(1.) The Minister may, either generally or in relation to a matter or class of matters and either in relation to all airports or a particular airport or particular airports, by writing under his hand delegate to a person or persons all or any of his powers and functions under this Act (except this power of delegation and his power to grant an authority to sell or supply alcoholic liquor).

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.

Regulations.

16. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

AIR NAVIGATION.

No. 39 of 1960.

An Act to amend the *Air Navigation Act* 1920-1950,
and for other purposes.

[Assented to 10th June, 1960.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Air Navigation Act* 1960. Short title
and citation.

(2.) The *Air Navigation Act* 1920-1950* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Air Navigation Act* 1920-1960.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commence-
ment.

3. Sections two and three of the Principal Act are repealed and the following sections inserted in their stead:—

“ 2. This Act extends to every Territory of the Commonwealth. Extension to
Territories.

* Act No. 50, 1920, as amended by No. 93, 1936; Nos. 6 and 89, 1947; and No. 80, 1950.

Act to bind
Crown.

"2A. This Act binds the Crown in right of the Commonwealth or of any State.

Interpretation.

"3.—(1.) In this Act, unless the contrary intention appears—
'aircraft' does not include state aircraft;

'[Australian aircraft]' means an aircraft registered in Australia in accordance with the regulations;

'Australian territory' means the territory of the Commonwealth and of every Territory of the Commonwealth, and includes the territorial waters of the Commonwealth and of every such Territory and the air space over any such territory or territorial waters;

'Contracting State' means a country, other than Australia, that is a party to the Chicago Convention;

'crew', in relation to an aircraft, includes every person having duties or functions on board the aircraft during the flight of the aircraft in connexion with the flying or safety of the aircraft;

'international airline' means an air transport enterprise offering or operating an international air service;

'non-scheduled flight', in relation to an aircraft that possesses the nationality of a Contracting State, means a flight by that aircraft over or into Australian territory otherwise than under the authority of an international airline licence issued by the Director-General in pursuance of the regulations;

'pilot in command', in relation to an aircraft, means the pilot responsible for the operation and safety of the aircraft during the flight of the aircraft;

'state aircraft' means—

(a) aircraft of any part of the Defence Force, including any aircraft that is commanded by a member of that Force in the course of his duties as such a member; and

(b) aircraft used in the military, customs or police services of a country other than Australia;

'the Air Transit Agreement' means the International Air Services Transit Agreement concluded at Chicago on the seventh day of December, One thousand nine hundred and forty-four;

'the Chicago Convention' means the Convention on International Civil Aviation concluded at Chicago on the seventh day of December, One thousand nine hundred and forty-four;

'the Director-General' means the Director-General of Civil Aviation and includes any person acting as Director-General;

'the International Air Transport Association' means the association incorporated under that name by Act 9-10 George VI., Chapter 51, of the Parliament of Canada;

'the International Civil Aviation Organization' means the organization, so named, formed under Article 43 of the Chicago Convention.

"(2.) Any reference in this Act to a contravention of, or failure to comply with, a provision of this Act includes a reference to a contravention of, or failure to comply with, an instruction, direction, condition or requirement issued, given, made or imposed in pursuance of this Act."

4. Section three A of the Principal Act is amended by adding at the end thereof the following sub-section:—

Approval of
ratification of
Chicago
Convention,
&c.

"(2.) Approval is given to the ratification on behalf of Australia of—

(a) the Air Transit Agreement;

(b) the Protocol amending Article 45 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on the fourteenth day of June, One thousand nine hundred and fifty-four; and

(c) the Protocol amending Articles 48 (a), 49 (e) and 61 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on the fourteenth day of June, One thousand nine hundred and fifty-four."

5. Section five of the Principal Act is repealed and the following sections are inserted in its stead:—

"4. For the purposes of this Act, the texts of the Chicago Convention, the Air Transit Agreement and the Protocols referred to in the last preceding section shall be deemed to be the English texts set out respectively in the First, Second, Third and Fourth Schedules to this Act.

Texts of
Conventions
&c.

"5. The Minister may, by notice published in the *Gazette*, declare which countries are from time to time parties to the Chicago Convention, the Air Transit Agreement or any of the Protocols referred to in section three A of this Act, and such a notice is evidence of the matter so declared.

Contracting
States.

"6.—(1.) The International Civil Aviation Organization possesses such legal capacity and is entitled to such privileges and immunities as are necessary for the independent exercise of its powers and performance of its functions in Australian territory.

