

FIRST SCHEDULE—*continued*.

Article 79.

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately owned.

Participation in operating organizations.

PART IV.—FINAL PROVISIONS.

CHAPTER XVII.—OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS.

Article 80.

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919 or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

Paris and Habana Conventions.

Article 81.

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

Registration of existing agreements.

Article 82.

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

Abrogation of inconsistent arrangements.

Article 83.

Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

Registration of new arrangements.

CHAPTER XVIII.—DISPUTES AND DEFAULT.

Article 84.

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an *ad hoc* arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

Settlement of disputes.

Article 85.

If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If,

Arbitration procedure.

FIRST SCHEDULE—continued.

within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

*Article 86.***Appeals.**

Unless the Council decides otherwise, any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

*Article 87.***Penalty for non-conformity of airline.**

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

*Article 88.***Penalty for non-conformity by State.**

The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

CHAPTER XIX.—WAR.*Article 89.***War and emergency conditions.**

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

CHAPTER XX.—ANNEXES.*Article 90.***Adoption and amendment of Annexes.**

(a) The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

(b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.

CHAPTER XXI.—RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS.*Article 91.***Ratification of Convention.**

(a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States.

(b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

(c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

FIRST SCHEDULE—*continued.**Article 92.*

(a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict. Adherence to Convention.

(b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

Article 93.

States other than those provided for in Articles 91 and 92 (a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary. Admission of other States.

Article 94.

(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States. Amendment of Convention.

(b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

Article 95.

(a) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States. Denunciation of Convention.

(b) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

CHAPTER XXII.—DEFINITIONS.

Article 96.

For the purpose of this Convention the expression:

- (a) "Air service." means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.
- (b) "International air service" means an air service which passes through the air space over the territory of more than one State.
- (c) "Airline" means any air transport enterprise offering or operating an international air service.
- (d) "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

SIGNATURE OF CONVENTION.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

DONE at Chicago the seventh day of December 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be open for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention.

SECOND SCHEDULE.

Section 4.

INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT.

The States which sign and accept this International Air Services Transit Agreement, being members of the International Civil Aviation Organization, declare as follows:

ARTICLE I.

Section 1.

Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

- (1) The privilege to fly across its territory without landing;
- (2) The privilege to land for non-traffic purposes.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

Section 2.

The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

Section 3.

A contracting State granting to the airlines of another contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

Such requirements shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of a contracting State.

Section 4.

Each contracting State may, subject to the provisions of this Agreement,

- (1) Designate the route to be followed within its territory by any international air service and the airports which any such service may use;
- (2) Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: 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 of the International Civil Aviation Organization established under the above-mentioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

Section 5.

Each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

ARTICLE II.

Section 1.

A contracting State which deems that action by another contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the

SECOND SCHEDULE—*continued.*

Council may make appropriate findings and recommendations to the contracting States concerned. If thereafter a contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above-mentioned Organization that such contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

Section 2.

If any disagreement between two or more contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

ARTICLE III.

This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

ARTICLE IV.

Pending the coming into force of the above-mentioned Convention, all references to it herein, other than those contained in Article II, Section 2, and Article V, shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and Interim Council, respectively.

ARTICLE V.

For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

ARTICLE VI.

Signatures and Acceptances of Agreement.

The undersigned delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of the United States of America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

IN WITNESS WHEREOF, the undersigned, having been duly authorized, sign this Agreement on behalf of their respective governments on the dates appearing opposite their respective signatures.

DONE at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign and accept this Agreement.

THIRD SCHEDULE.

Section 4.

PROTOCOL RELATING TO AN AMENDMENT TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION.

The Assembly of the International Civil Aviation Organization,

Having met in its Eighth Session, at Montreal, on the first day of June, 1954, and

Having considered it desirable to amend the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944,

Approved, on the fourteenth day of June of the year one thousand nine hundred and fifty-four, in accordance with the provisions of Article 94 (a) of the Convention aforesaid, the following proposed amendment to the said Convention:

At the end of Article 45 of the Convention, the full stop shall be substituted by a comma, and the following shall be added, namely:

" and otherwise than temporarily by decision of the Assembly, such decision to be taken by the number of votes specified by the Assembly. The number of votes so specified will not be less than three-fifths of the total number of contracting States.",

Specified, pursuant to the provisions of the said Article 94 (a) of the said Convention, forty-two as the number of contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment abovementioned and the matters hereinafter appearing.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol shall be signed by the President of the Assembly and its Secretary General;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force among the States which have ratified it on the date on which the forty-second instrument of ratification is so deposited;

The Secretary General shall immediately notify all contracting States of the deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties or signatories to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN FAITH WHEREOF, the President and the Secretary General of the Eighth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the fourteenth day of June of the year one thousand nine hundred and fifty-four in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization; and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties or signatories to the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944.

FOURTH SCHEDULE.

Section 4.

PROTOCOL RELATING TO CERTAIN AMENDMENTS TO THE CONVENTION
ON INTERNATIONAL CIVIL AVIATION.

The Assembly of the International Civil Aviation Organization,

Having met in its Eighth Session, at Montreal, on the first day of June, 1954, and

Having considered it desirable to amend the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944,

Approved, on the fourteenth day of June of the year one thousand nine hundred and fifty-four, in accordance with the provisions of Article 94 (a) of the Convention aforesaid, the following proposed amendments to the said Convention:

In Article 48 (a), substitute for the word "annually" the expression "not less than once in three years";

In Article 49 (e), substitute for the expression "an annual budget" the expression "annual budgets"; and

In Article 61, substitute for the expressions "an annual budget" and "vote the budget" the expressions "annual budgets" and "vote the budgets";

Specified, pursuant to the provisions of the said Article 94 (a) of the said Convention, forty-two as the number of contracting States upon whose ratification the proposed amendments aforesaid shall come into force, and

Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendments abovementioned and the matters hereinafter appearing.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol shall be signed by the President of the Assembly and its Secretary General;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force among the States which have ratified it on the date on which the forty-second instrument of ratification is so deposited;

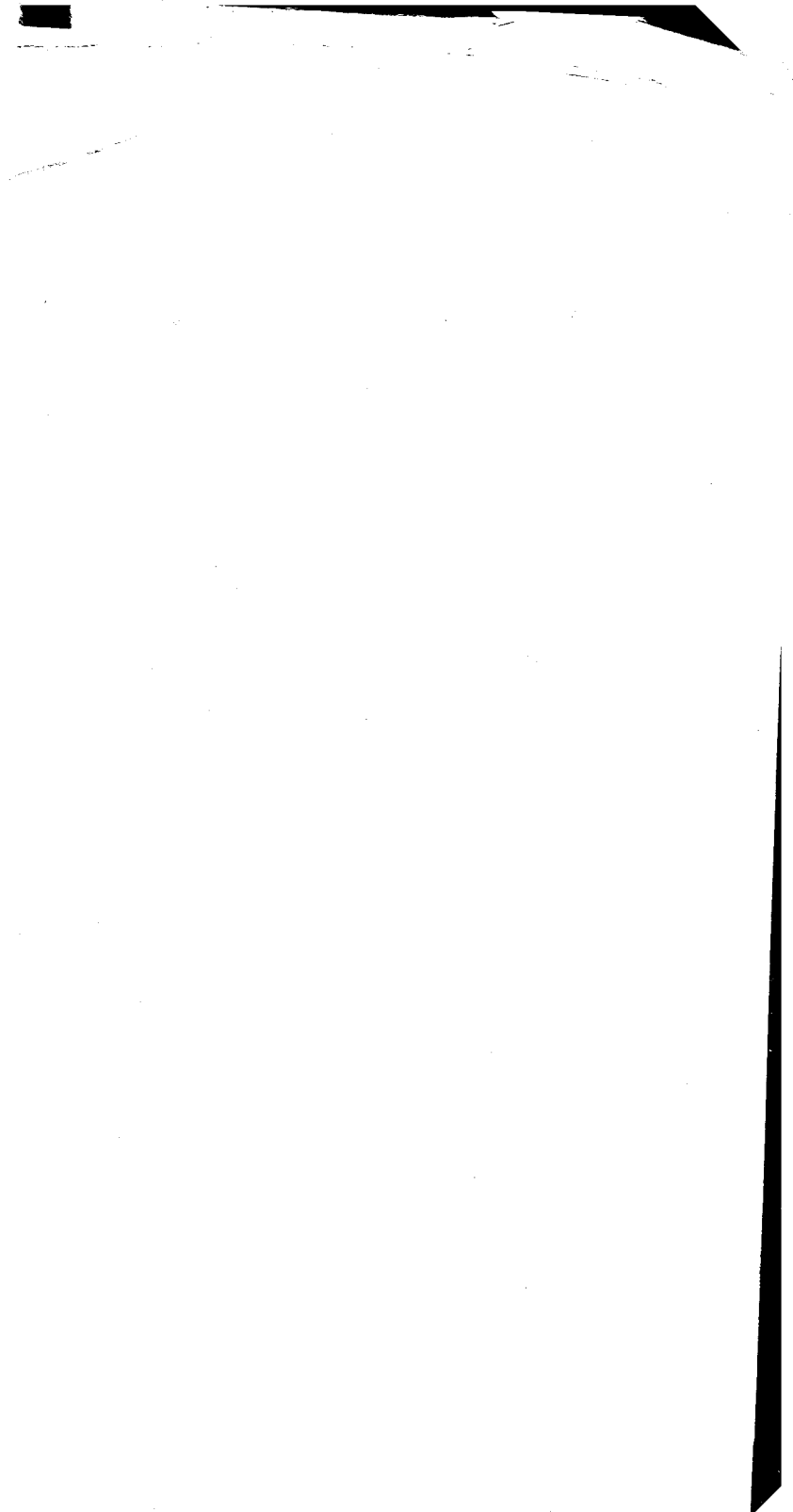
The Secretary General shall immediately notify all contracting States of the deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties or signatories to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

IN FAITH WHEREOF, the President and the Secretary General of the Eighth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the fourteenth day of June of the year one thousand nine hundred and fifty-four in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization; and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties or signatories to the Convention on International Civil Aviation done at Chicago on the seventh day of December, 1944.



AIRPORTS (SURFACE TRAFFIC).

No. 40 of 1960.

An Act to make Provision with respect to the Control
of Surface Traffic at Airports.

[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. This Act may be cited as the *Airports (Surface Traffic) Act* 1960. Short title.

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

3.—(1.) In this Act, unless the contrary intention appears— Interpretation.
“airport” means—

(a) an aerodrome owned or held under lease by the Commonwealth, or owned by the Crown in right of a Territory of the Commonwealth or by the Administration of a Territory of the Commonwealth, and operated in pursuance of the *Air Navigation Act* 1920–1960 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 under section eighteen of that Act;

“authorized person” means—

- (a) a person authorized by the Director-General, in pursuance of section seven of this Act, to exercise the power or function in relation to which the expression is used; or
- (b) a member of the police force of the Commonwealth or of a State or Territory of the Commonwealth;

“parking area” means an area, within an airport, indicated by a sign or notice displayed in pursuance of section six of this Act to be an area in which persons are permitted to park vehicles;

“parking fee” means the fee that is payable in accordance with a sign or notice displayed in pursuance of section six of this Act in respect of parking a vehicle or causing a vehicle to stand in a parking area or parking position;

“parking infringement” means a contravention of paragraph (a) or (b) of sub-section (1.) of section eight of this Act;

“parking position” means a position, within an airport, indicated by a sign or notice displayed in pursuance of section six of this Act to be a position in which a person is permitted to park a vehicle;

“road” means street, road, lane, thoroughfare or place open to, or used by, the public for passage with vehicles;

“the Director-General” means the Director-General of Civil Aviation, and includes any person acting as the Director-General;

“the owner”, in relation to a vehicle—

- (a) in the case of a vehicle that is registered under the law of a State or Territory of the Commonwealth relating to the registration of motor vehicles—means the person in whose name the vehicle is registered; or
- (b) in the case of any other vehicle—includes every joint owner or part owner of the vehicle and any person who has possession and use of the vehicle under or subject to a hire purchase agreement or a bill of sale;

“ vehicle ” includes a trailer, caravan or portion of an articulated vehicle.

(2.) Any reference in this Act to causing a vehicle to stand, or keeping a vehicle standing, shall be read as a reference to causing or permitting the vehicle to remain stationary while under the control of the driver of the vehicle.

(3.) Any reference in this Act to parking a vehicle, or leaving a vehicle parked, shall be read as a reference to causing or permitting the vehicle to remain stationary while not under the control of the driver of the vehicle.

4. This Act extends to every Territory of the Commonwealth.

*Extension of
Act to
Territories.
Act to bind
Crown.*

5.—(1.) This Act binds the Crown in right of the Commonwealth or of any State.

(2.) Nothing in this Act shall be deemed to subject the Crown in right of the Commonwealth or of a State to liability to be prosecuted for an offence, but this sub-section does not affect any liability of a person in the employment of the Crown to be so prosecuted.

6.—(1.) The Director-General may determine and, by means of signs or notices prominently displayed, with or without reference to lines or marks, indicate or notify—

*Parking, &c.,
of vehicles
at airports.*

- (a) areas and positions within an airport in which persons are, or are not, permitted to park vehicles or cause vehicles to stand;
- (b) the days and hours during which, the periods for which, and the conditions under which, persons are, or are not, permitted to park vehicles or cause vehicles to stand in parking areas or parking positions or keep vehicles standing in specified positions; and
- (c) the fee (if any) to be paid in respect of parking a vehicle or causing a vehicle to stand in a parking area or parking position.

(2.) The amount of any parking fee determined and notified in pursuance of the last preceding sub-section shall not exceed Two shillings, or such other amount as is prescribed, per hour.

(3.) For the purposes of the last preceding sub-section and of any sign or notice displayed in pursuance of sub-section (1.) of this section, a fee of a particular amount per hour shall be taken to be—

- (a) in the case of a vehicle parked or kept standing for a period of an hour or less than an hour—a fee of that amount; or

(b) in the case of a vehicle parked or kept standing for a period of more than an hour—a fee of that amount for each complete hour, and for any part of an hour after the last or only complete hour.

(4.) A determination made, and a sign or notice displayed, in pursuance of sub-section (1.) of this section may relate to vehicles generally, to vehicles included in a specified class or description of vehicles, or to vehicles being used for a particular purpose or by a specified transport service or by specified persons.

(5.) Where the sign or notice indicating a parking area or parking positions has inscribed upon it the words "Meter Parking", or otherwise indicates or directs that the parking fee is to be paid by means of a meter, a person who parks a vehicle or causes a vehicle to stand in such an area or position shall pay the parking fee by inserting the necessary coins in the meter nearest to the vehicle or, in the case of a parking area entry to or exit from which is controlled by meter-operated gates, in the meter operating those gates.

(6.) Where the sign or notice indicating a parking area or parking positions does not indicate or direct that the parking fee is to be paid by means of a meter, a person who parks a vehicle or causes a vehicle to stand in that area or one of those positions shall pay the parking fee to the authorized person who is for the time being collecting parking fees in respect of the parking area or parking positions.

(7.) Where a sign or notice of a kind referred to in this section is displayed within an airport, the sign or notice shall, unless the contrary is proved, be deemed to be in accordance with a determination under this section and to be duly displayed in accordance with this section.

Authorized persons.

7.—(1.) For the purposes of this Act, the Director-General may, by writing under his hand, authorize a person, or persons included in a specified class of persons, to exercise all or any of the powers and functions conferred by this Act upon authorized persons.

(2.) The Director-General shall cause each authorized person to be provided with an appropriate means of identifying himself as an authorized person.

Offences.

8.—(1.) A person shall not—

(a) park a vehicle, or cause a vehicle to stand, in contravention of the terms of a sign or notice displayed in pursuance of section six of this Act;

(b) park a vehicle or keep a vehicle standing in a parking area or parking position for a period unless he has first paid the parking fee in respect of that period in the manner provided by section six of this Act;

- (c) remove, damage, tamper with or disfigure a parking meter or a sign or notice displayed in pursuance of section six of this Act; or
- (d) insert anything in a parking meter other than the coins necessary to pay the parking fee.

Penalty: Twenty pounds.

(2.) Where a person leaves a vehicle parked or keeps a vehicle standing in a parking area or parking position referred to in sub-section (5.) of section six of this Act (other than an area entry to or exit from which is controlled by meter-operated gates) at a time when the parking meter nearest to the vehicle is displaying the indicator bearing the word "Expired", that person shall, unless the contrary is proved, be deemed to have failed to pay the parking fee.

(3.) In the case of a vehicle that is parked or kept standing in a parking area exit from which is controlled by meter-operated gates, a person shall be deemed not to have committed an offence under paragraph (b) of sub-section (1.) of this section if he has paid the parking fee before removing the vehicle from the area.

9.—(1.) Where a parking infringement is being committed in relation to a vehicle, an authorized person may direct the driver of the vehicle or any other person in control of the operation of the vehicle to remove the vehicle forthwith from the place where it is parked or kept standing. Removal of vehicles.

(2.) A person to whom a direction is given in pursuance of the last preceding sub-section shall not, without reasonable excuse, refuse or fail to comply with the direction.

Penalty: Twenty pounds.

(3.) Where a parking infringement is being committed in relation to a vehicle and—

- (a) the driver or other person in control of the operation of the vehicle refuses or fails to comply with a direction given in pursuance of sub-section (1.) of this section; or
- (b) in the case of a parked vehicle, an authorized person cannot, after taking such steps as are reasonable in the circumstances, communicate with the driver,

the authorized person, with such assistance (if any) as he requires, may remove the vehicle to an area within the airport approved for the purpose by the Director-General and indicated by an appropriate sign or notice.

Defence in case of vehicle standing in certain circumstances for limited time.

10. In the prosecution against a person for parking a vehicle or causing a vehicle to stand, in contravention of the terms of a sign or notice displayed in pursuance of section six of this Act (other than a sign or notice indicating that vehicles are not to be kept standing), it is a defence if the accused person satisfies the court that the vehicle was left parked or kept standing only for such time (not exceeding five minutes) as was reasonably necessary to take up or set down a passenger and his luggage (if any).

Liability of owner and actual offender for parking infringement.