International
Civil Aviation
Organization.

“(2.) Without limiting the generality of the last preceding sub-section, the International Civil Aviation Organization has in Australian territory juridical personality and the capacity—

(a) to contract;

(b) to acquire and dispose of real and personal property; and

(c) to institute legal proceedings.

“(3.) The archives and other documents of the International Civil Aviation Organization kept in Australian territory are inviolable.

Establishment
and conduct
of Aeronautical
Information
Service.

“7.—(1.) The Minister may establish and conduct a service to be known as the Aeronautical Information Service.

“(2.) The functions of the Aeronautical Information Service are to collect and disseminate aeronautical information and instructions relating to the safety, regularity and efficiency of air navigation, being information and instructions with respect to—

(a) aerodromes;

(b) air traffic control services and facilities;

(c) communication and air navigation services and facilities;

(d) meteorological services and facilities;

(e) search and rescue services and facilities;

(f) procedures and regulatory requirements connected with air navigation; and

(g) hazards to air navigation.

Publication of
Aeronautical
Information
Publications
and Notices
to Airmen.

“8.—(1.) The Aeronautical Information Service shall publish publications to be known as Aeronautical Information Publications and notices to be known as Notices to Airmen.

“(2.) There shall be published in Aeronautical Information Publications the aeronautical information and instructions that, by this Act or the regulations, are required to be so published and such other aeronautical information and instructions as are of a lasting character essential to air navigation:

“(3.) There shall be published in Notices to Airmen the aeronautical information and instructions that, by this Act or the regulations, are required to be so published and such other aeronautical information and instructions as—

(a) are of a temporary character; or

(b) cannot be made available with sufficient expedition by publication in Aeronautical Information Publications.

“(4.) The Director-General shall forward copies of Aeronautical Information Publications and Notices to Airmen to the International Civil Aviation Organization.

"9.—(1.) The Minister may, by writing under his hand, designate as an international airport an aerodrome at which facilities are available for the formalities incident to customs, immigration, quarantine and other requirements in connexion with arrival in or departure from Australian territory of aircraft.

International airports.

"(2.) The Director-General shall cause to be published in Aeronautical Information Publications particulars of the aerodromes designated as international airports under the last preceding sub-section.

"10. Subject to such exceptions as are prescribed—

- (a) an aircraft arriving in Australian territory from a place outside Australian territory shall land at an aerodrome designated as an international airport under the last preceding section; and
- (b) an aircraft departing from Australian territory for a place outside Australian territory shall take-off from an aerodrome so designated.

International aircraft to land at and take-off from designated airports.

"11. Subject to the next succeeding section, a scheduled international air service conducted by an international airline of a country other than Australia that is a party to the Air Transit Agreement has, in respect of Australian territory, the following freedoms of the air:—

Freedoms of the air.

- (a) the privilege to fly across Australian territory without landing; and
- (b) the privilege to land in Australian territory for any purpose other than taking on or discharging passengers, cargo or mail.

"12.—(1.) An international airline of a country other than Australia shall not operate a scheduled international air service over or into Australian territory except in accordance with an international airline licence issued by the Director-General in accordance with the regulations.

International airline licences

"(2.) An international airline licence shall not be granted to an international airline of a country other than Australia unless that country and Australia are parties to the Air Transit Agreement, or to some other agreement or arrangement, whether bilateral or multilateral, under which scheduled international air services of that other country may, subject to the agreement or arrangement, be operated over or into Australian territory.

Suspension or
cancellation
of international
airline licences.

" 13. The Minister may suspend or cancel an international air-line licence issued to an international airline of a country other than Australia if and only if—

- (a) the airline or any aircraft operated by the airline fails to comply with a provision of this Act or the regulations or the terms of its licence; or
- (b) the airline fails to conform to, or comply with, any term or condition of the relevant agreement or arrangement referred to in the last preceding section.

Non-scheduled
flights by
aircraft
possessing
nationality of a
Contracting
State.

" 14.—(1.) An aircraft that possesses the nationality of a Contracting State may, subject to observance of the terms of the Chicago Convention and the provisions of this Act and the regulations, fly in transit non-stop across Australian territory, or land in Australian territory for non-traffic purposes, in the course of a non-scheduled flight, without the necessity of obtaining prior permission.

" (2.) Where an aircraft that possesses the nationality of a Contracting State makes a non-scheduled flight into Australian territory, it shall not take on or discharge passengers, cargo or mail in Australian territory (being passengers, cargo or mail that has been, or is to be, carried for reward) except with the permission of the Director-General and in accordance with that permission.

" (3.) The Director-General shall cause to be published in Aeronautical Information Publications the procedure to be followed and the particulars to be supplied by applicants for the permission referred to in the last preceding sub-section.

" (4.) In considering an application for the permission referred to in sub-section (2.) of this section, the Director-General shall have regard to—

- (a) the public interest;
- (b) the need to provide reasonable protection for the operators of regular public air transport services between Australia and other countries so as to ensure the maintenance of regular air transport services for the carriage of passengers, cargo and mail between Australia and other countries; and
- (c) any resolution or decision of the International Civil Aviation Organization or of the International Air Transport Association that has been approved by the Minister and is relevant to the matter.

" (5.) The Director-General, in giving a permission for the purpose of sub-section (2.) of this section, may direct that the charges to be made in respect of passengers or cargo taken on or discharged in Australian territory shall be not less than such amounts as he directs.

"(6.) For the purposes of this section, an aircraft arriving in Australian territory from a place outside Australian territory shall be deemed to discharge passengers, cargo or mail if it lands at any place in Australian territory while carrying passengers, cargo or mail destined for that place or another place in Australian territory.

"(7.) Notwithstanding anything in the preceding provisions of this section, where it appears to the Director-General that an aircraft that possesses the nationality of a Contracting State is intended, in the course of a non-scheduled flight over Australian territory, to proceed over regions that are inaccessible or without adequate air navigation facilities, the Director-General may, if he considers it necessary in the interests of safety, direct that the aircraft follow an established air route or that the flight shall be conducted in accordance with such conditions as he specifies, and the aircraft shall comply with that direction.

"15.—(1.) A foreign aircraft that does not possess the nationality of a Contracting State shall not make a non-scheduled flight over or into Australian territory unless the Minister has approved the flight.

Non-scheduled flight by foreign aircraft not possessing nationality of Contracting State.

"(2.) In giving an approval under the last preceding sub-section the Minister may impose such conditions and requirements as to the flight as he thinks fit, including such conditions and requirements as he considers necessary to ensure compliance with the general principles contained in the Chicago Convention, and the aircraft shall comply with those conditions and requirements.

"16. The owner, the operator, the hirer, the pilot in command and any other pilot of an aircraft arriving in Australian territory from a place outside Australian territory or departing from Australian territory for a place outside Australian territory shall comply with the provisions of all applicable laws, whether of the Commonwealth or of a State or Territory of the Commonwealth, for the time being in force, including laws relating to the entry or clearance of passengers, crew or cargo, immigration, passports, customs and quarantine.

Aircraft on international flights to comply with laws.

"17. Except as provided by sub-section (1.) of section fourteen of this Act or in accordance with an international airline licence or an approval under section fifteen of this Act, an aircraft shall not arrive in Australian territory from a place outside Australian territory, or depart from Australian territory for a place outside Australian territory, without the permission of the Director-General.

Aircraft on international flights to have permission.

"18. The Minister may make arrangements with the appropriate Minister for the use by aircraft engaged in civil air navigation of an aerodrome under the control of a part of the Defence Force

Defence aerodromes.

and, subject to the terms of the arrangement, the Director-General may authorize the use of the aerodrome by aircraft so engaged in accordance with such conditions as the Director-General specifies.

Carriage of
munitions.

" 19.—(1.) Munitions of war or implements of war shall not be carried by an aircraft in or over Australian territory, or by an Australian aircraft outside Australian territory, except with the permission in writing of the Minister and in accordance with any conditions to which the permission is expressed to be subject.

" (2.) In this section—

- (a) the reference to munitions of war or implements of war shall be read as including a reference to any articles declared by the regulations to be munitions of war or implements of war, as the case may be ; and
- (b) a reference to aircraft shall be read as including a reference to state aircraft of a country other than Australia.

The Civil
Air Ensign.

" 20.—(1.) The design and colours of the Civil Air Ensign of Australia are as specified by the Minister by notification in the *Gazette* on the fourth day of March, One thousand nine hundred and forty-eight, unless and until another ensign is appointed in its place in pursuance of section five of the *Flags Act* 1953–1954.

" (2.) The Civil Air Ensign of Australia shall not, either within or outside Australian territory, be flown, painted or otherwise displayed, except—

- (a) by the Department of Civil Aviation on its buildings, boats and aircraft;
- (b) on an Australian aircraft engaged in international air navigation;
- (c) by the Commonwealth on an aerodrome maintained and operated by the Commonwealth under the regulations; or
- (d) in accordance with the permission of, and subject to such conditions as are specified by, the Director-General, in writing.