11.—(1.) Subject to this section, where a parking infringement occurs, the owner of the vehicle at the time of the occurrence of the infringement shall be deemed to have committed the infringement, whether or not he in fact committed the infringement.

(2.) Nothing in the last preceding sub-section affects the liability of an actual offender other than the owner of the vehicle but, where the full amount of the penalty imposed on a person in respect of a parking infringement has been paid, a further penalty shall not be imposed on, or recovered from, another person in respect of the same infringement.

(3.) The owner of a vehicle shall not, by virtue of this section, be deemed to be guilty of an offence if, within fourteen days after the service on him of a summons in respect of the parking infringement alleged, he furnishes to the informant or complainant a statutory declaration made by him stating—

- (a) that he was not in control of the vehicle at the time of the alleged infringement; and
- (b) the name and address of the person who was in control of the vehicle at that time.

(4.) In a prosecution against the owner of a vehicle in respect of a parking infringement, it is a defence if the owner satisfies the court—

- (a) that the vehicle was, at the time of the infringement, stolen or illegally taken or used; or
- (b) that he was not in control of the vehicle at the time of the alleged infringement and does not know, and could not with reasonable diligence have ascertained, the name and address of the person who was in control of the vehicle at that time.

(5.) A statutory declaration furnished, in relation to a parking infringement, in accordance with sub-section (3.) of this section is admissible in evidence in a prosecution in respect of that parking infringement against the person stated in the document to have been in control of the vehicle at the time of the alleged infringement, and is evidence that that person was in control of the vehicle at that time.

(6.) In a prosecution under this Act, a document purporting to be a statutory declaration furnished in accordance with sub-section (3.) of this section shall, unless the contrary is shown, be taken to be such a statutory declaration, duly made and furnished.

12.—(1.) For the purposes of this Act, a document issued by an officer of a State or Territory of the Commonwealth having duties in connexion with the law of that State or Territory relating to the registration of motor vehicles, bearing his written, stamped or printed signature and stating that, during a specified period or on a specified date, a motor vehicle described in the document was registered under that law in the name of a specified person is evidence of the matters stated in the document.

Evidence of
registration
of motor
vehicle.

(2.) In a prosecution for an offence against this Act a document purporting to be a document referred to in the last preceding sub-section is admissible in evidence as such a document without proof of the signature of the person by whom it purports to have been issued or of the fact that he was an officer referred to in that sub-section.

13.—(1.) Where an authorized person has reason to believe that a parking infringement has been committed in respect of a vehicle, he may serve or cause to be served a parking infringement notice in accordance with this section.

Parking
infringement
notices.

(2.) A parking infringement notice may be served—

- (a) by serving the notice personally upon the person who appears to have committed the infringement or upon any person who is driving, or appears to be in control of, the vehicle;
- (b) by securely affixing the notice to the vehicle in a conspicuous position; or
- (c) by serving the notice upon the owner of the vehicle personally or by post.

(3.) Where a parking infringement notice is to be served by post upon the owner of a vehicle, it may be addressed to him—

- (a) at his last known place of residence or business; or
- (b) in the case of a vehicle registered under the law of a State or Territory of the Commonwealth relating to the registration of motor vehicles, at the latest address of the owner in the record of registration of the vehicle.

(4.) In the case of a parking infringement notice that is served by affixing the notice to a vehicle, the notice shall be addressed to "the owner" of the vehicle without further description of the owner, and in every other case the notice shall have clearly shown on its face the full name or the surname and initials and address of the person upon whom it is served.

(5.) Every parking infringement notice served shall clearly show—

- (a) the day, time and place of the alleged infringement;
- (b) the nature of the alleged infringement;
- (c) the amount of the prescribed penalty, and the person, being an officer, to whom, the place at which, and the manner in which, the penalty may be paid; and
- (d) the date of the notice and a statement that the penalty may be paid within a period of fourteen days after that date,

and may contain such other particulars as the Director-General considers necessary.

(6.) Every parking infringement notice shall contain a notification to the person upon whom it is served that, if he does not wish the matter to be dealt with by a court, he may make a signed statement to that effect in the manner indicated in the notice and pay the prescribed penalty.

(7.) For the purposes of this section, the prescribed penalty for a parking infringement is the amount of Two pounds.

(8.) Where a parking infringement notice has been served and, before the expiration of the specified period of fourteen days or, where an authorized person so allows, at any time before service of a summons in respect of the parking infringement, the amount of the prescribed penalty is paid in accordance with the notice and a statement, signed by the person upon whom the notice was served or by the owner of the vehicle, to the effect that he does not wish the matter to be dealt with by a court is received by the officer to whom the amount of the penalty is paid—

- (a) any liability of any person in respect of the alleged parking infringement shall be deemed to be discharged;
- (b) no further proceedings shall be taken in respect of the alleged infringement; and
- (c) no conviction for the infringement shall be regarded as having been recorded.

(9.) Where the amount of the prescribed penalty is paid by cheque, payment shall be deemed not to be made unless and until the cheque is honoured upon presentation.

(10.) Except as provided by sub-section (8.) of this section, nothing in this section in any way prejudices or affects the institution or prosecution of proceedings in respect of a parking infringement or limits the amount of the fine that may be imposed by a court in respect of a parking infringement.

(11.) Nothing in this section shall be construed as requiring the service of a parking infringement notice under this section or as affecting the liability of a person to be prosecuted in a court in respect of a parking infringement in relation to which a parking infringement notice has not been served.

14.—(1.) An authorized person may, when he considers it necessary to do so for the purposes of this Act or the regulations, require a person apparently in control of a motor vehicle within an airport to produce his driver's licence for inspection and to state his name and address.

Production of licence &c., on request by authorized person.

(2.) Subject to the next succeeding sub-section, a person upon whom a requirement is made under the last preceding sub-section shall not refuse or fail to produce his driver's licence or to state his name and address or state a false name or address.

Penalty: Twenty pounds.

(3.) A person who fails to produce his driver's licence but gives a reasonable excuse for the failure and, within seven days after the failure, produces that licence at such place as is specified by the authorized person who required its production shall not, in respect of the failure, be deemed to be guilty of an offence.

15.—(1.) An authorized person may give such reasonable directions to a person apparently in control of a vehicle or an animal upon a road within an airport, or to any other person upon such a road, as are in his opinion necessary to eliminate a cause of danger, of congestion of traffic or of impediment to traffic or for the purposes of this Act or the regulations.

Authorized person may give directions.

(2.) A person shall not, without reasonable excuse, refuse or fail to comply with a direction given by an authorized person in accordance with this section.

Penalty: Twenty pounds.

16.—(1.) Proceedings for the prosecution of an offence against this Act or the regulations shall not be instituted except with the consent of the Director-General or a person authorized by the Director-General, by writing under his hand, to give such consents.

Institution of summary prosecution.

(2.) Where a prosecution has been instituted by a person described in the information or complaint as an officer of the Commonwealth, or is conducted by an officer of the Attorney-General's Department or of the Crown Law Office of a Territory of the Commonwealth, the prosecution shall, unless the contrary is proved, be deemed to have been instituted in accordance with the last preceding sub-section.

17.—(1.) The Director-General or an officer authorized by the Director-General to issue certificates under this section may, by writing under his hand, certify that, on a specified date, an

Evidence of certain matters.

airport, within the meaning of this Act, existed at a place, and had the boundaries, described, by reference to a map or plan or otherwise, in the certificate and may, in the certificate, certify as to the existence, situation and description of any buildings, other structures, roads, signs, notices, parking areas or parking or other positions within the precincts of the airport.

(2.) The Director-General or an officer authorized by the Director-General to issue certificates under this section may, by writing under his hand, certify that during a specified period or on a specified date, an authority or a delegation of specified powers and functions under this Act had, or had not, been given, issued or made and was, or was not, in force.

(3.) In all courts a document purporting to be a certificate issued under this section—

(a) shall, unless the contrary is proved, be deemed to be a certificate issued under this section by a person empowered by or under this section to give such certificates;

(b) is evidence of the matters stated in the certificate; and

(c) in the case of a certificate under sub-section (1.) of this section, is evidence that no change in those matters has taken place since the date specified in the certificate.

Application of
laws of States
and Territories.

18. This Act shall not be construed as intended to exclude the operation of any law of a State or Territory of the Commonwealth in which an airport is situated that can operate without prejudice to the express provisions of this Act or the regulations and, in particular, of any law of a State or Territory of the Commonwealth relating to the registration and equipment of vehicles, the licensing of drivers of motor vehicles and the rules to be observed by persons driving or in charge of vehicles or animals, or by pedestrians, on roads.

Arrangements
with the States.

19. The Governor-General may, for the purposes of this Act, arrange with the Governor of a State for the performance of the duties and the discharge of the functions of authorized persons by members of the police force of the State and for the payment to be made by the Commonwealth for any such service.

Delegation.

20.—(1.) The Director-General 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.

(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 Director-General.

21. The annual report of the Minister under section twenty-nine of the *Air Navigation Act* 1920–1960 shall include a statement showing summarized particulars of— Annual report.

- (a) revenue collected in respect of parking fees;
- (b) prosecutions under this Act;
- (c) parking infringements for which penalties were paid under this Act; and
- (d) fines imposed for offences against this Act and penalties paid in respect of parking infringements.

22.—(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, or for or in relation to the regulation and control of vehicular, animal or pedestrian traffic within an airport. Regulations.

(2.) Without limiting the generality of the last preceding sub-section, the regulations may make provision for or in relation to—

- (a) rules to be observed by persons driving or in charge of vehicles or animals and by pedestrians;
- (b) the maximum speeds for vehicles;
- (c) rules to be observed, including rules having effect by reference to signs and safety devices and marks on the surfaces of roads, and the manner of proof of signs, devices and marks referred to in the regulations;
- (d) rules relating to the parking of vehicles;
- (e) the maximum size and weight of vehicles that may use roads;
- (f) the formal proof and authentication of instruments made or issued under the regulations; and
- (g) the imposition of penalties not exceeding a fine of One hundred pounds or imprisonment for a term not exceeding three months, or both, for a contravention of the regulations.

(3.) Any regulation made under this section may be general or may be restricted as to time, place, vehicles, persons or circumstances.

AIR NAVIGATION (CHARGES).

No. 49 of 1960.

An Act to amend the *Air Navigation (Charges) Act*
1952-1957.

[Assented to 3rd November, 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 (Charges) Act* 1960. Short title and citation.

(2.) The *Air Navigation (Charges) Act* 1952-1957* 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 (Charges) Act* 1952-1960.

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

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* Act No. 101, 1952, as amended by No. 87, 1957.

First
Schedule—
paragraph 7.

3. The First Schedule to the Principal Act is amended by omitting sub-paragraph (1.) of paragraph 7 and inserting in its stead the following sub-paragraph:—

- “(1.) The unit charge for an aircraft is—
- (a) where the weight of the aircraft does not exceed 25,000 pounds—an amount calculated at the rate of Fourpence half-penny for each 1,000 pounds or part of 1,000 pounds of the weight of the aircraft;
 - (b) where the weight of the aircraft exceeds 25,000 pounds but does not exceed 50,000 pounds—an amount calculated at the rate of Sevenpence for each 1,000 pounds or part of 1,000 pounds of the weight of the aircraft;
 - (c) where the weight of the aircraft exceeds 50,000 pounds but does not exceed 100,000 pounds—an amount calculated at the rate of Ninepence for each 1,000 pounds or part of 1,000 pounds of the weight of the aircraft; and
 - (d) in any other case—an amount calculated at the rate of Tenpence half-penny for each 1,000 pounds or part of 1,000 pounds of the weight of the aircraft.”.

First
Schedule—
Table.

4. The Table of Flights set out in the First Schedule to the Principal Act is amended as set out in the Schedule to this Act.

Application of
amendments.

5. The amendments made by this Act apply in the case of a charge payable—

- (a) in respect of a flight between places in Australia that is completed on or after the date of commencement of this Act;
 - (b) in respect of the landing or take-off of an aircraft on or after that date;
 - (c) in relation to the registration of an aircraft registered under the Air Navigation Regulations on or after that date; and
 - (d) by the owner of a foreign aircraft in respect of a week or part of a week commencing on or after that date.
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THE SCHEDULE.

Section 4.

ADDITIONAL AMENDMENTS.

After item 21, insert the following item:—			
" 21A	Sydney-Cobar ..		2".
After item 23, insert the following item:—			
" 23A	Sydney-Condobolin ..		2".
After item 52, insert the following item:—			
" 52A	Sydney-Maralinga ..		7".
Omit item 75.			
After item 96, insert the following item:—			
" 96A	Brisbane-Dirranbandi ..		2".
Omit items 140 and 142.			
After item 154, insert the following item:—			
" 154A	Melbourne-Griffith ..		2".
After item 155, insert the following item:—			
" 155A	Melbourne-Hay ..		2".
After item 159, insert the following item:—			
" 159A	Melbourne-Maralinga ..		6".
After item 161, insert the following item:—			
" 161A	Melbourne-Naracoorte ..		2".
After item 196, insert the following item:—			
" 196A	Adelaide-Warrnambool ..		2".
After item 202, insert the following item:—			
" 202A	Perth-Cocos (Keeling) Islands		12".
Omit items 225, 272, 276, 277, 283, 284 and 285.			
After item 288, insert the following items:—			
" 288A	Lae-Rabaul, by way of Wewak		4
" 288B	Lae-Wewak ..		2".
After item 289, insert the following item:—			
" 289A	Port Moresby-Goroka ..		2".
After item 292, insert the following item:—			
" 292A	Port Moresby-Wau ..		2".
After item 310, add the following item:—			
" 311	Wewak-Rabaul ..		3".

AUSTRIA

PRELIMINARY

The Austrian Aviation Law of December 2, 1957 was the first Austrian legislation on aviation since World War II. In 1938, when Austria was annexed to the German Reich, the Austrian aviation laws were replaced by the German laws. Thus, before the 1958 law was enacted, the German aviation laws were theoretically still in force. Since Austria adhered to the Chicago Convention with effect from September 26, 1948, there was the problem of reconciling the Convention with some conflicting provisions of the German law. However, in Austria, as in other "civil law" countries, a ratified international convention becomes the law of the land even without implementing legislation and it prevails over any conflicting provisions of the internal law. In any event, the new aviation law has clarified the situation.

FEDERAL LAW OF DECEMBER 2, 1957 CONCERNING AVIATION (AVIATION LAW)¹

The National Council has enacted :

PART I—GENERAL PROVISIONS

Section 1. Civil Aviation and Military Aviation.

Civil aviation within the meaning of this Federal law shall be all aviation with the exception of military aviation. Military aviation shall be aviation serving national defense.

Section 2. Freedom of the Air Space.

The use of the air space by aircraft and flight contrivances shall be free unless otherwise provided for by this Federal law.

Section 3. Controlled Areas of the Air Space.

(1) A controlled area shall be an area of the air space bounded on all sides which is controlled by the Federal Civil Aviation Office in accordance with the ordinance to be issued under Section 124 and in which aircraft may fly only in accordance with the traffic regulations issued for such areas.

(2) The Federal Ministry of Transport and Electric Power in concurrence with the Federal Ministry of National Defense, shall establish by ordinance controlled areas in accordance with the requirements of traffic safety.

¹ Published in Bundesgesetzblatt (Federal Law Gazette), December 12, 1957, p. 1403.

Section 4. Air Space Restrictions.

(1) For areas bounded on all sides, the following permanent or temporary restrictions may be promulgated with respect to the transit of aircraft (restricted areas) :

- a) The prohibition of transit (prohibited areas);
- b) the order that transit is permissible only subject to certain restrictions (restricted areas); and
- c) the warning that transit is attended by risks (danger areas).

(2) Restricted areas shall be located in such a way that their lateral boundaries coincide with landmarks easily visible from the air. The upper boundary of the restricted area shall be formed by a horizontal plane where absolute altitude above sea level is to be given. The same shall apply to the lower boundary insofar as it is not determined by the surface of the earth or coincides therewith.

Section 5. Power to Determine Air Space Restrictions.

(1) The Federal Ministry of Transport and Electric Power in concurrence with the Federal Ministry of National Defense and the other Federal ministries concerned, shall establish by ordinance air space restrictions within the meaning of section 4, paragraph 1, subparagraphs a and b, or shall draw attention to danger areas within the meaning of section 4, paragraph 1, subparagraph c) insofar as this is required:

- a) in the interest of air safety, or
- b) to eliminate disturbing effects of aviation on persons and property, or
- c) to safeguard search and rescue measures (section 135), or
- d) to maintain public peace, order, and safety.

(2) In the cases designated in paragraph 1, subparagraph b, the competent provincial government shall be given the opportunity to state its views prior to the issuance of the ordinance.

(3) Unless otherwise provided for in paragraph 4, the Federal Ministry of National Defense in concurrence with the Federal Ministry of Transport and Electric Power and other Federal ministries concerned, shall establish by ordinance the air space restrictions in accordance with section 4, paragraph 1, subparagraphs a and b, which are required in the interest of national defense.

(4) The Federal Ministry of National Defense, furthermore, shall establish restricted areas in so far as this is required:

- a) to prevent violations of air sovereignty, or
- b) to prepare for an operation of the Federal Army in accordance with section 2, paragraph 1, subparagraphs a and b of the Defense Law, Federal Law Gazette No. 181/1955, if there is imminent danger, or
- c) to carry out an operation of the Federal Army in accordance with section 2, paragraph 1, subparagraph b of the Defense Law.

(5) Restricted areas in accordance with paragraph 4 may only be established for a maximum duration of two weeks.

Section 6. Notice of Air Space Restrictions.

(1) When their period of validity does not exceed four weeks, the ordinances designated in section 5 shall be published:

a) in the case of section 5, paragraph 1, by notice posted on the bulletin board of the Federal Ministry of Transport and Electric Power, and

b) in the cases of section 5, paragraphs 3 and 4, by notice posted on the bulletin board of the Federal Ministry of National Defense.

(2) When in the ordinances designated in section 5 no later time of entry into force is fixed, they shall become effective one hour after publication in accordance with paragraph 1.

(3) The Federal Ministry of Transport and Electric Power and the Federal Ministry of National Defense shall advise all flight safety services of the ordinances to be published under paragraph 1 and of their entry into force prior to posting on the bulletin board by means of the Federal Civil Aviation Office.

(4) Warnings of dangerous areas (section 4, paragraph 1, subparagraph c) shall be announced by the Federal Civil Aviation Office in the manner customary in aviation.

Section 7. Training and Testing Areas.

(1) A training area shall be an air space bounded on all sides within which the navigation of aircraft in flight by persons not holding the required pilot's license (section 29) is permissible.

(2) A testing area shall be an air space bounded on all sides within which the use of unlicensed aircraft in flight shall be permissible.

(3) The Federal Ministry of Transport and Electric Power in concurrence with the Federal Ministry of National Defense shall establish by ordinance the training and testing areas required for civil aviation taking into account the public interest. It shall specify, in accordance with the requirements of safety of air navigation the conditions under which the activities cited in paragraphs 1 and 2 shall be approved by the Federal Civil Aviation Office.

(4) The Federal Ministry of National Defense, in concurrence with the Federal Ministry of Transport and Electric Power, shall establish by ordinance the training and testing areas required for military aviation taking into consideration the interests of national defense and other public interests.

Section 8. Flying over the Federal Border.

(1) The entry into, and departure from the Federal territory is permissible only to and from airports (section 64), and without intermediate landing between the airport and the Federal border. The provisions of section 171 of the Customs Law of 1955, Federal Law Gazette No. 129, shall not thereby be affected.

(2) The Federal Ministry of Transport and Electric Power, in accordance with the requirements of public safety and national defense, shall regulate by ordinance:

a) whether, and under what conditions, permission of the Federal Civil Aviation Office shall be necessary for entry into, departure from, and flight over the Federal territory, and

b) under what conditions the Federal Civil Aviation Office may in special cases, upon application, grant exceptions from the provisions of paragraph 1, first sentence.

(3) The ordinance in accordance with paragraph 2 shall be issued in concurrence with the Federal Ministries of the Interior, of Finance, and of National Defense.

Section 9. Landings and Takeoffs outside of Airdromes.

(1) For takeoff and landing of aircraft only airdromes may be used (section 58) unless otherwise provided for in paragraphs 2 to 4 and in section 10.

(2) Takeoffs and landings outside airdromes (Aussenabflüge and Aussenlandungen), as far as civil aircraft are concerned, shall be subject to approval by the provincial governor. The approval shall be given if not contrary to any public interest or if the public interest in such takeoff or landing outweighs any other conflicting public interest.

(3) Takeoffs and landings outside an airdrome of military aircraft shall be permissible when conflicting public interests outweighing the interest in the takeoff or landing outside an airdrome do not exist.

(4) If the use of a land area is involved, the landing or the takeoff outside an airdrome in accordance with paragraphs 2 or 3, shall be permissible only if the titleholder of the property agrees to its use.

(5) For parachute descents outside of airdromes the provisions of paragraphs 2 through 4 shall apply accordingly.

Section 10. Landings and Takeoffs outside of Airdromes that are not subject to Approval.

(1) The provisions of section 9 shall not apply:

a) to unforeseen landings outside an airdrome made for reason of safety or forced by lack of fuel or lifting power (emergency landings) and parachute descents made to save one's life,

b) to landings and takeoffs made in connection with rescue and catastrophe operations as well as accident investigations in accordance with section 137, paragraph 1,

c) To landings of gliders and free balloons outside an airdrome.

(2) In the case of an emergency landing (paragraph 1, subparagraph a), permission of the Federal Civil Aviation Office is required for takeoff outside an airport in civil air traffic. This permission shall be given if the safety of the takeoff outside an airdrome is ensured.

(3) Within the field of civil aviation the responsible pilot (section 125) or, if he is incapacitated, the person taking his place, shall immediately report an off-field landing outside an airport within the meaning of paragraph 1, subparagraph a, to the nearest flight safety service and to the nearest public safety authority.

(4) The public safety authorities shall furnish the name and residence (corporate seat) of the aircraft operator to persons who give credible evidence of damage caused by a landing outside an airdrome.

PART II—AIRCRAFT AND FLIGHT CONTRIVANCES

A. AIRCRAFT

Section 11. Definition.

(1) Aircraft shall be craft which are suitable for the carriage of persons or goods by air without mechanical connection with the ground, regardless of whether they are heavier-than-air (as for instance, aircraft, gliders, ornithopters, helicopters, gyroplanes, and parachutes) or lighter-than-air (as for instance, airships and free balloons).

(2) Military aircraft shall be aircraft which bear the identification mark of a military aircraft. All other aircraft shall be civil aircraft.

(3) An aircraft shall be considered as being in flight:

a) for heavier-than-air aircraft, from the moment when power is applied for the actual takeoff movement until the completion of the actual landing movement;

b) for lighter-than-air aircraft, from the moment of its release from the ground until it is again secured to the ground.

Section 12. Requirements for Use of Aircraft in Flight.

(1) Unless otherwise provided for in sections 7 and 20, a civil aircraft may be used in flight only if:

a) it is licensed by the Federal Civil Aviation Office by decree in accordance with section 13, or

b) it is licensed in another State and such license is validated by the Federal Civil Aviation Office by a decree in accordance with section 18, or

c) the license issued in another State is recognized on the basis of international agreements.

(2) Military aircraft may be used in flight only if, and as long as they are airworthy (section 17).

Section 13. Licensing of Civil Aircraft.

(1) Civil aircraft shall be licensed by the Federal Civil Aviation Office, upon application by the aircraft operator, by written decree if they meet the requirements set forth in section 14. The license shall, within the framework of the application, cover all purposes for which the aircraft is designed and technically equipped.

(2) The operator of a civil aircraft shall be the person who operates the civil aircraft on his own account and who possesses such power of disposal over it as is required by such operation.

Section 14. Conditions for Licensing Civil Aircraft.

(1) A civil aircraft shall be licensed in accordance with section 13, if:

a) it possesses Austrian nationality (section 15),

b) it is airworthy (section 17) and so technically equipped that the noise caused by its operation is not more than is unavoidable under the technical standards of the time, and

c) it has taken out such liability insurance as is prescribed by law.

(2) For parachutes, the condition specified in paragraph 1, subparagraph a) shall not be required.

Section 15. Nationality of Aircraft.

(1) Civil aircraft, entered on the Aircraft Register (section 16), as well as all military aircraft of the Federal Army shall possess Austrian nationality. They shall bear Austrian identification marks.

(2) The identification mark shall consist of a nationality and a registration mark. The registration mark shall be assigned to a civil aircraft by the Federal Civil Aviation Office as soon as the requirements for entry in the Aircraft Register are met.

Section 16. Aircraft Register.

(1) The Federal Civil Aviation Office shall maintain a record of civil aircraft (Aircraft Register). Parachutes shall be exempt from registration. The Aircraft Register shall be available for inspection to everybody.

(2) A civil aircraft shall be entered in the Aircraft Register, upon application by the operator, if:

a) the operator of the aircraft is

aa) an Austrian citizen, or

bb) a foreigner who has his residence in Austria and the aircraft is primarily destined for use in Austria,

b) it is not registered in another State, and

c) it is, in case of import from abroad, properly customs-cleared. This shall not apply to aircraft which were manufactured in the customs territory from parts produced abroad on which duty was paid.

(3) National treatment shall be granted to:

a) corporations and institutions of public law having their seat in Austria;

b) clubs which have their seat in Austria and whose chairman as well as at least two-thirds of its other board members have their residence in Austria and are Austrian citizens;

c) open partnerships and limited partnerships provided they have their seat in Austria and all personally liable partners are Austrian citizens;

d) other corporations, cooperative societies and other juridical persons, provided they have their seat in Austria and at least two-thirds of the officers are domiciled in Austria and are Austrian citizens.

(4) The Federal Ministry of Transport and Electric Power shall issue, by ordinance, detailed provisions for the setting up and maintenance of the Aircraft Register.

Section 17. Airworthiness.

An aircraft shall be airworthy when, according to the technical standards of the time, safety of operation is ensured on the basis of its type of construction and technical equipment.

Section 18. Recognition of Foreign Licenses by Decree.

Foreign civil aircraft licenses shall, upon application, be recognized as valid by the Federal Civil Aviation Office by written decree (section 12, paragraph 1, subparagraph b), provided that:

a) the requirements under which civil aircraft licenses are issued in the State concerned are at least equal to the respective Austrian requirements with regard to airworthiness;

b) the applicant submits evidence of liability coverage meeting the Austrian provisions;

c) Austrian aircraft (section 15) are licensed in the State concerned under the same conditions as national aircraft.

Section 19. Revocation and Validation of Licenses

Licenses (section 12, subparagraph a) and validation of foreign licenses (section 12, subparagraph b) of civil aircraft shall be revoked by the Federal Civil Aviation Office if facts justify the assumption that the civil aircraft is no longer airworthy. Simultaneously with the revocation, the return of the issued documents shall be prescribed.

Section 20. Temporary License for Civil Aircraft.

(1) Unlicensed civil aircraft and civil aircraft holding foreign licenses not recognized in accordance with section 12, subparagraphs b and c, may only be ferried from one airfield to another and flight tested outside of testing areas (section 7) with written approval by the Federal Civil Aviation Office (temporary license).

(2) The Federal Civil Aviation Office shall, upon application by the aircraft operator, issue the temporary license if the civil aircraft is in condition for safe operation and the aircraft operator has submitted evidence of liability coverage meeting the Austrian provisions.

The temporary license shall prescribe such terms, conditions or limitations as traffic safety may require.

Section 21. Construction, Inspection and Equipment of Civil Aircraft.

(1) The Federal Ministry of Transport and Electric Power, in accordance with the requirements of air safety and with a view to the type, specifications and purpose of civil aircraft, shall establish by ordinance:

a) the requirements for airworthiness and the minimum equipment of aircraft;

b) the kind and extent of inspections necessary for the establishment of airworthiness (inspections of design, parts and minimum equipment);

c) the intervals and requirements for periodical inspections;

d) the type of identification, the permissibility of markings and painting of civil aircraft as well as the State colors, flags and lights to be borne by them;

e) the form and information to be contained in the documents required for proof of airworthiness and in the other documents to be carried on civil aircraft;

f) whether and to what extent proof of airworthiness may be furnished through foreign airworthiness certificates.

(2) The kind of identification marks, flags and lights to be borne by military aircraft (section 11, paragraph 2) as well as the documents with which a military aircraft must be provided in accordance with the requirements of national defense, shall be regulated by ordinance by the Federal Ministry of National Defense in concurrence with the Federal Ministry of Transport and Electric Power.

B. FLIGHT CONTRIVANCES

Section 22. Definition.

(1) A flight contrivance shall be a device designed for technically equipping or operating an aircraft, which is not built into the aircraft, or a device which can be used independently in flight without being an aircraft (section 11). Considered as flight contrivances shall be in particular takeoff devices, kites, and captive balloons.

(2) Military flight contrivances shall be flight instrumentalities serving exclusively for national defense. All other flight contrivances shall be civil flight contrivances.

Section 23. Civil Flight Contrivances.

The Federal Ministry of Transport and Electric Power, in accordance with the requirements of traffic safety shall regulate by ordinance whether and to what extent civil flight contrivances shall be subject to licensing by the Federal Civil Aviation Office and whether the ordinances to be issued in accordance with section 21, paragraph 1, shall be applicable to civil flight contrivances. The ordinance shall also establish the technical requirements for civil flight contrivances, the record to be maintained on them and the intervals and requirements for periodic inspections.

Section 24. Military Flight Contrivances.

Military flight contrivances may only be used if and as long as their safety of operation is ensured.

PART III—AVIATION PERSONNEL

A. CIVIL AVIATION PERSONNEL

Section 25. Definition.

Civil aviation personnel shall be all persons engaged in civil aviation whose activity is of importance to air safety and requires flight technical or flight operational knowledge.

Section 26. Identification Document for Civil Aviation Personnel.

For the performance of the activities designated in section 25, permission of the Federal Civil Aviation Office shall be required. This permission shall be issued by written decree (Personnel Identification Document for Civil Aviation). The Identification Document for Civil Aviation Personnel shall be carried by the holder when carrying out activities subject to permission.

Section 27. Civil Air Pilot.

A civil air pilot shall be a person who, in accordance with section 26, is permitted to navigate or technically operate in flight, a civil aircraft or, in civil aviation, a parachute where it is not employed to save life.

Section 28. Other Civil Aviation Personnel.

(1) All persons engaged in civil aviation within the meaning of section 25 who are not covered by section 27, shall constitute other civil aviation personnel. The Federal Ministry of Transport and Electric Power shall determine by ordinance which activities qualify

a person as belonging to the category of other civil aviation personnel, and shall establish, in accordance with the requirements of air safety, the prerequisites for the issuance of the permission provided for under section 26.

(2) The provisions of this Federal Law shall not be applicable to the activities mentioned in paragraph 1, unless they are carried out on a commercial basis.

Section 29. Categories and Duration of Validity of Civil Air Pilot Certificates.

(1) The Identification Document for Civil Aviation Personnel required for acting in the capacity as civil air pilot shall be the Civil Air Pilot Certificate.

(2) The Federal Ministry of Transport and Electric Power shall establish by ordinance the types and forms of civil air pilot certificates as well as their duration and extent of validity, whereby consideration shall be given to the types of civil aircraft, the possibilities of use, and to the mental and physical demands made on civil air pilots. The duration of validity of a civil air pilot certificate may not exceed three years.

Section 30. Requirements for the Issuance of a Civil Air Pilot Certificate.

(1) The Civil Air Pilot Certificate shall be issued if the applicant:

- (a) has reached the required age minimum (section 31);
- (b) is reliable (section 32);
- (c) is physically and mentally fit (section 33); and
- (d) is technically qualified.

(2) If the applicant furnishes proof that he is the holder of a military air pilot certificate authorizing him to carry out the same activities as authorized under the civil air pilot certificate applied for, the Federal Civil Aviation Office shall issue the civil air pilot certificate without further inquiry, provided the Federal Ministry of National Defense does not raise any objections and the requirements for obtaining a military air pilot certificate are at least the same as for obtaining the civil air pilot certificate applied for. The Federal Civil Aviation Office shall officially obtain the views of the Federal Ministry of National Defense on the matter.

Section 31. Minimum Age.

(1) The minimum age for obtaining a civil air pilot certificate shall be not less than 16 and not more than 21 years. Within this range, the Federal Ministry of Transport and Electric Power shall establish by ordinance the minimum age for each category of civil air pilot certificate (section 29) in accordance with the mental and physical maturity required.

(2) A civil air pilot certificate shall be issued to minor persons only if they have furnished proof that their legal representatives have agreed to the filing of the application for issuance of the civil air pilot certificate.

Section 32. Reliability.

An applicant for a civil air pilot certificate shall be considered reliable (section 30, paragraph 1, subparagraph b) if, on the basis of

his previous conduct, it may be assumed that he will meet the obligations resulting from this Federal Law.

Section 33. Fitness.

(1) The Federal Civil Aviation Office shall obtain a medical report on physical and mental fitness (section 30, paragraph 1, subparagraph c).

(2) Every holder of a civil air pilot certificate shall be obligated immediately to report to the Federal Civil Aviation Office any circumstances which may be susceptible of casting a doubt on his physical and mental fitness.

Section 34. Technical Qualification, Civil Air Pilot Examination.

(1) The Federal Civil Aviation Office shall obtain a report from the competent Civil Air Pilot Examination Board (section 35) on technical qualifications (section 30, paragraph 1, subparagraph d), unless otherwise provided for under paragraph 2. This report shall be made on the basis of an examination (Civil Air Pilot Examination).

(2) With respect to the technical qualifications of glider pilots, the expert opinion of two civil flight instructors shall be obtained.

Section 35. Civil Air Pilot-Examination Boards.

For each category of civil air pilot certificates, the Federal Ministry of Transport and Electric Power, unless otherwise provided for in section 34, paragraph 2, shall establish within the Federal Civil Aviation Office a special examination board to be composed of a chairman and the necessary number of other examiners (Civil Air Pilot Examination Boards). The number of examiners shall be established by ordinance by the Federal Ministry of Transport and Electric Power in accordance with the authorizations resulting from the individual categories of civil air pilot certificates.

Section 36. Appointment of Examiners.

(1) The members of the examination boards shall be appointed by the Federal Ministry of Transport and Electric Power from time to time for the duration of three calendar years. They shall take the oath of conscientious and impartial performance of duties. For each member a substitute member shall be appointed. In case of serious violation of their duties of office, they shall be removed from office.

(2) Only employees of the Federal Ministry of Transport and Electric Power and the Federal Civil Aviation Office possessing expert knowledge as well as professional pilots and civil flight instructors may be appointed as members of the examination boards. The chairman of the examination board and his deputy shall be selected from among senior officials of the Federal Ministry of Transport and Electric Power or of the Federal Civil Aviation Office.

Section 37. Rules of Examination for Civil Air Pilots.

(1) The Federal Ministry of Transport and Electric Power, in accordance with the requirements of safety of air navigation and the standards of science at the time, shall establish by ordinance the requirements for the individual categories of civil air pilot certificates (section 29) with respect to physical and mental fitness (section 33) and technical qualifications (section 34) as well as the manner in which

proof thereof shall be submitted (Rules of Examination for Civil Air Pilots).

(2) As far as the ordinance provided for in paragraph 1 concerns the physical and mental fitness, it shall be issued in concurrence with the Federal Ministry of Social Administration.

Section 38. Examination Fees and Compensation for Examiners.

(1) Any person who undergoes a civil air pilot examination shall pay an examination fee. The examination fees shall be fixed by the Federal Ministry of Transport and Electric Power by ordinance, whereby the categories of civil air pilot certificates and the expenses involved in the examination shall be taken into account. The maximum examination fee may not exceed 1,500 schillings per candidate.

(2) Unless otherwise provided for in paragraph 3, the examiners shall be entitled to a compensation for each examination, the amount of which shall be fixed by the Federal Ministry of Transport and Electric Power by ordinance, taking into account the volume of examination activity and which may not exceed 50 schillings per candidate. In addition, the examiners shall be entitled to a compensation for traveling and living expenses as well as for any loss of earnings, in accordance with the provisions in force for jurors.