Interference
with
navigational
aids.

" 21.—(1.) Where it appears to the Minister that any installation is or may be, either actively or passively, causing interference with radio communications to or from aircraft or with navigational aids in circumstances that are likely to endanger the safety of aircraft engaged in interstate or international air navigation or air navigation within or to or from a Territory of the Commonwealth, the Minister may authorize a notice to be served upon the owner or user of the installation or the owner or

occupier of the premises or place in which the installation is installed or kept directing him to permit the installation to be inspected and tested by an officer.

“(2.) If, as a result of such an inspection or otherwise, it appears to the Minister necessary to do so for the safety of aircraft referred to in the last preceding sub-section, the Minister may authorize a notice to be served on the owner or user of the installation or the owner or occupier of the premises or place in which the installation is installed directing the person on whom the notice is served to make such modification to the installation, or to take such other action, as is necessary to eliminate the cause of the interference, within such reasonable time as is specified in the notice.

“(3.) Where the installation has been installed and is used and operated in accordance with all applicable laws, the owner or user of the installation or the owner or occupier of the premises or place in which the installation is installed may recover from the Commonwealth the amount of all reasonable expenses incurred, and of loss actually suffered, in complying with the direction.

“(4.) A person shall not, without reasonable excuse—

(a) fail to comply with a direction contained in a notice under this section; or

(b) impede or obstruct an officer or fail to afford every facility to an officer in the inspection or testing of any installation the subject of a notice under this section.

“(5.) If a person upon whom a notice under sub-section (2.) of this section is served fails to comply with a direction contained in the notice, the Minister may authorize an officer, with such assistance as the officer requires, to enter the premises or place in which the installation is installed or kept, with such force as is necessary, and to take such action as is directed in the notice.

“(6.) A notice under this section may be served personally or may be served by post at the last-known place of abode or last-known place of business of the person on whom it is served or at the address at which the installation concerned is installed.

“(7.) In this section, ‘installation’ includes any electrical or other equipment or any metallic structure.

“22.—(1.) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence. Offences.

“(2.) The owner, the operator and the hirer (not being the Crown), and the pilot in command and any other pilot, of an aircraft that flies in contravention of, or fails to comply with, a provision of this Act is guilty of an offence.

“(3.) An offence against this Act may be prosecuted either summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

“(4.) The punishment for an offence against this Act is—

- (a) if the offence is prosecuted summarily—a fine not exceeding Two hundred pounds or imprisonment for a term not exceeding six months, or both; or
- (b) if the offence is prosecuted upon indictment—a fine not exceeding Five hundred pounds or imprisonment for a term not exceeding two years, or both, or, if the offender is a body corporate, a fine not exceeding Five thousand pounds.

“(5.) Proceedings for the commitment of a person for trial on indictment for an offence against this Act shall not be instituted except with the consent in writing of the Director-General.

“(6.) Proceedings for the summary prosecution of an offence against this Act shall not be instituted except with the consent in writing of the Director-General or a person authorized by the Director-General, by writing under his hand, to give such consents.

“(7.) Notwithstanding the preceding provisions of this section, the regulations may make provision for or in relation to other consequences (in addition to punishment for an offence) of contravention of, or failure to comply with, a provision of this Act or the regulations or to ensure compliance with a provision of this Act or the regulations.

Defences in
proceedings
with respect to
offences.

“23.—(1.) In any proceedings with respect to an offence against this Act or the regulations, it is a defence if the act or omission charged is proved to have been due to stress of weather or other unavoidable cause.

“(2.) In any proceedings against the owner, operator, hirer, pilot in command or other pilot of an aircraft with respect to an offence against this Act or the regulations, it is a defence if the act or omission charged is proved to have taken place without his fault or privity.

Crown not
liable to
prosecution.

“24. Nothing in this Act shall be taken to subject the Crown in right of the Commonwealth or of a State to liability to be prosecuted for an offence, but this section does not affect any liability of a member of the crew of an aircraft of which the Crown is the owner or of any other person in the employment of the Crown to be so prosecuted.

Jurisdiction
of Courts.

“25.—(1.) Subject to the succeeding provisions of this section—

- (a) the several courts of the States are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories of the Commonwealth, with respect to offences against this Act or the regulations.

“(2.) The jurisdiction invested in or conferred on courts by the last preceding sub-section is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

“(3.) The trial on indictment of an offence against this Act or the regulations, not being an offence committed within a State, may be held in any State or Territory of the Commonwealth.

“(4.) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate, or a District Officer or Assistant District Officer of a Territory of the Commonwealth.

“(5.) Where an appeal lies from a court to the Supreme Court of a State or Territory of the Commonwealth, an appeal from a decision of the first-mentioned court exercising jurisdiction by virtue of this section may be brought to the High Court.

“(6.) The High Court may grant special leave to appeal to the High Court from a decision of a court of a State or Territory of the Commonwealth exercising jurisdiction by virtue of this section notwithstanding that the law of that State or Territory prohibits an appeal from the last-mentioned court.

“(7.) Subject to this Act, the laws of a State or Territory of the Commonwealth with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

- (a) their summary conviction;
- (b) their examination and commitment for trial on indictment;
- (c) their trial and conviction on indictment; and
- (d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act or the regulations.

“(8.) Except as provided by this section, the *Judiciary Act* 1903–1960 applies in relation to offences against this Act or the regulations.

“(9.) For the purposes of this section, ‘court of summary jurisdiction’ includes a court of a Territory of the Commonwealth sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory.

Regulations.

“26.—(1.) The Governor-General may make regulations, not inconsistent with this Act—

- (a) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- (b) for the purpose of carrying out and giving effect to the Chicago Convention, as amended by the Protocols referred to in sub-section (2.) of section three A of this Act, any Annex to the Convention relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and the Air Transit Agreement;
- (c) in relation to air navigation within a Territory of the Commonwealth or to or from a Territory of the Commonwealth;
- (d) in relation to air navigation, being regulations with respect to trade and commerce with other countries and among the States; and
- (e) in relation to air navigation, being regulations with respect to any other matter with respect to which the Parliament has power to make laws.

“(2.) Without limiting the generality of the preceding provisions of this section, the regulations that may be made under the powers conferred by those provisions include regulations for or in relation to—

- (a) the registration, marking and airworthiness of aircraft;
- (b) requiring persons performing specified functions in relation to the operation or maintenance of aircraft to be the holders of licences or certificates of specified kinds, and providing for the grant, cancellation, suspension or variation of such licences and certificates;
- (c) the licensing of air transport operations;
- (d) controlling the provision for reward of air transport within a Territory of the Commonwealth or to or from a Territory of the Commonwealth;
- (e) the establishment, maintenance, operation and use of aerodromes and air route and airway facilities and the licensing of aerodromes other than aerodromes maintained by the Commonwealth;
- (f) hygiene, sanitation and public health at aerodromes;

- (g) the prohibition of the construction of buildings or other structures, the restriction of the dimensions of buildings or other structures, and the removal in whole or in part or the marking of buildings, other structures, trees or other natural obstacles, that constitute or may constitute obstructions, hazards or potential hazards to aircraft flying in the vicinity of an aerodrome, and such other measures as are necessary to ensure the safety of aircraft using an aerodrome or flying in the vicinity of an aerodrome;
- (h) empowering the Director-General, or an officer thereunto authorized by the Director-General, to give or issue directions or instructions to all or any of the persons holding licences or certificates under this Act or the regulations, being directions or instructions with respect to matters affecting the safe navigation and operation, or the maintenance, of aircraft, and providing for the manner in which such directions and instructions are to be notified;
- (i) the formal proof and authentication of instruments made or issued under this Act or the regulations;
- (j) the powers (including powers of arrest) that may be exercised by members of the crew of an aircraft, in relation to persons on board the aircraft, for the purpose of ensuring the safety of the aircraft or of its passengers, crew or cargo or otherwise for the purposes of this Act or the regulations; and
- (k) the imposition of penalties not exceeding a fine of Five hundred pounds or imprisonment for a term of two years, or both, for a contravention of, or failure to comply with, a provision of the regulations or a direction, instruction or condition issued, given, made or imposed under, or in force by virtue of, the regulations.

“(3.) Where the regulations make provision for the removal or marking of structures or obstacles referred to in paragraph (g) of the last preceding sub-section, the regulations shall also include provision for the payment of compensation to any person who suffers loss or damage or incurs expense in or as a direct result of the removal or marking.

“(4.) Regulations affecting air navigation to or from the Northern Territory have effect notwithstanding section ten of the *Northern Territory (Administration) Act 1910-1959*.