(3) Whether and to what extent Federal employees are entitled to a compensation for their examination activity shall depend on the service regulations concerning the granting of compensation for collateral activities.

Section 39. Recognition of Foreign Civil Air Pilot Certificates.

(1) Foreign civil air pilot certificates shall, upon application, be recognized by the Federal Civil Aviation Office by written decree, unless otherwise provided for by international agreement, if:

a) in the State concerned the legal requirements for obtaining a civil air pilot certificate are at least equal to the respective Austrian requirements with respect to age, reliability, fitness and qualification;

b) Austrian civil air pilot licenses are recognized in the respective other State.

(2) Foreign civil air pilot certificates held by Austrian citizens shall be recognized only if an investigation by the Federal Civil Aviation Office has established the reliability of the applicant (section 32).

(3) The provisions of section 33, paragraph 2 shall apply accordingly.

Section 40. Revocation and Prohibition.

(1) Permission to engage in the activities mentioned in section 25 shall be revoked by the Federal Civil Aviation Office and return of the identification documents issued therefor be prescribed when their holder is no longer fit or technically qualified to pilot a civil aircraft or is no longer reliable. The same shall apply if it is subsequently shown that one of these qualifications was lacking at the time of the issuance or validation of the permissions and that this defect continues to exist.

(2) The performance of the activities mentioned in section 25 shall be prohibited if, and as long as, this is necessary to prevent the person

concerned from repetition of an act or omission punishable under this Federal Law.

Section 41. Obtaining of an Expert Opinion.

(1) Prior to the issuance of a decree in accordance with section 40, an expert opinion of a committee composed of three experts shall be obtained.

(2) The experts shall be appointed by the Federal Minister of Transport and Electric Power for the duration of three years. Only persons who are reliable and have been active civil air pilots for at least three years may be appointed. For each expert a substitute shall be appointed in accordance with the same principles.

(3) The experts and substitutes shall hold office as an unpaid honorary office, and upon their appointment shall promise to give their opinions to the best of their knowledge and belief and to observe silence about matters brought officially to their knowledge.

(4) The experts and substitutes shall be removed from office by the Federal Minister of Transportation and Electric Power if they seriously violate the duties of their office or no longer meet the conditions of their appointment.

(5) The committee of experts shall be convened by the Federal Civil Aviation Office and be furnished a description of the case to be examined in due time so that the experts (substitutes) are prepared when appearing at the meeting. The expert opinion shall be rendered by majority vote and shall be made a matter of record.

B. SCHOOLS

Section 42. Training Permit.

The training of civil air pilots shall be permissible only within the framework of civil air pilots' schools. For the operation of civil air pilots' schools as well as for any alteration of their scope of operation as designated by decree, a permit of the Federal Civil Aviation Office shall be required (Training Permit).

Section 43. Requirements for the Issuance of a Training Permit.

(1) A training permit shall be issued by written decree, if the applicant:

- a) possesses Austrian citizenship
- b) is reliable, and
- c) submits proof that he or his manager (section 44, paragraph 4) possesses the necessary experience for orderly operation of a civil air pilots' school.

(2) In the event that the applicant is not a physical person, the provisions of section 16, paragraph 3 shall apply accordingly.

Section 45. Prohibition of Training Operations.

(1) The Federal Civil Aviation Office shall prohibit the execution of training operations if one of the requirements set forth in section 44 is no longer met or was lacking at time of the issuance of the permit to begin operations and this defect continues to exist.

(2) Simultaneously with the prohibition of training operations the Federal Civil Aviation Office shall fix an adequate time limit within which the established defect must be eliminated.

(3) Training operations prohibited under paragraph 1 may only be resumed on the basis of a new permit to start operations. The provisions of section 44, paragraph 2 shall be applied accordingly.

Section 46. Revocation of Training Permit.

The training permit shall be revoked by the Federal Civil Aviation Office if:

- a) one of the requirements specified under section 43, paragraph 1 is no longer met or was lacking at the time of the issuance of the permit and this defect continues to exist, or
- b) the holder of the training permit has not applied for a permit to begin operations within a period of one year, commencing on the date of delivery of the training permit, or
- c) the permit to begin operations was denied by force of law, or
- d) the training operations have been suspended for more than a year, or
- e) the training operations were prohibited in accordance with section 45 and the defects were not eliminated in due time.

Section 47. Civil Flight Instructors.

(1) The activity of civil flight instructors shall be subject to permission of the Federal Civil Aviation Office. This permission is to be granted by written decree (Civil Flight Instructor's License).

(2) The civil flight instructor's license shall authorize the holder thereof to give theoretical and practical flight instruction at civil air pilots' schools for the types of civil air pilot licenses specified in the Civil Flight Instructor's Licenses.

Section 48. Requirements for the Issuance of a Civil Flight Instructor's Licenses.

- (1) A civil flight instructor's license shall be issued if the applicant:
 - a) has reached the age of 21 years,
 - b) holds such civil air pilot license for the obtaining of which he intends to give theoretical and practical flight instruction,
 - c) furnishes proof of the required practical experience as civil air pilot (section 49),
 - d) is technically qualified (section 50).

(2) The civil flight instructor's license shall stipulate the scope of its authorization within the framework of the application, in accordance with the results of the examination procedure.

Section 49. Proof of Practical Experience.

The Federal Ministry of Transport and Electric Power, in accordance with the requirements of safety of air navigation and the standards of science at the time and with a view to the individual types of civil air pilot licenses (section 29), shall stipulate by ordinance the kind of practical experience as pilot for which proof shall be furnished for the purpose of obtaining a civil flight instructor's license.

Section 50. Technical Qualification, Civil Flight Instructor's Examination.

(1) The Federal Civil Aviation Office shall obtain a report from the competent civil flight instructor's examination board (paragraph 2) on the technical qualification (section 48, paragraph 1, subpara-

graph d). This report shall be rendered on the basis of an examination (civil flight instructor's examination).

(2) Within the Federal Civil Aviation Office, a civil flight instructor's examination boards shall be established. The provisions of sections 35 through 38 shall apply accordingly.

Section 51. Admission to Practical Training.

Persons who desire to undergo civil pilot training shall require permission of the Federal Civil Aviation Office for practical training on board an aircraft in flight. This permission shall be granted if the applicant is reliable and physically and mentally fit (section 32 and 33).

Section 52. Training and Test Flights.

(1) Training and test flights carried out without a civil flight instructor which are necessary within the framework of practical civil air pilot training shall not be subject to permission under this Federal Law. The provisions of section 51 shall not thereby be affected.

(2) In case of training and examination flights accompanied by a civil flight instructor, the latter shall be considered as being the responsible pilot (section 125).

C. MILITARY AVIATION PERSONNEL

Section 53. Definition.

Military aviation personnel shall be deemed all persons engaged in military aviation whose activity is of importance to safety of air navigation and requires flight technical or flight operational knowledge.

Section 54. Military Pilots.

A military pilot shall be deemed any person who navigates or technically operates a military aircraft in flight or, within the field of military aviation, a parachute not being used for saving one's life.

Section 55. Other Military Aviation Personnel.

All persons occupied in military aviation within the meaning of section 53 not covered by section 54, shall constitute other military aviation personnel (ground personnel).

Section 56. Military Aviation—Personnel Identification Document.

(1) Only the holder of a military pilot license issued by the Federal Ministry of National Defense may be a military pilot. The provisions of section 52 shall apply accordingly.

(2) The Federal Ministry of National Defense, in accordance with the requirements of safety of air navigation and the interests of national defense, shall establish by ordinance the other activities within the meaning of section 53 for which an identification document for military aviation personnel issued by the Federal Ministry of National Defense shall be required.

Section 57. Types, Duration, and Requirements for the Issuance of an Identification Document for Military Aviation Personnel.

The Federal Ministry of National Defense shall stipulate by ordinance:

- a) types and forms of identification documents for military aviation personnel as well as their period of validity and extension of their validity, whereby consideration shall be given

to the types of military aircraft, the possibilities of use, and the mental and physical demands made on military aviation personnel,

b) the requirements under which identification documents for military aviation personnel may be issued in accordance with the needs of traffic safety and national defense.

PART IV—AIRPORTS

A. JOINT PROVISIONS

Section 58. Airdromes.

(1) Airdromes shall be deemed areas on land or water which are intended to be used permanently for takeoff and landing of aircraft (land airdromes and water airdromes).

(2) Section 118 of the Federal Law of October 19, 1934, Federal Law Gazette II, No. 316, concerning water rights shall not be affected by the provision of this Federal Law.

Section 59. Ground facilities.

Ground facilities shall be buildings, installations and other fixed facilities at airports which are intended to be directly used for the handling of air traffic. Flight safety service installations in accordance with section 122 shall be excepted.

Section 60. Civil and Military Airdromes.

A military airdrome shall be deemed an airdrome which is operated by the Federal Ministry of National Defense. All other airports shall be deemed civil airports.

Section 61. Joint Use of Civil Airdromes for Purposes of Military Aviation.

(1) The joint use of civil airdromes and permanent civil airdrome installations for purposes of military aviation shall be governed by the Civil Airdrome-Operating Regulations and the Civil Airdrome-User Conditions (section 74).

(2) The Federal Ministry of National Defense may only establish and operate permanent military installations on civil airdromes if the planned measures are necessitated by interests of national defense and are not contrary to more important interests of civil aviation. The question whether the planned measure is permissible shall be decided by the Federal Ministry of National Defense in concurrence with the Federal Ministry of Transport and Electric Power.

(3) The regulation set forth in paragraph 2 shall apply accordingly to every alteration of permanent military installations at civil airdromes and to every change in operation which might adversely affect civil air traffic at the respective civil airdrome.

(4) The rights of the operator of a civil airdrome on whose airdrome the planned measure is to be taken, shall not be affected by the provisions of paragraphs 2 and 3.

Section 62. Use of Military Airdromes for Purposes of Civil Aviation.

(1) Upon application the Federal Ministry of National Defense may issue permission for:

- a) the use of military airdromes by civil aircraft,
- b) the establishment of permanent installations for purposes of civil aviation on military airdromes.

(2) Permissions in accordance with paragraph 1 shall prescribe such conditions, limitations and terms as are required in the interest of national defense and civil aviation.

(3) Prior to issuance of the permission in accordance with paragraph 1, the Federal Ministry of National Defense shall obtain the concurrence of the Federal Ministry of Transport and Electric Power if the use involved is not exclusively serving military interests or if the establishment of permanent installations is involved.

B. CIVIL AIRDROMES

Section 63. Public and Private Airdromes.

A public airdrome (Flugplatz) shall be deemed a civil airdrome which is under obligation to operate (section 75, paragraph 5) and which is open under equal conditions to all participants in air traffic. All other civil airdromes shall be deemed private airdromes.

Section 64. Airports.

An airport (Flughafen) shall be deemed a public airdrome which is intended to be used by international air traffic and which is equipped with the necessary installations therefor.

Section 65. Landing Fields.

(1) A landing field (Flugfeld) shall be deemed a civil airdrome which is not an airport.

(2) A glider landing field shall be deemed a landing field intended to be used for gliding. A power landing field (Motorflugfeld) shall be deemed a landing field intended to be used for powered aircraft operations.

Section 66. Ordinance Concerning Civil Airdromes.

The Federal Ministry of Transport and Electric Power shall establish by ordinance the requirements for the individual types of civil airdromes (section 63 through 65) with a view to the volume of operation and in accordance with the requirements of safety of air navigation (Civil Airport Ordinance).

Section 67. Preparatory Work for Civil Airdromes.

(1) When the planning of a civil airdrome requires preparatory work on private land and when the landowner does not want to permit such work, the authority of jurisdiction under paragraph 2 shall, upon request by the applicant for a civil airdrome permit, force the landowner by decree to allow the preparatory work provided the applicant is reliable and the project economically and technically feasible. (Verpflichtungsbescheid-decree establishing the obligation to tolerate the preparatory work). The authority shall determine in this decree an adequate time limit within which the preparatory work must be completed.

(2) The Federal Ministry of Transport and Electric Power shall have jurisdiction for the issuance of the decree in accordance with paragraph 1 in cases involving the planning of airports; in all other cases the provincial governor shall have jurisdiction.

(3) The applicant shall compensate the landowner for any damage caused by the preparatory work. In case an agreement cannot be reached on the amount of compensation, a court shall decide in a nonadversary proceeding. Claims for compensation shall be filed not

later than three months after the day on which the applicant proves to have informed the landowner of the preparatory work.

Section 68. Civil Airdrome Permit.

(1) For the operation of civil airdromes a permission shall be required (Civil Airdrome Permit). The same shall apply to every change in scope of operation of a civil airdrome as established by decree.

(2) The authority competent for the issuance of the permit shall be the Federal Ministry of Transport and Electric Power with respect to airports and the appropriate provincial governor with respect to airdromes.

Section 69. Application for Issuance of a Civil Airdrome Permit.

(1) The application for issuance of a Civil Airdrome Permit shall contain the following information:

(a) the type of civil airdrome planned (sections 63 through 65),

(b) the ground installations planned,

(c) the types of civil aircraft which are to use the civil airdrome,

(d) a proposal with respect to the establishment of a safety zone, if any,

(e) the probable obstructions to air navigation in the order of location and height,

(f) the effect of the project on the rights of third parties, and,

(g) proof of the financial means required for the realization of the project (financing plan).

(2) The application shall be accompanied by six copies of a layout plan on an appropriate scale, showing the airdrome boundaries and all ground facilities projected.

Section 70. Investigation of Project.

(1) The authority competent for the issuance of a civil airdrome permit (section 68), upon receipt of an application in accordance with section 69, shall investigate in the first place whether the proposed land or water area is suitable for the planned purpose with respect to size and condition as well as with respect to the condition of the adjoining area. If the investigation shows that this is not the case, the application shall be rejected. Otherwise, the applicant shall be requested to submit the following information in six copies:

(a) extracts from the land register and land register maps of all realty to be included in the civil airdrome, and

(b) land register maps and information in writing on the land register entry numbers and the owners of all realty who will be affected by the restrictions within the meaning of section 69, paragraph 1, subparagraphs d through f.

(2) In the event that the establishment of an airport is involved, the Federal Ministry of Transport and Electric Power shall first obtain the concurrence of the Ministries of National Defense, Trade and Reconstruction, Agriculture and Forestry, with respect to the projected location of the airport. Then, the provinces and communities affected by the project, as well as the respective Chambers of Agriculture, shall be given the opportunity to state their views. Subsequently, the views of the Federal Chamber of Commerce, the Austrian

Chamber of Labor Diet as well as those of the operators of already approved airports shall be obtained.

(3) In the event that the establishment of an airfield is involved, the provincial governor shall give the communities concerned and the Chamber of Agriculture the opportunity to state their views on the project and shall obtain the views of the Federal Ministry of National Defense. A civil airdrome permit for a landing field may only be granted if the Federal Ministry of National Defense has taken a positive stand on the matter. The Federal Ministry of National Defense may refuse its consent if interests of national defense make this imperative. The granting of such a permit without previously obtaining the views of the Federal Ministry of National Defense or in conflict with such views shall constitute a defect rendering the permit null and void.

(4) Prior to the issuance of the decree concerning the civil airdrome permit, a hearing shall be held in each individual case. If a safety zone (section 86) is projected, the date of the hearing shall be published in each case by posting a notice on the bulletin board of the communities which are wholly or partly within the projected safety zone, notwithstanding the provisions of section 41 of the General Administrative Law of 1950. Should an expansion of the projected safety zone become necessary after the hearing was held, a new hearing shall be called.

Section 71. Conditions for Civil Airdrome Permit.

(1) A civil airdrome permit shall be granted if:

- a) the project is suitable from the technical point of view and safe operations may be expected,
- b) the applicant is reliable and qualified for the operation of the civil airdrome,
- c) the financial means of the applicant are such as to ensure that he can meet the obligations resulting from this Federal Law for the operator of an airfield, and
- d) there are no other conflicting public interests.

(2) An additional requirement for the issuance of a civil airdrome permit for public airports shall be the existence of a need for it. Airports may only be approved if their establishment is in the public interest. An airport shall not be considered in the public interest when:

- a) it is less than 100 kilometers airline distance from an already approved airdrome which is in operation and when it is likely to endanger the traffic functions of the latter, and
- b) the operator of the already existing airport is in a position and willing to undertake, within a period of six months, the functions envisaged for the planned airport.

Section 72. Decree on Civil Airdrome Permit.

(1) The decree concerning a civil airdrome permit shall establish:

- a) the types of aircraft which, with a view to traffic safety and useful organization of air traffic, may use this civil airdrome,
- b) the content of the safety zone ordinance, if any,
- c) the order to take out liability insurance up to a maximum amount of 40 million Schillings accordings to the volume of operation,

d) an adequate time limit within which the application for issuance of a permit to start operation must be submitted, and

e) such conditions and limitations as may be necessary with respect to the provisions of section 71, paragraph 1, and, in particular, with regard to the traffic functions of the civil airdrome.

(2) A civil airdrome permit may only be granted to Austrian citizens. The provisions of section 16, paragraph 3, shall apply accordingly.

(3) The decree concerning a civil airdrome permit shall be issued in writing; failure to do so shall constitute a defect which may render it null and void.

Section 73. Permission to Start Operations.

(1) The operation of a civil airdrome may be begun only after permission of the authority competent for the issuance of a civil airdrome permit (section 68) is granted. The decree for this permit shall be issued in writing; failure to do so shall constitute a defect which may render it null and void.

(2) The permit to start operations shall be granted to the holder of a civil airdrome permit, upon request, if he furnishes proof that orderly flight operation is ensured at the established civil airdrome and the civil airport meets the requirements of the civil airdrome ordinance (section 66).

(3) Before a decision on the application for issuance of a permit to start operations is made, the competent authority shall hold a hearing at the place. At this hearing it shall be investigated whether the obligations imposed by the civil airdrome permit are met.

Section 74. Regulations for Operation of a Civil Airdrome and Conditions for Use of a Civil Airdrome.

(1) The operation of civil airdromes and the activities at civil airdromes shall be regulated by the Federal Ministry of Transport and Electric Power by ordinance (Regulations for operation of a civil airdrome with a view to traffic safety).

(2) In compliance with the ordinance specified in paragraph 1 the airdrome operator shall establish the conditions for the use of a public airdrome (Conditions for Use of a Civil Airfield). He shall also establish conditions for the use of a public airdrome by all participants in air traffic.

(3) Conditions for Use of a Civil Airdrome shall be subject to approval by the authority competent for the issuance of a civil airdrome permit (section 68). This approval shall be granted if safe and economic operation of the civil airdrome is ensured. The permit to start operations may not be issued prior to this approval.

(4) The provisions of paragraph 3 shall apply accordingly to any essential modification of Conditions for Use of a Civil Airdrome.

(5) The Conditions for Use of a Civil Airfield shall be published by posting a notice on the bulletin board of the civil airdrome.

Section 75. Operation of Civil Airdromes.

(1) Notwithstanding any conflicting provisions of provincial laws, the operator of a civil airdrome may operate such auxiliary enterprises as immediately and exclusively serve the traffic functions of his airdrome.

(2) The operator of a civil airdrome shall furnish free of charge such office space and night and day rooms as may be required by the agencies of the flight safety service (section 120) and the border police. He shall furthermore provide, at cost, cleaning services, light, water, and heat.

(3) In the event that the obligation specified in paragraph 2 is not met, the authority competent for the authorization of civil airdromes (section 68) shall establish the specific services to be rendered under the obligation contained in paragraph 2 in accordance with the requirements of the agencies designated in paragraph 2 and with regard to the traffic functions of the civil airdrome.

(4) The provisions of section 18 of the Customs Law of 1955, Federal Law Gazette No. 129, shall not be affected by paragraphs 2 and 3.

(5) Operators of public airdromes may discontinue airport operations only with the permission of the authority competent for the issuance of the civil airdrome permit (obligation to operate). Such permission shall be granted if the operator of the civil airdrome can no longer be expected to continue or if there is no public interest in the continuation of such operation.

Section 76. Prohibition of Civil Airdrome Operations.

(1) The authority competent for the issuance of a civil airdrome permit (section 68) shall prohibit the operation of a civil airdrome if one of the requirements of the permit to begin operations is no longer met or was lacking at the time of issuance of the permit and this defect continues to exist.

(2) Simultaneously with the prohibition of operation, the authority shall fix an adequate time limit within which the established defects which caused the prohibition, are to be eliminated.

(3) Civil airdrome operations which were prohibited in accordance with paragraph 1 may be resumed only on the basis of a new permission to begin operations. Section 73 shall apply accordingly.

Section 77. Revocation of a Civil Airdrome Operating Permit.

The civil airdrome operating permit shall be revoked by the authority by which it was issued if:

a) one of the requirements set forth in section 71, paragraph 1, subparagraphs b and c, is no longer met or if one of the requirements set forth in section 71, paragraph 1, was lacking at the time of issuance of the civil airdrome permit and this defect continues to exist, or

b) the holder of a civil airdrome permit has not applied for the permit to begin operations within the period fixed in accordance with section 72, paragraph 1, subparagraph d, or

c) the permit to begin operations was denied by force of law, or

d) the airdrome operation had been suspended for more than one year, or

e) the airdrome operation was prohibited in accordance with section 76 and the established defects were not eliminated in due time.

Section 78. Permission to Establish Ground Facilities for Civil Aviation.

(1) Permission shall be required for the establishment and use, as well as for every essential alteration of a ground facility on a civil airdrome (ground facility for civil aviation).

(2) The Federal Ministry of Transport and Electric Power shall be competent for the issuance of this permission, when the height of the ground facility exceeds the limits established in section 85, paragraph 2, subparagraphs a and b, or when the installation causes optical or electrical interferences (section 94). The Federal Ministry of Transport and Electric Power shall decide in concurrence with the Federal Ministry of National Defense.

(3) In all cases in which the Federal Ministry of Transport and Electric Power does not have jurisdiction, the provincial governor shall decide.

Section 79. Requirements for the Permission of Ground Facilities for Civil Aviation.

(1) A permission in accordance with section 78, paragraph 1, shall be given when the project is required for, or useful to safety of air navigation.

(2) The permission shall prescribe such conditions or limitations as may be necessary for averting dangers or for ensuring efficient operation.

Section 80. Removal of Ground Facilities for Civil Aviation.

After revocation of a civil airdrome permit, the provincial governor shall decide with a view to the requirements of public safety whether and to what extent the last airdrome operator shall remove at his own expense ground facilities at an airdrome and restore the condition existing prior to the establishment of the ground facilities for civil aviation.

C. MILITARY AIRDROMES

Section 81. Preparatory Work for Military Airdromes.

(1) When the planning of a military airdrome requires preparatory work on private land and the owner of the land does not want to permit the work, the Federal Ministry of National Defense shall force him by decree to allow the preparatory work (*Verpflichtungsbescheid*).

(2) The Federal Government shall compensate the landowner for any damage caused by the preparatory work. In case an agreement on the compensation is not reached, the court shall decide in a non-adversary proceeding. Claims for compensation shall be filed not later than three months after the day on which the Federal Ministry of National Defense has proved to have informed the landowner of the completion of the preparatory work.

Section 82. Establishment, Alteration and Closing of Military Airdromes.

(1) The Federal Ministry of National Defense shall be responsible for the establishment, alteration and closing of military airdromes. The Federal Ministry of National Defense shall obtain the concurrence of the Federal Ministry of Transport and Electric Power with respect to the projected location of a military airdrome.

(2) Prior to the establishment or expansion of a military airdrome, the respective provincial government and communities, the Federal Chamber of Commerce, the Austrian Chamber of Labor, and the Presidents' Conference of the Chambers of Agriculture shall be given the opportunity to state their views.

(3) The establishment or expansion of a military airdrome shall be inadmissible when it constitutes unreasonable hardship for persons holding property rights or power line easements within the meaning of the Electric Power Laws in the realty located in the area adjoining the planned airport within the projected safety zone. The establishment or expansion of a military airport shall in any case be admissible if it is indispensable in the interest of national defense.

Section 83. Objections to the Intended Establishment or Expansion of Military Airdromes.

(1) The intended establishment or expansion of a military airdrome and the required safety zone or expansion of the latter, shall be published in the manner locally customary in the communities which are located wholly or partly within the projected safety zone.

(2) Persons holding property rights or power line easements within the meaning of the Electric Power Laws in the realty mentioned in section 82, paragraph 3, may file objections to the intended measure within the period of one month after the day of publication for the reason designated in section 82, paragraph 3. The Federal Ministry of National Defense shall decide on such objections.

(3) Work on the establishment or expansion of the military airfield may be started only after the Federal Ministry of National Defense has decided on such objections.

Section 84. Establishment and Modification of Military Ground Facilities.

(1) For the establishment and all modifications of a military ground facility, i.e., a ground facility at a military airdrome, the Federal Ministry of National Defense shall be responsible. It shall obtain the concurrence of the Federal Ministry or Transport and Electric Power if the height of the ground facility exceeds the limits established in section 85, paragraph 2, subparagraphs a and b, or if the installation causes optical or electrical interferences (section 94).

(2) Jurisdiction with respect to the carrying out of the construction resulting from other legal provisions shall not thereby be affected.

PART V—OBSTRUCTIONS TO AIR NAVIGATION

Section 85. Definition.

(1) Within safety zones (section 86) the following shall be deemed obstructions to air navigation:

- a) structures above the surface of the earth, objects of natural growth, stretched ropes and wires as well as high ground rising from the surrounding country,
- b) roads as well as depressions, ditches and similar ground irregularities.

(2) Outside of safety zones, the installations designated in paragraph 1, subparagraph a, shall be deemed obstructions to air navigation if their height above ground exceeds:

a) one hundred meters, or

b) thirty meters, when the installation is located on a natural or artificial ground elevation which rises more than 100 meters from the surrounding country; within a radius of 10 kilometers from the airdrome reference point (section 88, paragraph 2), the altitude of the airdrome reference point shall be considered the altitude of the surrounding country.

(3) Ground facilities (sections 78 and 84) and flight safety installations (section 122) shall not be considered obstructions to air navigation within the meaning of paragraphs 1 and 2.

Section 86. Safety Zones.

(1) A safety zone shall be the area of an airfield and its surroundings within which permission is required for the establishment or expansion of an obstruction to air navigation within the meaning of section 85, paragraph 1, of this Federal Law, notwithstanding any other legal provisions (exceptional permit).

(2) For airports and military airdromes a safety zone shall be established in any case; for landing fields, only if there is a public interest therefor, and the establishment is not contrary to any other public interest taking priority.

Section 87. Ordinance Concerning Safety Zones.

(1) A safety zone shall be established by ordinance (ordinance concerning safety zones) in the case of airdromes by the authority competent for the issuance of a civil airdrome permit; in the case of military airdromes by the Federal Ministry of National Defense to the extent required for the safety of takeoff and landing movements, whereby the rights of third parties may be curtailed only to the extent provided for in section 72, paragraph 1, subparagraph b, and section 83, paragraph 1, respectively.

(2) Prior to the issuance of such ordinance, the provincial government shall be given the opportunity to state its views.

(3) If a civil airdrome is involved, the ordinance concerning safety zones may not be issued prior to the issuance of the decree concerning the civil airdrome permit.

(4) The ordinance concerning safety zones shall be rescinded if the safety zone is no longer required for the safety of takeoff and landing movements.

Section 88. Safety Zone Map.

(1) An integral part of the ordinance concerning safety zones shall be a map of the safety zone showing the airport reference point and instrument approach sectors, if any, as well as especially indicating the obstructions to air navigation already existing in the zone (safety zone map).

(2) The airdrome reference point shall be determined so as to be approximately in the center of the system of takeoff and landing areas.

(3) An instrument approach sector shall be an air space above a ground sector designated for approach and departure under instru-

ment flight conditions, the axis of which is the direction of approach and departure.

Section 89. Publication of the Ordinance Concerning Safety Zones.

With the exception of the safety zone map, an ordinance concerning safety zones shall be published in the communities in the area in which the safety zone lies, by notice posted on the municipal bulletin board. The safety zone map shall be made available for inspection in these communities. After publication of the ordinance concerning safety zones, the communities mentioned shall be obliged to permit its inspection.

Section 90. Entry into Land Register.

The authority competent for the issuance of exceptional permits (section 93) shall inform the land register court of the restrictions resulting from the ordinances concerning safety zones. The restrictions shall be entered into the land register.

Section 91. Obstructions to Air Navigation Outside of Safety Zones.

For the establishment or expansion of obstructions to air navigation outside of safety zones an exceptional permit shall be required in accordance with section 85, paragraph 2. Other legal provisions shall not thereby be affected.

Section 92. Exceptional Permits.

(1) The application for issuance of an exceptional permit (sections 86 and 91) shall contain information on the location, kind, and nature, as well as the purpose, of the obstruction to air navigation.

(2) An exceptional permit shall be granted if the establishment or expansion of the obstruction to air navigation does not adversely affect air safety. It shall contain such conditions or limitations as are required in the interest of air safety or for the protection of the public.

Section 93. Power to Issue Exceptional Permits.

(1) Notwithstanding the provisions of paragraph 2, the following shall be competent for the issuance of an exceptional permit in accordance with section 86:

a) the Federal Ministry of National Defense within the safety zone of a military airdrome,

b) the authority competent for the issuance of the civil airport permit within the safety zone of a civil airdrome.

(2) If the obstruction to air navigation exceeds the height established in section 85, paragraph 2, subparagraphs a and b, the authority competent for the issuance of the exceptional permit shall be:

a) the Federal Ministry of National Defense in concurrence with the Federal Ministry of Transport and Electric Power within the safety zone of a military airdrome,

b) in all other cases the Federal Ministry of Transport and Electric Power in concurrence with the Federal Ministry of National Defense.

Section 94. Installations Causing Optical or Electrical Interferences.

(1) The establishment and operation of installations causing optical or electrical interferences which might be the cause of confusion

with aviation lighting, or a breakdown of flight safety installations, shall be subject to permission in accordance with this Federal Law, notwithstanding the permission required under other laws. The permission shall be granted if air safety is not adversely affected thereby. It shall contain such conditions and limitations as are required in the interest of air safety.

(2) Competent for the issuance of the permission designated in paragraph 1, shall be the Federal Ministry of Transport and Electric Power which shall obtain the concurrence of the Federal Ministry of National Defense.

Section 95. Marking of Obstructions to Air Navigation.

(1) If the marking of an obstruction to air navigation is required, the authority competent for the issuance of an exceptional permit (section 93) shall force the owner of the obstruction to air navigation to allow this measure.

(2) Within the safety zone of a civil airdrome the operator of the airdrome shall be forced by decree of the authority competent for the issuance of the exceptional permit to mark the obstruction to air navigation in accordance with paragraph 1. Within the safety zones of military airdromes, the Federal Ministry of National Defense shall be responsible for the marking of obstructions to air navigation; outside of safety zones, the Federal Civil Aviation Office.

Section 96. Obligation to Eliminate Obstructions to Air Navigation.

(1) The authority competent for the issuance of an exceptional permit in accordance with section 93 and the issuance of a permit in accordance with section 94, respectively, shall, with regard to air safety and protection of the public, decide whether, to what extent, and within which time, obstructions to air navigation and the installations designated in section 94, respectively, which were established or expanded in conflict with the provisions of this Federal Law, shall be removed, altered, or marked (section 95) by the owners at their own expense.

(2) The owner of objects which, owing to their nature, location, or position are apt to interfere with the operation of flight safety service installations (section 122), shall be enjoined by the Federal Civil Aviation Office by decree to remove such objects, whereby the requirements of air safety will be taken into account. The cost of removal as well as any damages resulting therefrom shall be refunded by the Federal Government. Claims for compensation shall be filed with the Federal Civil Aviation Office. If these claims are not recognized within a period of six months, the court shall, upon request of the owner, decide in a nonadversary proceeding.

PART VI—EXPROPRIATION FOR PURPOSES OF AIR NAVIGATION

Section 97. Right of Expropriation.

Title and other property rights may be expropriated or restricted if indispensable in the public interest (Expropriation for purposes of air navigation):

a) in the field of civil aviation:

aa) for the purpose of constructing or expanding flight safety installations, or

bb) for the purpose of constructing or expanding an airdrome, or

cc) for the purpose of eliminating obstructions to air navigation, or for their modification to comply with the needs of air safety so far as the measures specified therefor in section 96 are not sufficient.

b) in the field of military aviation for purposes of national defense.

Section 98. Expropriation—Applicants.

Expropriation may be requested in accordance with section 97 by:

a) the Federal Government, represented by the Federal Civil Aviation Office, for purposes of air safety,

b) the airdrome operator, for the purpose of constructing or expanding a civil airdrome,

c) the airdrome operator, for the purpose mentioned in section 97, subparagraph cc, if the obstruction to air navigation is located within a safety zone; otherwise the Federal Government, represented by the Federal Civil Aviation Office, and

d) the Federal Government represented by the Federal Ministry of National Defense, in the cases of section 97, subparagraph b.

Section 99. Suitable Application of the Railroad Expropriation Law of 1954.

(1) With respect to the object and extent of expropriation, compensation, expropriation procedure and execution of expropriation for purposes of civil aviation, the provisions of the Railroad Expropriation Law of 1954, Federal Law Gazette 71, shall apply accordingly, subject to the following provisions.

(2) Upon request of the person affected by the expropriation the entire plot of land or the entire realty shall be included in the expropriation when otherwise the portion of the land or property remaining after the contemplated expropriation could not be put to practical use.

(3) Upon request by the person affected by the expropriation, monetary compensation may be replaced by compensation in kind, of equal value, if the applicant for expropriation is able to do so without delaying compensation proceedings. In case of dispute, the court shall decide whether according to the facts of the case such compensation is reasonable and appropriate.

(4) The provincial governor shall call a hearing at the place within six weeks from the time when the expropriation plans and lists of the land and rights claimed are made available for inspection in the community concerned.

(5) On the basis of the final expropriation decree, contracts of persons enjoying the contractual rights of usufruct, of use or tenancy rights or persons holding property rights insofar as such rights cannot be expropriated shall be terminated as of the next legal date of termination and the objects of contract shall be vacated within the legal period of time even though the contract provides otherwise.

(6) In the cases of section 97, subparagraph b, in which a public airport is affected by the expropriation, the Federal Ministry of National Defense shall decide in concurrence with the Federal Ministry of Transport and Electric Power. The expropriation shall be admissi-

ble if the interests of national defense take priority over those of civil aviation.

Section 100. Conflict with Other Expropriation Rights.

Title and other property rights in land for which an expropriation right also exists under another Federal law, may only be expropriated with the consent of the Federal Ministry that has jurisdiction over the implementation of that Federal law.

PART VII—AVIATION ENTERPRISES

Section 101. Definition.

Aviation enterprises shall be:

- a) Enterprises engaging in the commercial transportation of persons and goods by aircraft (air transport enterprises);
- b) Enterprises engaging in the commercial charter of aircraft (aircraft charter enterprises).

A. AIR TRANSPORT ENTERPRISES

Section 102. Types of Air Transport Enterprises.

(1) An air transport enterprise may engage in scheduled air traffic (scheduled air carrier) or in nonscheduled air traffic (nonscheduled air carrier) or in both types of commercial air transportation at the same time.

(2) Scheduled air traffic shall be the scheduled transportation of persons or goods by aircraft on designated routes serving public traffic. Nonscheduled air traffic shall be any other commercial transportation of persons or goods by aircraft.

Section 103. Transport Permit.

(1) For the operation of an air transport enterprise as well as for every expansion of its scope of operation, designated by decree, permission by the Federal Ministry of Transport and Electric Power shall be required (transport permit).

(2) Notwithstanding any conflicting provincial laws, the air transport operator may operate such auxiliary enterprises as may directly and exclusively serve the traffic functions of the air transport enterprise concerned.

Section 104. Requirements for Application for the Issuance of a Transport Permit.

(1) The application for issuance of a transport permit shall state the reasons which, in the opinion of the applicant, would constitute a need for the enterprise to be founded. Furthermore, credible evidence of the financial means necessary for the establishment and operation of the enterprise shall be furnished.