“27. Any provisions of the regulations may be expressed to apply to and in relation to Australian aircraft, persons on board Australian aircraft, and members of the crews of Australian aircraft, outside Australian territory.

Extra-territorial
operation of
regulations.

Appeals in
respect of
refusal
to grant or
cancellation,
&c., of
licences or
certificates.

“ 28.—(1.) Where the regulations include requirements in pursuance of paragraph (b) of sub-section (2.) of section twenty-six of this Act, the regulations shall, subject to the Constitution, also include provisions under which a person aggrieved by a refusal to grant, or by a cancellation, suspension or variation of, a licence or certificate of a kind referred to in those requirements has a right of appeal to a particular court, or has a right of appeal to such one of two or more courts as he selects.

“ (2.) Nothing in the last preceding sub-section—

- (a) shall be taken to prevent the making of regulations for or in relation to the conferring on any administrative authority, including a board of review constituted under the regulations, of powers and functions, to be exercised by way of appeal or review, in respect of matters referred to in that sub-section;
- (b) shall be taken to require the regulations to give to a person who has elected to have a matter dealt with by an administrative authority having such powers and functions a right to appeal in the same matter to a court; or
- (c) applies in relation to a temporary suspension for the purposes of an examination or a suspension for a period not exceeding twenty-eight days pending completion of an investigation.

“ (3.) The regulations may make provision for and in relation to all or any of the following:—

- (a) investing the Supreme Courts of the States with federal jurisdiction;
- (b) conferring jurisdiction upon the Supreme Courts of the Territories of the Commonwealth; and
- (c) conferring jurisdiction upon a federal court,

for the purposes of regulations made in pursuance of the preceding provisions of this section.

“ (4.) The jurisdiction invested in, or conferred on, a court in pursuance of this section may be exercised by a single Judge of the court.

“ (5.) The reference in sub-section (2.) of section one hundred and ninety-eight of the *Conciliation and Arbitration Act 1904-1960* to jurisdiction conferred upon the Commonwealth Industrial Court by any other Act shall be read as including a reference to any jurisdiction that may be conferred on that Court in pursuance of this section.

“ (6.) In this section, ‘court’ means a federal court, the Supreme Court of a State or the Supreme Court of a Territory of the Commonwealth.

" 29. As soon as practicable after the thirtieth day of June, ^{Annual report.} One thousand nine hundred and sixty-one, and after each succeeding thirtieth day of June, the Minister shall prepare and lay before each House of the Parliament a report on the administration and working of this Act and the regulations and on such other matters concerning civil air navigation as the Minister considers should be brought to the attention of Parliament.

" 30. It is hereby declared to be the intention of the Parliament that an officer, authority or person having powers or functions under this Act or the regulations may also have, exercise and perform similar powers or functions conferred by the law of a State relating to air navigation. ^{Powers and functions under State laws.}

" 31.—(1.) The Minister or the Director-General may, either ^{Delegation.} generally or in relation to a matter or class of matters, by writing under his hand, delegate to a person or persons all or any of his powers and functions under this Act except this power of delegation.

" (2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

" (3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the Director-General, as the case may be."

6. The Air Navigation Regulations, being Statutory Rules 1947, No. 112, as amended from time to time and in force, or purporting to be in force, immediately before the commencement of this Act are as valid and effectual as if they had been made under the Principal Act, as amended by this Act, and shall, subject to any regulations made under the Principal Act as amended by this Act, continue in force notwithstanding the repeal of section five of the Principal Act. ^{Saving and continuance of regulations.}

7. The Principal Act is amended by adding at the end thereof ^{Schedules.} the following heading and Schedules:—

THE SCHEDULES.

FIRST SCHEDULE.

Section 4.

CONVENTION ON INTERNATIONAL CIVIL AVIATION.

PREAMBLE.

WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that co-operation between nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end.

FIRST SCHEDULE—*continued.*

PART I.—AIR NAVIGATION.

CHAPTER I.—GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION.

Article 1.

Sovereignty. The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

Article 2.

Territory. For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

Article 3.

Civil and state aircraft. (a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.
 (b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.
 (c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.
 (d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

Article 4.

Misuse of civil aviation. Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

CHAPTER II.—FLIGHT OVER TERRITORY OF CONTRACTING STATES.

Article 5.

Right of non-scheduled flight. Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

Article 6.

Scheduled air services. No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

Article 7.

Cabotage. Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

Article 8.

Pilotless aircraft. No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

FIRST SCHEDULE—*continued.**Article 9.*

(a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

Prohibited areas.