(2) The application shall further contain the following information:

- a) Last and first name (firm), residence (seat), and location of the enterprise,
- b) name, residence, and citizenship of the persons authorized to represent the enterprise,

- c) the type of air transport enterprise planned (section 102) and activities proposed such as, for instance, sightseeing flights, taxi flights, and tours,
- d) the proposed conditions of transportation,
- e) the proposed flight operation area, i.e., the area in which the planned operations are to be carried out,
- f) the number and type of aircraft intended to be used,
- g) the proposed organization of operations.

(3) In the case of scheduled air traffic, the application shall further contain information on the scheduled air services planned.

(4) The Federal Ministry of Transport and Electric Power shall require such additional information and data as are necessary to assure that the requirements for determination according to section 106 are met.

Section 105. Investigation of Project.

(1) Prior to the issuance of the permit, the Federal ministries concerned, the province, and the community in which the enterprise is located, as well as the Federal Chamber of Commerce and the Austrian Chamber of Labor Diet shall be given the opportunity to state their views on the project.

(2) If an air transport operator wishes to operate scheduled air services, an opportunity to state its views shall be given, in addition, to every air transport enterprise with a seat in Austria, which operates scheduled air services.

Section 106. Requirements for the Issuance of a Transport Permit.

(1) The transport permit shall be issued if:

- a) the applicant possesses Austrian citizenship, is reliable, and technically qualified,
- b) safety of operation is ensured and credible evidence of the financial capacity of the enterprise is furnished,
- c) a need exists for such enterprise and the operations planned guarantee that the need is appropriately and economically met.

(2) In the event that the operator is not a physical person, the enterprise must have its seat in Austria, and ownership must be held preponderantly by Austrian citizens. The provisions of section 16, paragraph 3, shall apply accordingly.

(3) A further requirement for the licensing of scheduled air carriers shall be that the establishment of the enterprise is in the public interest. This is particularly not the case when the enterprise is apt to endanger the traffic functions of an already existing Austrian scheduled air carrier.

Section 107. Decree Concerning Transport Permit.

(1) When the requirements specified in section 106 are met, the transport permit shall be issued within the framework of the application. This shall be done by written decree; failure to do so shall constitute a defect which may render the license null and void.

(2) The decree concerning the transport permit shall specify:

- a) the type of air transport enterprise (section 102),
- b) the scope of the permit in accordance with the need including the area of flight operations,

c) an adequate period of time within which permission to start operations must be sought whereby consideration shall be given to the need, and

d) such conditions and limitations as are required in the interest of traffic safety and with regard to the traffic functions of the enterprise.

Section 108. Permit to Start Operations.

(1) The operation of an air transport enterprise may only be begun on the basis of a permit issued, upon application by the operator, by the Federal Ministry of Transport and Electric Power (permit to begin operations).

(2) The Federal Ministry of Transport and Electric Power, after receipt of the application designated in paragraph 1, shall hold a hearing at the place. At the hearing it shall be investigated whether the obligations imposed in the decree concerning transport permit are met and traffic safety is assured.

(3) When these requirements are met, the starting of operations shall be permitted. The permit shall be issued in writing; failure to do so shall constitute a defect which may render the permit null and void.

Section 109. Prohibition of Transport Operations.

(1) The Federal Ministry of Transport and Electric Power shall prohibit transport operations if one of the requirements of the permit to begin operations is no longer met or was lacking at the time of the issuance of this permit and this defect continues to exist.

(2) Simultaneously with the prohibition of transport operations the Federal Ministry of Transport and Electric Power shall fix a time limit within which the established defects causing the prohibition of transport operations must be eliminated.

(3) Transport operations prohibited in accordance with paragraph 1 may only be resumed on the basis of a new permit to start operations. The provisions of section 108 shall apply accordingly.

Section 110. Revocation of Transport Permit.

The transport permit shall be revoked by the Federal Ministry of Transport and Electric Power when:

a) one of the requirements in accordance with section 106, paragraph 1, subparagraphs a and b, is no longer met or was lacking at the time of the issuance of the permit and these defects continue to exist, or

b) the permit to begin operations (section 108) was denied by force of law, or

c) operations had been suspended for more than one year, or

d) the transport operations were prohibited in accordance with section 109 and the established defects were not eliminated in due time.

Section 111. Scheduled Air Line Permit.

(1) For the operation of every scheduled air line a permit of the Federal Ministry of Transport and Electric Power shall be required (scheduled air line permit). Prior to its issuance, the Federal Ministry of Trade and Reconstruction shall be given the opportunity to state

its views. The permit shall also cover flight schedules and shall be issued if not contrary to public interest.

(2) The provisions of paragraph 1 shall apply accordingly to changes in flight schedules. Permission to do so shall be requested at least three weeks prior to the intended entry into force of the change.

(3) Permits in accordance with paragraph 1 or paragraph 2 shall prescribe such terms or conditions as may be required in the interest of traffic safety and with regard to the traffic functions of the airline.

(4) The scheduled air line permit can be issued in connection with the permit to begin operations (section 108) or with the permission in accordance with section 144.

Section 112. Revocation of the Scheduled Air Line Permit.

The scheduled air line permit shall be revoked by the Federal Ministry of Transport and Electric Power when the continuation of the operation of the air line is contrary to public interest.

Section 113. Obligation to Operate in Scheduled Air Line Traffic.

(1) Air transport operators shall be obliged, in scheduled air line traffic, to transport persons and goods in accordance with the conditions of transportation and flight schedules as far as their means of transportation designed for regular operation are sufficient and unless there exist circumstances making transportation impossible and which they are not in the position to eliminate.

(2) A scheduled air line may only discontinue operations with permission of the Federal Ministry of Transport and Electric Power (obligation to operate). The permission shall be granted when the operator cannot be reasonably expected to continue its operation or when there is no longer a public interest in the continuation of the air line.

Section 114. Licensing of Foreign Air Transport Enterprises.

(1) Unless otherwise provided for by international agreements, the Federal Ministry of Transport and Electric Power may permit foreign air transport enterprises to engage in the commercial transportation of persons and goods by aircraft in scheduled or non-scheduled air traffic when:

- a) these are licensed for operation in their home state,
- b) Austrian air transport enterprises are licensed in the respective other state, and
- c) the licensing is not contrary to public interests, in particular, to the interests of air commerce.

(2) The Federal Ministry of Transport and Electric Power shall revoke the permission designated in paragraph 1 when one of the requirements of its issuance is no longer met or was lacking at the time of the issuance of the permission and this defect continues to exist.

Section 115. Transportation of Mail.

(1) In return for appropriate payment air transport operators shall carry consignments of mail on scheduled flights in scheduled air traffic, to such extent as may be reasonably expected on the basis of the capacity of the aircraft concerned and with regard to the international agreements in force on mail transportation.

(2) The air transport operators shall be liable to the Postal department for such consignments to the same extent that the Postal department in turn is liable in accordance with the international agreements in force.

B. AIRCRAFT CHARTER ENTERPRISES

Section 116. Charter Permit.

(1) The permission of the provincial governor shall be required (charter permit) to engage in the business of chartering civil aircraft.

(2) Civil aircraft may only be chartered to persons holding the civil air pilot license required for the operation of the aircraft concerned.

Section 117. Requirements for the Issuance of a Charter Permit.

(1) The charter permit shall be granted when:

a) the applicant possesses Austrian citizenship, is reliable, technically qualified, and is the operator of the aircraft to be chartered (section 13);

b) safety of operation is ensured, and there is a need therefor.

(2) Prior to the issuance of the charter permit, the competent Chamber of Commerce as well as the community in which the aircraft charter enterprise is to be operated, shall be given the opportunity to state their views.

(3) The charter permit shall contain such conditions, terms or limitations as may be required in the interest of traffic safety.

Section 118. Revocation of the Charter Permit.

The charter permit shall be revoked by the provincial governor when:

a) one of the requirements in accordance with section 117, paragraph 1, is no longer met or was lacking at the time of the issuance of the permit and this defect continues to exist, or

b) when operations have been suspended for more than a year.

PART VIII—SAFETY OF AIR NAVIGATION

A. FLIGHT SAFETY

Section 119. Definition of Flight Safety.

Flight safety shall comprise:

a) the regulation of air traffic including the direction of movements at airdromes,

b) assistance to air navigation by means of position-finding aids (air navigational aids),

c) flight information,

d) flight weather services,

e) enforcement of safety regulations applicable to aircraft,

f) clearance of aircraft and crews by the aviation authority,

g) telecommunications for flight safety purposes.

h) cooperation in the search and rescue services serving aviation, in particular, cooperation in the warning service.

Section 120. Duty to Assure Flight Safety.

(1) The Federal Civil Aviation Office shall be responsible for the safety of flight. It shall establish such field stations for the purpose

of flight safety as are necessary for the safe and expeditious handling of air traffic (flight safety stations).

(2) With the consent of the Federal Ministry of the Interior, the Federal Civil Aviation Office may authorize members of the Federal Police and Federal Rural Police to exercise functions in the field of flight safety. The authorization may be granted only to persons who are trained to carry out the appropriate functions. The persons authorized shall be obliged to carry out the functions specified in the authorization. They shall be directly subordinate to the Federal Civil Aviation Office while carrying out these functions.

Section 121. Scope of Flight Safety.

Flight safety shall extend to the entire Federal territory and the air space above with the exception of those areas which are designated by ordinance by the Federal Ministry of National Defense in concurrence with the Federal Ministry of Transport and Electric Power with a view to the interests of national defense and civil aviation.

Section 122. Flight Safety Installations.

(1) Fixed installations for purposes of flight safety (flight safety installations) may be established and operated by the Federal Civil Aviation Office only if they do not constitute a hazard to the safety of persons or property. The provisions of section 6, paragraph 2, of the Telecommunications Law, Federal Law Gazette No. 170/1949, shall not thereby be affected.

(2) The civil airport operator shall bear the costs connected with the establishment and maintenance of those flight safety installations which exclusively serve the safety of departure and landing.

Section 123. Preparatory Work for Flight Safety Installations.

(1) When the planning of flight safety installations requires preparatory work on private land and when the owner of the land does not want to permit the work, the Federal Civil Aviation Office shall force him by decree to allow the preparatory work (Verpflichtungsbeseid).

(2) The Federal Government shall compensate the landowner for any damage caused by the preparatory work. When agreement on the compensation is not reached, a court shall decide in a nonadversary proceeding. Claims for compensation shall be filed not later than three months after the day on which the Federal Civil Aviation Office proves to have informed the landowner of the completion of the preparatory work.

B. RULES OF AIR TRAFFIC

Section 124. Air Traffic Regulations.

(1) In air traffic, every person shall be obliged to proceed with the caution, attention and consideration required for the maintenance of order and safety.

(2) The Federal Ministry of Transport and Electric Power, with a view to safe and expeditious handling of air traffic and the prevention of imminent danger to the public resulting from air traffic, shall regulate by ordinance the functions of flight safety and the rules of air traffic specified in section 119 in particularly with respect to:

- a) the movement of aircraft in the air and on the ground,
- b) the altitude to be observed in flight,
- c) the signals and signs to be used.

(3) Prior to the issuance of the ordinance mentioned in paragraph 2, the Federal Ministry of Transport and Electric Power shall obtain the concurrence of:

a) the Federal Ministry of National Defense unless provisions are involved which are necessary in the interest of the safety of international civil aviation,

b) the Federal Ministry of Education with respect to matters of the flight weather service (section 119, subparagraph d) if the latter have a bearing on other weather service.

Section 125. Aircraft Captain.

(1) Within the field of civil aviation, the aircraft captain shall be the pilot in command of the aircraft.

(2) The aircraft captain shall:

a) take all measures necessary for the maintenance of order and safety on board the aircraft,

b) report unlawful acts committed on board the aircraft to the Federal Civil Aviation Office within a period of 48 hours notwithstanding the duty to report resulting from other legal provisions.

(3) If the aircraft captain is incapacitated, the obligation resulting from paragraph 2 shall apply to his co-pilot.

Section 126. Civil Air Shows.

(1) For competitions or exhibitions in which civil aircraft participate (civil air shows), permission shall be required notwithstanding other legal provisions.

(2) Permission shall be denied when facts justify the assumption that the show might constitute a hazard to public safety and order and in particular to traffic safety.

(3) The permission shall contain such conditions, terms or limitations as are required for the safe conduct of the air show.

(4) When the civil air show extends over all Federal provinces, the Federal Ministry of Transport and Electric Power in concurrence with the Federal Ministry of the Interior shall be competent for the issuance of the permission; otherwise the provincial governor in whose jurisdiction the show is to be held.

Section 127. Military Air Shows.

With respect to the performance of military air shows (parades, exhibition flights, competitions and similar events) the Federal Ministry of National Defense shall obtain the concurrence of the Federal Ministry of Transport and Electric Power.

Section 128. Launching of Captive Balloons and Kites.

(1) The launching of captive balloons and kites within safety zones shall be forbidden.

(2) Outside of safety zones, permission of the provincial governor shall be required for the launching of captive balloons and kites if the captive balloon or kite is capable of rising more than 100 meters.

(3) Permission shall be granted if the launching of a captive balloon or kite endangers neither air traffic nor persons or property on the ground.

(4) The permission shall prescribe such conditions, terms or limitations as are required for the prevention of danger.

Section 129. Flights of Model Aircraft.

(1) Notwithstanding the provisions of section 22 and 23, permission shall be required for flights of model aircraft. Outside of safety zones, this shall only be applicable when the weight of the model aircraft exceeds 5 kilograms and a speed of 30 kilometers per hour.

(2) The authority competent for the issuance of the permission shall be:

a) within safety zones, the authority competent for the designation of the safety zone (section 87),

b) outside of safety zones, the provincial governor.

(3) Permission shall be granted if public interests cannot be endangered by the model aircraft flight. The provisions of section 128, paragraph 4, shall apply accordingly.

Section 130. Taking of Aerial Photographs.

(1) For the taking of aerial photographs from civil aircraft as well for their dissemination, permission of the Federal Ministry of National Defense, in concurrence with the Federal Ministry of the Interior, shall be required, notwithstanding any other legal provisions, and except as otherwise provided for in paragraph 2.

(2) For aerial surveys from civil aircraft in flight, permission of the Federal Ministry of Trade and Reconstruction, in concurrence with the Federal Ministry of National Defense, shall be required, notwithstanding any other legal provisions. With respect to aerial surveys from civil aircraft to be conducted by the Federal Office of Measures and Surveys, concurrence shall be established between the Federal Ministry of National Defense and the Federal Ministry of Trade and Reconstruction.

(3) Permissions in accordance with paragraphs 1 and 2 shall be granted when there are no conflicting public interests. The permission shall contain such conditions, terms or limitations as are required with regard to the public interest and the prevention of damage to third parties.

C. OPERATION OF CIVIL AIRCRAFT

Section 131. Operating Regulations.

(1) In the operation of civil aircraft all precautionary measures required for the elimination of danger shall be taken.

(2) The Federal Ministry of Transport and Electric Power shall issue by ordinance such operating regulations as are required to ensure safe operation of civil aircraft. Subject to regulation shall be in particular:

- a) flight planning and preparation,
- b) minimum weather conditions for landing,
- c) composition of flight crews,
- d) limit of safe operation for aircraft.
- e) special equipment of aircraft on flights over water and undeveloped areas as well as on high altitude flights,
- f) equipment of aircraft with flight and navigation instruments on flights operated under visual and instrument flight rules and at night,
- g) radio equipment of aircraft,
- h) maintenance of aircraft.

Section 132. Special Use of Civil Aircraft.

(1) The permission of the Federal Civil Aviation Office shall be required for temporary use of civil aircraft, for a purpose other than licensed (sections 13 and 18), as, for instance, for towed flights or acrobatic flights.

(2) Permission shall be granted when traffic safety is not endangered. The permission shall contain such conditions or limitations as are required with regard to air safety.

Section 133. Jettisoning of Objects.

(1) The jettisoning of objects or releasing of solid, liquid or gaseous substances from civil aircraft in flight shall be forbidden unless necessary in connection with a rescue or emergency operation or for operational reasons beyond control.

(2) Notwithstanding any other legal provisions, the provincial governor shall, upon request, grant exceptions from the prohibition stipulated in paragraph 1, if a danger to human life, health or property is not to be expected. The permission shall prescribe such conditions, terms or limitations as are required for the prevention of danger.

Section 134. Transport Regulations.

(1) In the transportation of persons or goods by civil aircraft all precautionary measures shall be taken which are required for the elimination of danger.

(2) The Federal Ministry of Transport and Electric Power, in concurrence with the Federal ministries concerned with regard to traffic safety, the interests of national defense as well as the safety of persons and property, shall regulate by ordinance the precautionary measures necessary for safe transportation of persons and goods by aircraft, in particular with respect to the carriage of:

- a) sick and frail persons,
- b) animals,
- c) photographic and surveying equipment,
- d) goods which, owing to their nature, are apt to create danger.

D. INVESTIGATION OF ACCIDENTS IN CIVIL AIR TRAFFIC

Section 135. Search and Rescue Measures.

(1) The Federal Civil Aviation Office shall act as the coordinating center of all search and rescue measures in connection with a civil aircraft accident (search and rescue service). The same shall apply when an accident may be presumed.

(2) The Federal Ministry of Transport and Electric Power shall issue by ordinance detailed provisions concerning the search and rescue service in accordance with safety of air traffic.

Section 136. Duty to Report Accidents.

It shall be the duty of:

- a) the responsible pilot,
- b) the operators of civil aircraft,
- c) the civil airport operators,
- d) the agencies of public safety,

immediately to report accidents and incidents observed in civil aviation to the Federal Civil Aviation Office.

Section 137. Aircraft Accident Investigation Commission.

(1) Accidents of civil aircraft involving death or serious injury of persons or serious damage of aircraft, shall be investigated by an aircraft accident commission, notwithstanding any other inquiries made by the authorities. The purpose of the investigation shall be to submit a report on the causes of the accident to the Federal Ministry of Transport and Electric Power and to propose measures for the prevention of such accidents.

(2) The aircraft accident commission shall be appointed by the Federal Ministry of Transport and Electric Power for each accident separately. Only persons whose impartiality is beyond doubt shall be appointed. The aircraft accident commission shall be composed of an official of the Federal Ministry of Transport and Electric Power versed in the law, as chairman, and four additional members who shall be selected from a list of experts to be maintained at the Federal Ministry of Transport and Electric Power. Experts shall be entered on the list only after hearing the views of the Civil Aviation Advisory Board.