(b) Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

(c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in subparagraphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

Article 10.

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part II of this Convention for communication to all other contracting States.

Landing at customs airport.

Article 11.

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

Applicability of air regulations.

Article 12.

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or manoeuvring within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and manoeuvre of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

Rules of the air.

Article 13.

The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

Entry and clearance regulations.

FIRST SCHEDULE—*continued.**Article 14.*

Prevention of
spread of
disease.

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.

Article 15.

Airport and
similar charges.

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher,

(a) As to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and

(b) As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

Article 16.

Search of
aircraft.

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

CHAPTER III.—NATIONALITY OF AIRCRAFT.

Article 17.

Nationality of
aircraft.

Aircraft have the nationality of the State in which they are registered.

Article 18.

Dual
registration.

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

Article 19.

National laws
governing
registration.

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

Article 20.

Display of
marks.

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

FIRST SCHEDULE—*continued.**Article 21.*

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

Report of
registrations.

CHAPTER IV.—MEASURES TO FACILITATE AIR NAVIGATION.

Article 22.

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

Facilitation of
formalities.*Article 23.*

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

Customs and
immigration
procedures.*Article 24.*

(a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

Customs duty.

(b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

Article 25.

Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in coordinated measures which may be recommended from time to time pursuant to this Convention.

Aircraft in
distress.*Article 26.*

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident

Investigation of
accidents.

FIRST SCHEDULE—*continued.*

occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

Article 27.

Exemption from seizure on patent claims.

(a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

(b) The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

(c) The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof; or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

Article 28.

Air navigation facilities and standard systems.

Each contracting State undertakes, so far as it may find practicable to:

(a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;

(b) Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;

(c) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

CHAPTER V.—CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT.

Article 29.

Documents carried in aircraft.

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

- (a) Its certificate of registration;
- (b) Its certificate of airworthiness;
- (c) The appropriate licenses for each member of the crew;
- (d) Its journey log book;
- (e) If it is equipped with radio apparatus, the aircraft radio station license;
- (f) If it carries passengers, a list of their names and places of embarkation and destination;
- (g) If it carries cargo, a manifest and detailed declarations of the cargo.

FIRST SCHEDULE—continued.

Article 30.

(a) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a license to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State. Aircraft radio equipment.

(b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special license for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

Article 31.

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered. Certificates of airworthiness.

Article 32.

(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licenses issued or rendered valid by the State in which the aircraft is registered. Licenses of personnel.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to any of its nationals by another contracting State.

Article 33.

Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention. Recognition of certificates and licenses.

Article 34.

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention. Journey log books.

Article 35.

(a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make. Cargo restrictions.

(b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

Article 36.

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory. Photographic apparatus.

FIRST SCHEDULE—*continued*.

CHAPTER VI.—INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES.

Article 37.

Adoption of
international
standards and
procedures.

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

- (a) Communications systems and air navigation aids, including ground marking;
- (b) Characteristics of airports and landing areas;
- (c) Rules of the air and air traffic control practices;
- (d) Licensing of operating and mechanical personnel;
- (e) Airworthiness of aircraft;
- (f) Registration and identification of aircraft;
- (g) Collection and exchange of meteorological information;
- (h) Log books;
- (i) Aeronautical maps and charts;
- (j) Customs and immigration procedures;
- (k) Aircraft in distress and investigation of accident;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

Article 38.

Departures
from
international
standards and
procedures.

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other states of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

Article 39.

Endorsement of
certificates and
licenses.

(a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

(b) Any person holding a license who does not satisfy in full the conditions laid down in the international standard relating to the class of license or certificate which he holds shall have endorsed on or attached to his license a complete enumeration of the particulars in which he does not satisfy such conditions.

Article 40.

Validity of
endorsed
certificates
and licenses.

No aircraft or personnel having certificates or licenses so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

Article 41.

Recognition of
existing
standards of
airworthiness.

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

FIRST SCHEDULE—continued.

Article 42.

The provisions of this Chapter shall not apply to personnel whose licenses are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licenses remain valid five years after the date of adoption of such standard.

Recognition of existing standards of competency of personnel.

PART II.—THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

CHAPTER VII.—THE ORGANIZATION.

Article 43.

An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

Name and composition.

Article 44.

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

Objectives.