(3) The Federal Ministry of Transport and Electric Power shall issue by ordinance detailed provisions with respect to the conduct of investigations taking into account the purpose of investigation.

Section 138. Admission of Foreign Observers.

The state of registry of a foreign civil aircraft which suffered an accident in the Federal territory shall be authorized to appoint an observer to be present at the accident investigation provided that in case of accidents of Austrian civil aircraft on the territory of that state, an Austrian observer is admitted to the accident investigation. International agreements providing otherwise shall not thereby be affected.

PART IX—AUTHORITIES AND SPECIAL RULES OF PROCEDURE**Section 139. Federal Civil Aviation Office.**

The Federal Civil Aviation Office shall have its seat in Vienna. It shall be directly subordinate to the Federal Ministry of Transport and Electric Power. Its scope of jurisdiction shall comprise the entire Federal territory. Procedure shall be governed by the laws on administrative procedure.

Section 140. Superior Authority and Appellate Procedures.

(1) In matters of civil aviation, the Federal Ministry of Transport and Electric Power shall be the authority superior to the provincial governor and to the Federal Civil Aviation Office and shall be the first level of appellate authority.

(2) In the cases of sections 9, 126, 128, 129, and 133, no appeal may be taken from the decision of the provincial governor.

Section 141. Supervision.

(1) Schools for civil air pilots, civil airdromes, and air transport enterprises shall be subject to supervision by the authority competent for the permission of operations (supervisory authority).

(2) Operators of civil air pilot's schools, operators of civil airports and air transport operators shall give to the supervisory authority all

information on their operations as required in the interest of traffic safety or air traffic statistics. In the case of juridical persons this obligation shall be met by the responsible officers.

(3) The supervisory authority shall cause the persons designated in the first sentence of paragraph 2 to take such measures as are required for the maintenance of air navigation.

(4) General stockholders' meetings and board of directors' meetings of capital stock companies operating civil air pilot's schools, civil airports or air transport enterprises, shall be reported to the supervisory authority in due time and the background material necessary for the evaluation of the proposed decision shall be attached.

(5) The supervisory authority may delegate a representative, versed in the law, to the general stockholders and board of directors meetings mentioned in paragraph 4. This representative shall be authorized to participate in an advisory manner in the general stockholders' and board of directors' meetings and to demand such explanations as are required for the evaluation of the proposed decisions.

(6) Otherwise, the provisions of section 104 of the Law of March 6, 1906, Government Law Gazette No. 58, on companies with limited liability, shall be applied accordingly.

Section 142. Protection of Employees.

(1) The scope of activity, the functions and duties of the authorities entrusted with the safeguarding of the interests of employees shall not be affected by the provisions of this Federal Law.

(2) The Federal Ministry of Transport and Electric Power, in concurrence with the Federal Ministry of Social Administration, shall issue by ordinance such provisions as are required for the protection of the life and health of the employees of the persons designated in section 141, paragraph 2, first sentence.

Section 143. Civil Aviation Advisory Board; Members thereof.

(1) The Federal Minister of Transport and Electric Power shall appoint a board of experts, the Civil Aviation Advisory Board, to advise him in civil aviation matters, composed of 12 members who are entitled to vote. The primary duty of the board shall be to give expert advice on drafting laws and ordinances concerning civil aviation.

(2) In appointing these experts, the ratio of votes and the proposals of the political parties represented in Parliament (Nationalrat) shall be taken into consideration. A substitute member shall be appointed for each member in accordance with the same principles.

(3) The members and substitute members must be Austrian citizens. They shall be appointed from time to time for the duration of a legislative period of Parliament.

(4) The members of the advisory board shall be entitled to compensation for travel and *per diem* expenses caused by the attendance of the meetings of the advisory board as well as to compensation for loss of earnings.

(6) The chairman of the Civil Aviation Advisory Board shall be the Federal Minister of Transport and Electric Power. He may appoint as his delegate an official of his Ministry.

(7) In case of need, the chairman of the Civil Aviation Advisory Board may also ask other experts to participate as nonvoting members.

(8) Committees may be formed to facilitate the work of the Civil Aviation Advisory Board.

(9) Members and substitute members of the Civil Aviation Advisory Board shall be removed from office by the Federal Minister of Transport and Electric Power when they seriously violate the duties of their office.

Section 144. Meetings of the Civil Aviation Advisory Board.

(1) The Civil Aviation Advisory Board shall be convened by the chairman at least once every three months and in addition upon written request of half of the members of the advisory board. The advisory board members shall be convened and notified of the agenda in due time.

(2) The meetings of the Civil Aviation Advisory Board shall not be public. The Federal Minister of Transport and Electric Power, on the occasion of the appointment of the board members and prior to attending the first meeting by the substitute members, shall receive their promise to observe silence about the matters brought to their knowledge in connection with their activities in the Civil Aviation Advisory Board.

(3) For the decisions of the Civil Aviation Advisory Board a two-third majority shall be required. The chairman or his representative shall have no vote.

Section 145. Special Mission Flights.

(1) The provisions concerning controlled areas (section 3), air space restrictions (section 4), off-field landings and takeoffs (section 9), the civil airfield operating regulations (section 74, paragraph 1) and air traffic regulations (section 124) shall not be applicable to military aircraft in action:

a) in accordance with section 2, paragraph 1, subparagraph b of the Defense Law, Federal Law Gazette No. 181 1955, or

b) against aircraft violating Austrian air sovereignty, and to civil aircraft of the Federal Government which are used to maintain public order and safety.

(2) The Federal Ministry of the Interior shall obtain the concurrence of the Federal Ministry of National Defense, concerning the entry of civil aircraft (within the meaning of paragraph 1), into restricted areas which, in accordance with section 5, paragraph 4, will be designated to prevent violations of air sovereignty or to prepare for an operation of the Federal Army in accordance with section 2, paragraph 1, subparagraph a, of the Defense Law, Federal Law Gazette No. 181/1955, in case of imminent danger.

(3) Special mission flights in accordance with paragraph 1, shall be immediately reported to the nearest flight safety station by the authority which ordered the action (section 120, paragraph 1) whereby the presumable flight area shall be indicated.

PART X—PENAL PROVISIONS

Section 146. Prosecution of Offenses.

(1) Any person who violates or tries to violate the provisions of this Federal Law or the provisions of ordinances issued under this

Federal Law, shall commit an administrative offense, unless the facts are subject to prosecution by a regular court, and shall be subject to a fine of up to 300,000 schillings or to imprisonment up to 6 weeks to be imposed by the district administrative authority. In case of aggravating circumstances, both a fine and a prison term may be imposed.

(2) Paragraph 1 shall not be applied to violations committed by members of the Federal Army in the execution of their duty.

Section 147. Record of Penalties.

(1) The Federal Civil Aviation Office shall maintain a record of all penalties imposed by force of this Federal Law.

(2) The district administrative authority shall notify the Federal Civil Aviation Office of all penalties imposed by force of this Federal Law either by itself or by the superior appellate authority in penalty matters whereby the name of the person punished and the nature of the penalty shall be indicated.

PART XI—FINAL AND TRANSITIONAL PROVISIONS

Section 148. Entry into Force.

This Federal Law shall enter into force on January 1, 1958.

Section 149. Existing Authorizations.

(1) Existing authorizations issued under previous laws regulating the subject matter of this Federal Law, unless otherwise provided for by paragraph 3 and by section 150, paragraph 1, shall expire six months after the entry into force of this Federal Law. Up to that time the provisions of this Federal Law shall be applied to such authorizations.

(2) The holder of an authorization specified in paragraph 1 shall have a legal claim to the issuance of an authorization of the same contents in accordance with the provisions of this Federal Law, provided that he files an appropriate application with the authority competent for the issuance of the authorization within the period given under paragraph 1.

(3) If the application is filed in accordance with paragraph 2, the authorization designated in paragraph 1 shall expire after issuance of the authorization in accordance with paragraph 2.

(4) Documents and official acts required for the implementation of paragraph 2 shall not be subject to Federal fees.

Section 150. International Air Traffic.

(1) Operating rights granted to foreign air transport enterprises on the basis of international air transport agreements, shall not thereby be affected.

(2) The rights granted to the Federal Government by international air transport agreements, in particular the right to designate Austrian air transport enterprises for the purpose of operating the international air services specified in such agreements, shall not thereby be affected.

Section 151. Liability.

(1) The previous legal provisions governing aviation liability and the obligation to take out liability and accident insurance in aviation

shall remain unchanged, unless other wise provided for in this Federal law. The Reichsmark amounts mentioned therein shall be replaced by schilling amounts which are six times the Reichsmark amount.

(2) Whenever there is an obligation to take out liability insurance under the provisions of this Federal Law or pursuant to ordinances or decrees to be issued on the basis thereof, the activity covered by the insurance may not be carried out as long as the liability has not become effective.

Section 152. Abrogation of Previous Legal Provisions.

(1) With the entry into force of this Federal Law all previous provisions regulating the subject matter of this Federal Law shall be abrogated, unless otherwise provided for in this Federal Law, in particular:

a) The air traffic law in the version of the promulgation of August 21, 1936 (German Government Law Gazette I, page 633), and the laws of Sept. 27, 1938 (German Government Law Gazette I, page 1246) and of Jan. 26, 1943 (German Government Law Gazette I, page 69) with the exception of the first, second, third, and fifth sub-chapters of the second chapter;

b) the ordinance on air traffic of August 21, 1936 (German Government Law Gazette I, page 659) in the version of the ordinances of March 31, 1937 (German Government Law Gazette I, page 432), of July 12, 1937 (German Government Law Gazette I, page 815), of December 15, 1937 (German Government Law Gazette I, page 1387), and of Sept. 30, 1938 (German Government Law Gazette I, page 1327) with the exception of chapter "K";

c) the law concerning the powers of the aviation authority in the execution of air control (Air Control Law) of Feb. 1, 1939, German Government Law Gazette I, page 131;

d) the implementation ordinance of the law concerning the powers of the aviation authority in the execution of air control (Air Control Law) of Feb. 1, 1939, German Government Law Gazette I, page 134.

(2) The provisions of the Treaty concerning the re-establishment of an independent and democratic Austria, Federal Law Gazette No. 152/1955, shall not thereby be affected.

Section 153. Implementation.

(1) The implementation of this Federal Law, unless otherwise provided for in this Federal Law, shall be entrusted, in the field of civil aviation, to the Federal Ministry of Transport and Electric Power and in the field of military aviation, to the Federal Ministry of National Defense.

(2) The Federal Ministry of Justice shall be entrusted with the implementation of the civil provisions contained in this Federal law.

(3) The Federal Ministry of Transport and Electric Power, in concurrence with the Federal Ministry of Finance, shall be entrusted with the implementation of section 151, paragraph 1, and the laws designated in this provision, in so far as applicable to civil aviation and not otherwise provided for in paragraph 2.

(4) The Federal Ministry of the Interior, in concurrence with the Federal Ministry of Transport and Electric Power, shall be entrusted with the implementation of section 145, in so far as the use of civil aircraft of the Federal Government is concerned. The Federal Ministry of the Interior, in concurrence with the Federal Ministry of National Defense, shall be entrusted with the implementation of section 145, paragraph 2.

BELGIUM

LAW OF JUNE 27, 1937, REVISING THE LAW OF NOVEMBER 16, 1919, CONCERNING REGULATION OF NAVIGATION IN THE AIR¹

CHAPTER I—GENERAL PROVISIONS

Article 1. For the application of this law there shall be deemed to be:

Aircraft, all machines able to fly in the atmosphere by reaction of the air;

Aircraft of the State, military aircraft or those used in services of the State, such as police or customs;

Private aircraft, all aircraft other than aircraft of the State;

Operator of an aircraft, any person who has the power of disposition over [an aircraft] and who uses it on his own account; in the case where the name of the operator is not registered in the aviation register or on any other official document, the proprietor shall be presumed to be the operator unless there is proof to the contrary;

Captain, any person given that power by the operator or, in his absence, the first pilot;

Airdrome, either any center of air traffic, including the installations necessary for such traffic, or any land or water surface equipped, even though only temporarily, for the land and take-off of aircraft.

Except where otherwise provided, the provisions of this law shall apply only to private aircraft.

Article 2. Navigation of national aircraft over the territory of the Kingdom shall be free except for the restrictions imposed by this law and those imposed by royal decree.

For the application of this law, the territory of the Kingdom shall include the territorial waters adjacent to such territory.

Article 3. Navigation of foreign aircraft over the territory of the Kingdom shall be subject to authorization by the Minister charged with the administration of aviation.

Such authorization shall not be required for navigation by aircraft registered in States with which pertinent reciprocal agreements have been concluded.

The flight of foreign military aircraft over the territory of the Kingdom shall be subject to authorization by the Minister of National Defense.

Article 4. The flight over all or part of the territory of the Kingdom may be prohibited by the King both to national and foreign aircraft.

Article 5. There shall be issued by royal decree all regulations concerning air navigation and particularly those in regard to aircraft, flight personnel, air navigation and traffic, public property and services concerned with such traffic, regulatory fees, taxes, levies, or dues to which the use of such public property and services is subject.

¹Published in *Moniteur belge*, July 26, 27, 1937.

Article 6. Registration of an aircraft in conformity with the regulations issued in application of this law shall confer Belgian nationality [on such aircraft].

Article 7. Births or deaths that occur on board a Belgian aircraft in flight shall be deemed to occur on the territory of the Kingdom.

As soon as possible, and not later than within three days, a report shall be made and recorded in the log book by the aircraft captain, in the presence of two witnesses and, in case of a birth, if possible in the presence of the father of the child. Such record in the log book shall be signed by the captain, by the witnesses and, if possible, by the father of the child.

The captain shall transmit two true copies of the report thus recorded, signed and certified by his hand, at his first landing in the Kingdom or, as the case may be, in the Colony and territories under mandate of Belgium, to the nearest recording officer (*officier de l'état civil*); abroad, to the nearest Belgian diplomatic agent or career consular agent. One copy of such transmittal shall be recorded on the register of the recording officer or the diplomatic agent or career consular agent and the other shall be sent by them to the Minister charged with the administration of aviation, who shall forward it for recording in the registers, depending on the situation, either to the recording officer of the domicile of the father of the child or of his mother if the father is unknown, or to the recording officer of the domicile of the deceased.

In the case of the disappearance during a flight of a person aboard a Belgian aircraft, the captain shall record in the log book a report containing all facts known to him about the identity of the disappeared person, the place, date and hour of his departure [on the aircraft] and of his disappearance, his probable destination, the route followed by the aircraft, the circumstances of the disappearance or its discovery. If possible, the original report shall be drawn up in the presence of two persons on board and shall be signed by them and by the captain; the latter shall make two true copies thereof signed and certified by his hand. At the first landing in the Kingdom such copies shall be deposited with the aviation authority or, in its absence, with the nearest judicial authority. Such [authority] shall, without delay, transmit one such copy to the King's attorney [*procureur du Roi*] and the other to the Minister charged with the administration of aviation. The latter shall transmit an identical certified copy to the King's attorney of the domicile of the disappeared person and, in the case of a foreigner, to the consular authority of his country.

When the first landing after discovery of the disappearance takes place in the colony or the territories under mandate of Belgium, the two identical certified copies shall be deposited with the nearest territorial authority and, using therefor the safest and fastest means, transmitted by the latter to the provincial commissioner who shall immediately send them to the Governor General; one such copy shall be sent to the Minister charged with the administration of aviation in the Kingdom and the other shall be deposited in the archives of the government general of the Congo.

When the first landing after discovery of the disappearance takes place abroad, the two certified copies shall, by the safest and fastest

means, be transmitted to the nearest Belgian diplomatic or career consular agent who, after notifying the judicial authorities of the country to which he is accredited, shall immediately send one of these copies to the Minister charged with the administration of aviation or, if the disappeared person is a foreigner, to the consular authorities of the country of which the disappeared person was a national, and the other copy shall remain in the archives of the diplomatic or consular post.

In addition, an inventory shall be made and signed by the captain and the witnesses of the property left in the aircraft by the deceased or disappeared person. This inventory shall be attached to the log book and a copy thereof shall be attached to the report sent to the authorities that have jurisdiction [over the matter].

The captain shall be the depository of the property left in the aircraft and ensure its preservation until he is officially relieved.

Article 8. All legal provisions concerning import, export and transit shipments of goods by land and water shall apply to entering, leaving and transit by air. Specially adapted air traffic regulations may be issued by royal decree.

Aircraft used for a temporary stay on the territory of the Kingdom may be admitted on a temporary duty-free license while conditions thereof are being determined by the Minister of Finance. The latter shall also determine the conditions under which aircraft used for trips abroad may be re-imported free of duty.

Article 9. When a route is prescribed for aircraft flying over the territory of the Kingdom without a planned landing, such aircraft must follow the prescribed route and, if they are under such an obligation, make themselves known by signals when passing over points designated for that purpose. If they receive the order, they must land on the nearest customs airport.

Article 10. Legal relationships existing between persons aboard an aircraft in flight shall be deemed to have arisen on the territory of the country whose nationality the aircraft has, unless the persons concerned have agreed to apply a specific law.

When the Belgian courts have jurisdiction, the court of the place of landing shall have venue.

CHAPTER II—CRIMINAL PROVISIONS

Article 11. There shall be punished by imprisonment of from one day to seven days and by a fine of from ten francs to twenty-five francs or by only one of these penalties:

1. Any captain who undertakes a flight without having aboard the documents prescribed by the regulations;
2. Any captain who violates the regulations concerning the keeping of flight or other documents concerning the aircraft;
3. Any operator of an aircraft who, upon request by the competent authorities, does not produce the flight papers and documents concerning the engines and equipment of an aircraft during the period of time prescribed for the preservation of such documents.

Article 12. There shall be punished by the penalties provided for in the preceding article any person who, in violation of the regulations, or of the orders or instructions lawfully given by the competent offi-

cials, transports on board an aircraft photographic or motion picture equipment or makes use of such equipment.

Article 13. There shall be punished by imprisonment of from one day to seven days and by a fine of from ten francs to twenty-five francs, or by only one of these penalties, any person who enters or moves about on an airdrome or an area of an airdrome not open to the public, or who, without authorization, uses an airdrome for purposes for which it is not intended.