- (a) Insure the safe and orderly growth of international civil aviation throughout the world;
- (b) Encourage the arts of aircraft design and operation for peaceful purposes;
- (c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;
- (d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;
- (e) Prevent economic waste caused by unreasonable competition;
- (f) Insure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;
- (g) Avoid discrimination between contracting States;
- (h) Promote safety of flight in international air navigation;
- (i) Promote generally the development of all aspects of international civil aeronautics.

Article 45.

The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council.

Permanent seat.

Article 46.

The first meeting of the Assembly shall be summoned by the Interim Council of the above-mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

First meeting of Assembly.

Article 47.

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

Legal capacity.

CHAPTER VIII.—THE ASSEMBLY.

Article 48.

(a) The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.

Meetings of Assembly and voting.

(b) All contracting States shall have an equal right to be represented at the meetings of the Assembly and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

(c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

FIRST SCHEDULE—*continued.**Article 49.*Powers and
duties of
Assembly.

The powers and duties of the Assembly shall be to:

- (a) Elect at each meeting its President and other officers;
- (b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;
- (c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;
- (d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;
- (e) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;
- (f) Review expenditures and approve the accounts of the Organization;
- (g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;
- (h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;
- (i) Carry out the appropriate provisions of Chapter XIII;
- (j) Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;
- (k) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

CHAPTER IX.—THE COUNCIL.

*Article 50.*Composition
and election of
Council.

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of twenty-one contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

*Article 51.*President of
Council.

The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall elect from among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

- (a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;
- (b) Serve as representative of the Council; and
- (c) Carry out on behalf of the Council the functions which the Council assigns to him.

*Article 52.*Voting in
Council.

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

FIRST SCHEDULE—continued.

Article 53.

Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

Participation
without a vote.

Article 54.

The Council shall:

Mandatory
functions of
Council.

- (a) Submit annual reports to the Assembly;
- (b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;
- (c) Determine its organization and rules of procedure;
- (d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;
- (e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;
- (f) Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;
- (g) Determine the emoluments of the President of the Council;
- (h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;
- (i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;
- (j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;
- (k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;
- (l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;
- (m) Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;
- (n) Consider any matter relating to the Convention which any contracting State refers to it.

Article 55.

The Council may:

Permissive
functions of
Council.

- (a) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;
- (b) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;
- (c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;
- (d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;
- (e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.

FIRST SCHEDULE—*continued.*

CHAPTER X.—THE AIR NAVIGATION COMMISSION.

Article 56.

Nomination and
appointment of
Commission.

The Air Navigation Commission shall be composed of twelve members appointed by the Council from among persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.

Article 57.

Duties of
Commission.

The Air Navigation Commission shall:

- (a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;
- (b) Establish technical subcommissions on which any contracting State may be represented, if it so desires;
- (c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

CHAPTER XI.—PERSONNEL

Article 58.

Appointment of
personnel.

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

Article 59.

International
character of
personnel.

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

Article 60.

Immunities and
privileges of
personnel.

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization, the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

CHAPTER XII.—FINANCE.

Article 61.

Budget and
apportionment
of expenses.

The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

Article 62.

Suspension of
voting power.

The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

FIRST SCHEDULE—*continued*.*Article 63.*

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

Expenses of delegations and other representatives.

CHAPTER XIII.—OTHER INTERNATIONAL ARRANGEMENTS.

Article 64.

The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

Security arrangements.

Article 65.

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

Arrangements with other international bodies.

Article 66.

(a) The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

Functions relating to other agreements.

(b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement or the International Air Transport Agreement drawn up at Chicago on December 7, 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

PART III.—INTERNATIONAL AIR TRANSPORT.

CHAPTER XIV.—INFORMATION AND REPORTS.

Article 67.

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

File reports with Council.

CHAPTER XV.—AIRPORTS AND OTHER AIR NAVIGATION FACILITIES.

Article 68.

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

Designation of routes and airports.

Article 69.

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

Improvement of air navigation facilities.

Article 70.

A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

Financing of air navigation facilities.

FIRST SCHEDULE—*continued.**Article 71.*

Provision and maintenance of facilities by Council.

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities, including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

Article 72.

Acquisition or use of land.

Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

Article 73.

Expenditure and assessment of funds.

Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

Article 74.

Technical assistance and utilization of revenues.

When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, of the operating expenses of the airports and the other facilities, and of interest and amortization charges.

Article 75.

Taking over of facilities from Council.

A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

Article 76.

Return of funds.

Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

CHAPTER XVI.—JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES.

Article 77.

Joint operating organizations permitted.

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

Article 78.

Function of Council.

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.