The imprisonment shall be from eight days to one year, and the fine from twenty-six francs to one thousand francs when the act is committed by breaking and entering, or by means of a false key, or during the night, or with fraudulent intent, or an intent to do harm, or by means of violence or threats.

Article 14. There shall be punished by imprisonment of from eight days to one year and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties:

1. Any captain who lands on, or takes off from an airdrome without prior authorization from the competent authority;

2. Any captain who undertakes a flight with an aircraft that is not registered or does not have either a license or a certificate of air-worthiness, or whose license or certificate of air-worthiness has expired;

3. Any captain who, without obtaining the necessary authorizations, uses an aircraft for commercial transportation of persons or goods, or for aerial work such as instruction, photography, publicity or advertising.

If there was a passenger on board, the maximum imprisonment shall be raised to three years and the maximum fine to five thousand francs. There shall always be a prison sentence.

There shall be punished by the same penalties any operator who knowingly permits such take-off or landing.

Article 15. There shall be punished by imprisonment of from eight days to one year and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties, any captain or operator of an aircraft who fraudulently destroys the flight logs or documents, or any other document concerning an aircraft before the expiration of the validity of the documents or of the period during which they must be preserved.

Article 16. There shall be punished by imprisonment of from eight days to one month and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties, any captain of an aircraft in flight that does not bear the distinctive marks assigned to it.

If such act is unintentional, there shall be only a fine.

There shall be punished by imprisonment of from three months to five years, and by a fine of from one hundred francs to five thousand francs, any captain who knowingly alters or disguises the distinctive marks assigned to an aircraft or who uses an aircraft whose distinctive marks have been altered or disguised.

There shall be punished by the same penalties any operator of an aircraft who knowingly permits such take-off.

Article 17. There shall be punished by imprisonment of from eight days to one year and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties, any person who pilots an aircraft without possessing the warrants and licenses of qualification required by the laws and regulations.

Imprisonment shall be not less than fifteen days and the fine not less than three hundred francs if, at the time when the unlawful act was committed, there was a passenger aboard the aircraft.

There shall be punished by the same penalties, any person who, in whatever manner, aids or abets the unlawful act specified in the preceding paragraphs.

Article 18. There shall be punished by a fine of from twenty-six francs to one thousand francs, and by imprisonment of from eight days to five years, any person who, without authorization from the operator, uses an aircraft or attempts to use it.

Article 19. There shall be punished by imprisonment of from fifteen days to one year and by a fine of from one hundred francs to one thousand francs, or by only one of these penalties, any captain who pilots an aircraft despite the withdrawal of his license.

Imprisonment shall be not less than three months and the fine not less than one thousand francs, if, at the time when the unlawful act was committed, there was a passenger aboard. There shall always be a prison sentence.

Article 20. There shall be punished by imprisonment of from eight days to three years and by a fine of from twenty-six francs to three thousand francs, or by only one of these penalties, any captain who violates the provisions of the decrees issued in application of Article 4 of this law.

In the case of escape or refusal to land, he shall be sentenced to imprisonment of from six months to five years and to a fine of from one thousand francs to five thousand francs.

Any captain who violates the provisions of this article shall land on the nearest Belgian customs airport or on such airport as may be indicated to him.

If he has noticed that he is over a prohibited area, he shall give a distress signal and shall land forthwith.

If he has not noticed it, he shall land as soon as he is asked to do so.

Article 21. There shall be punished by imprisonment of from eight days to one year and by a fine of from one hundred francs to one thousand francs, or by only one of these penalties, any captain who violates the regulations concerning lights and signals or the navigation of aircraft.

Article 22. There shall be punished by imprisonment of from eight days to one year and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties, any captain who loads or unloads passengers or goods in violation of any regulations.

Article 23. There shall be punished by imprisonment of from eight days to one year and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties, any captain who flies over an inhabited area or any other place populated at the time of the flight, such as a beach, race course, or stadium, at an altitude which is less than that prescribed in the regulations.

Article 24. There shall be punished by the penalties specified in the preceding article:

1. Any captain, who unnecessarily makes a flight or a maneuver of a kind that endangers persons aboard the aircraft or persons and property on the ground;

2. Any person who, without authorization, uses an aircraft for gymnastics or balancing exercises.

Article 25. There shall be punished by the same penalties, any captain who performs, over an inhabited area, any exercises considered acrobatic, particularly those involving abrupt changes in altitude or position of the aircraft, or maneuvers of a kind that creates a danger for public safety.

Article 26. There shall be punished by a fine of from one hundred francs to five thousand francs and by imprisonment of from eight days to one year or by only one of these penalties, any person who, without authorization, organizes shows or exhibitions involving maneuvers of aircraft, exercises considered acrobatic or demonstrations of parachute jumping, and [there shall be the same penalties for] any person who participates in such shows, exhibitions, exercises, or demonstrations.

Article 27. There shall be punished by imprisonment of from eight days to one year and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties:

1. Any person who is on board an aircraft without being able to justify his presence by a regular flight ticket or by the consent of the operator or the captain;

2. Any person who does not comply, or refuses to comply with the instructions given by the captain or the person in charge regarding the safety of the aircraft or of the passengers;

3. Any person who enters an aircraft either in a condition of drunkenness, or under the influence of narcotics or gets into such a condition during the flight.

In the case of repetition within five years, there shall always be a prison sentence.

Article 28. There shall be punished by a fine of from one hundred francs to one thousand francs, any person who throws or lets fall, from an aircraft in flight, any object liable to cause damage to another person.

Article 29. There shall be punished by imprisonment of from eight days to one year and by a fine of from one hundred francs to one thousand francs, or by only one of these penalties, any person who, without authorization, transports by aircraft or loads aboard an aircraft for transportation, any explosives, weapons, or munitions of war, mail and postal dispatches or any other object or matter whose transportation by air is prohibited by the laws, regulations, or instructions.

Article 30. There shall be punished by confinement any person who deliberately impairs the airworthiness or the safety of an aircraft.

If the act causes bodily injuries, the guilty person shall be sentenced to forced labor of from ten to twenty years.

If the act leads to the death of a person, the guilty person shall be sentenced to forced labor for life.

Article 31. There shall be punished by imprisonment of from eight days to six months and by a fine of from twenty-six francs to three hundred francs, or by only one of these penalties, any person who,

without intent or because of lack of foresight or precautions, commits an act of a kind that imperils persons aboard an aircraft.

If bodily injuries result from the accident, the guilty person shall be punished by imprisonment of from one month to three years and by a fine of from fifty francs to one thousand francs.

If the accident causes a death, imprisonment shall be from six months to five years and the fine from one hundred francs to one thousand francs.

Article 32. If there is no special punishment under this law, violations of the provisions of royal decrees issued in application of this law shall be punished by imprisonment of from eight days to one year and by a fine of from twenty-six francs to one thousand francs, or by only one of these penalties.

Violations of the regulations issued by the Minister charged with the administration of aviation shall be punished by imprisonment of from one day to seven days and by a fine of from one franc to twenty-five francs, or by only one of these penalties.

Royal or ministerial ordinances which, in exceptional circumstances, temporarily prohibit the flight of aircraft over certain areas of the territory, or which provide for other urgent measures with immediate effect, shall determine the manner of their publication, such as radio or placing on view at the airdromes, by which, because of their urgency, they shall be brought to the knowledge of the persons concerned.

Article 33. Any captain who has been sentenced for a violation specified in this law or by the ordinances issued for its application, and who commits a new violation of such law or ordinances within five years counting from the day when he has suffered the penalty or when the statute of limitations has run, may be sentenced to a penalty of twice the maximum prescribed for the violation.

Article 34. All provisions of the First Book of the Criminal Code shall apply to violations specified in this law and in the ordinances issued for its application.

However, in case of a misdemeanor, the court may decide that Article 43 of the Criminal Code shall not apply.

Article 35. The penalties provided for in this law shall be imposed without thereby affecting the application of those provided for in other criminal or fiscal laws.

Furthermore, they shall be imposed without thereby affecting administrative or disciplinary sanctions and damages, if any.

Article 36. Violations committed aboard a Belgian aircraft in flight shall be deemed to have been committed in Belgium and may be prosecuted there even if the accused is not found on the territory of the Kingdom.

For the prosecution of such violations and of those specified in this law and the ordinances issued for its application, there shall have jurisdiction the King's attorney or the representative of the Public Ministry at the police court at the place where the violation was committed, at the place of residence of the accused, at the place where he may be found and, lacking any of the above, that at Brussels.

Articles 6 to 13 of the Law of April 17, 1878, which constitutes the preliminary title of the Code of Criminal Procedure, shall apply to violations committed aboard a foreign aircraft in flight in such

manner as if the act had been committed outside the territory of the Kingdom. However, a person guilty of a crime or misdemeanor committed aboard a foreign aircraft in flight may be prosecuted in Belgium if he or the victim has Belgian nationality or if the craft lands in Belgium after the violation.

For the prosecution of violations specified in the preceding paragraph, there shall have jurisdiction the King's attorney at the place of residence of the accused, or at the place where the accused may be found, or at the place of landing and, lacking any of the above, the King's attorney at Brussels.

Article 37. Aircraft whose flight documents as prescribed by the regulations are not produced, or whose registration marks do not agree with those on the registration certificate, may, at the expense and the risk of the operator, be detained by the authorities charged with supervision and with policing air navigation until the identity of the craft or the operator has been determined.

Aircraft which do not satisfy the regulations pertaining to airworthiness or for which fees, taxes, dues, or regulatory charges have not been paid, may also be detained under the conditions determined by the regulations until such regulations have been complied with.

Article 38. The office of chief inspector and inspector of air police may be conferred by royal ordinance on certain officials of the administration of aviation.

Royal ordinances making such appointments shall determine the place of residence of such officials and shall designate the inspectors under the jurisdiction of each chief inspector.

Article 39. The chief inspectors and inspectors shall have the power of an officer of the judicial police, auxiliary to the King's attorney. They shall be sworn before the trial court at the district of their residence.

However, their jurisdiction shall not be limited to the district of such courts.

In case of change of residence, the record of their having been sworn shall be registered with, and certified to the clerk of the trial court to which the new place of residence belongs.

Article 40. Chief inspectors and inspectors of the air police shall pursue, and record in reports that are prima facie evidence until the contrary is proved, any crimes, any misdemeanors or police violations on airdromes and installations thereof, or aboard any aircraft, and any violations of laws or regulations pertaining to air navigation which they might be asked to investigate at any place in the Kingdom.

For the pursuit of crimes and misdemeanors on airdromes and installations thereof and on board of aircraft, they shall have equality with, or even precedence over all other officers of the judicial police, with the exception of King's attorneys and magistrates, justices of the peace and the judicial officers of the prosecutor's offices.

They shall have power to seize aircraft, explosives, weapons and munitions, photographic equipment, films, and sketches, and all objects found in violation of provisions of law or the regulations.

When a violation specified in the law or the ordinances issued for its application is punished only by police penalties, the violator shall have the right of immediately paying the maximum fine and costs to the police officer. Such payment shall prevent further proceedings.

Article 41. Inspectors shall submit to the chief inspector all their reports within twenty-four hours.

Such reports shall be transmitted without delay to the officer representing the public Ministry at the police court, or to the King's attorney, depending on whether it is a simple violation or a misdemeanor.

Article 42. There are abrogated the Law of November 16, 1919, concerning regulation of air navigation and the Law of July 22, 1924, conferring on certain members of the administration of aviation the powers of officer of the judiciary police.

A royal decree shall fix the date on which this law will enter into force.

LIST OF OTHER LAWS

The Belgian Air Code, issued by the Ministry of Communications, Administration of Aviation, contains, in addition to the Law of June 27, 1937, reproduced herein in translation, the following laws, ordinances and regulations:

Royal Decree of March 15, 1954, regulating air navigation (Moniteur belge, March 26, 1954);

Ministerial Decree of January 16, 1957, designating customs airports (Moniteur belge, January 19, 1957);

Royal Decree of June 11, 1954, prohibiting flight over certain parts of the territory of the Kingdom (Moniteur belge, July 4, 1954);

Royal Decree of April 14, 1958, prohibiting flight over certain parts of the territory of the Kingdom (Moniteur belge, April 20, 1958);

Ministerial Decree of July 9, 1957, defining visual signals to be used in air traffic (Moniteur belge, September 13, 1957);

Ministerial Decree of July 9, 1957, prescribing position lights for certain aircraft (Moniteur belge, September 13, 1957);

Royal Decree of April 6, 1959, fixing fees for the use of certain public services pertaining to aerial navigation (Moniteur belge, May 1, 2, 16, 1959);

Royal Decree of March 15, 1954, fixing fees for the use of airdromes administered by the Administration of Airways (Moniteur belge, March 26, 1954);

Decree of the Regent of January 10, 1950, fixing taxes for checking and supervision in regard to the inspection of radio installation on board of aircraft (Moniteur belge, February 4, 1950);

Law of April 30, 1947, ratifying the International Civil Aviation Convention, signed in Chicago on December 7, 1944 (Moniteur belge, December 2, 1948).

BRAZIL

BRAZILIAN CODE OF THE AIR OF JUNE 8, 1938 (AS AMENDED TO 1947)¹

DECREE-LAW NO. 483 OF JUNE 8, 1938, TO ENACT THE BRAZILIAN CODE OF THE AIR

The President of the Republic of the United States of Brazil, by virtue of the powers vested in him by Article 180 of the Constitution:

Whereas it is necessary to provide the nation with a law for the efficient regulation of civil and commercial aviation:

Whereas the Brazilian law should embody the progress made in civil and commercial aviation throughout the world:

Whereas it is equally necessary that the Brazilian law be in harmony with the most recent conventions and with the present developments in aviation law:

Resolves to decree the following Brazilian Code of the Air which has been signed by the Ministers of State.

BRAZILIAN CODE OF THE AIR

Art. 1. The United States of Brazil shall exercise complete and total exclusive sovereignty over the airspace above its territory and the respective territorial waters.

Art. 2. The law of the air shall be subject to the conventions and treaties to which Brazil has adhered or which it has ratified, and to the present Code.

Art. 3. With respect to legislative or administrative matters, the law of the air shall be a matter of exclusive Federal jurisdiction.

Sole Paragraph. Functions of an administrative character may be delegated to the States of the Union so long as they are exercised subject to the supervision of the proper Federal authorities.

Art. 4. Military aircraft shall be considered a part of the territory of the country to which they belong no matter where they may be found, and, any other type of aircraft shall be so considered when over the high seas or over territory not belonging to any country.

Art. 5. Military aircraft shall be considered to be upon territory of the subjacent country whether in flight over it or after landing.

Art. 6. Acts shall be deemed to have been done in Brazil even when done on an aircraft which is considered foreign territory, if such acts have or tend to have consequences of a criminal nature or if they result in injury within the national territory.

Sole Paragraph. If such acts should originate on an aircraft which is considered Brazilian territory, but if their consequences touch upon foreign territory, they shall be subject concurrently to the Brazilian laws and to the laws of the foreign state.

¹ Published in *Diario Oficial* of June 27, 1938.

Art. 7. Rights pertaining to real property and interests of a private nature in aircraft shall be regulated by the law of its nationality.

Sole Paragraph. A change of nationality shall not prejudice rights previously acquired.

Art. 8. Seizure or other procedures referred to in Title 11, Chapter 2, of this Code shall be subject to the law of the place where the aircraft is found.

Art. 9. With respect to a contract of air transportation, the rules which regulate clauses releasing the liability of an aircarrier, fixing limits of liability lower than those established in this Code, or providing judicial proceedings for the deprivation of jurisdiction of the point of destination shall be a matter of public international law.

TITLE I—PUBLIC AIR LAW

CHAPTER I—THE NATIONAL COUNCIL OF AERONAUTICS

(As amended by Decree No. 2.961 of January 20, 1941.)

Art. 10. There is hereby instituted the National Council of Aeronautics, with its central office in the Capital of the Republic which shall be composed of native Brazilians of acknowledged moral fitness and competence in matters of aeronautics, whether technical, economic, or legal.

Sole Paragraph. The members of the Council shall be six in number: three selected by the Government from among Brazilians who meet the requirements set forth in this article; a high official in the Ministry of Highways and Public Works who is a specialist in matters pertaining to aviation; a high Army officer with training in aviation and of field rank; a high naval officer with training in aviation at the Naval War College. The nomination of all members of the Council shall be made by the Ministers of Highways and Public Works, of War, and of the Navy.

Art. 11. The National Council of Aeronautics, which shall function under the supervision of the Minister of Highways and Public Works and which shall be the administrative agency of the Government in matters pertaining to aviation, shall—

a) study the coordination of the activities of those public administrative agencies dealing with matters pertaining to aviation;

b) plan and present to the Government measures designed to facilitate air transportation and its development in Brazil;

c) study and render opinions on the suitability and advisability of ratification by the Brazilian Government of international conventions and agreements relative to air navigation, having recourse to the documents available in seats of learning and international organizations;

d) establish rules and principles which are to guide Brazilian delegates at international congresses and conferences on air navigation.

Art. 12. In addition, the National Council of Aeronautics shall—

a) render opinions with respect to proposed laws and regulations pertaining to air navigation, which the Government may submit for its examination;

b) state its position on matters which the Minister of Highways and Public Works, either on his own motion or upon request of any Minister of State, may deem convenient to submit for the consideration of the Council;

c) render opinions on such questions as may be raised by the public administrative agencies with respect to the application of conventions of this Code, or of laws and regulations relative to air navigation, by means of consultations initiated by the Minister of Highways and Public Works.

Art. 13. The National Council of Aeronautics shall be empowered, whenever it deems it convenient, to summon on its own initiative and for its purposes of information any person who by reason of special knowledge might be able to aid in the clarification of problems submitted to it for its consideration.

Art. 14. The members of the Council shall serve for a term of five years subject to reappointment.

Art. 15. The National Council of Aeronautics, with the aid of a permanent Secretary without vote, shall meet at least once a month in regular session, and, in extraordinary session, whenever it shall be deemed necessary.

Art. 16. The Council shall establish working methods and regulate its operations by means of internal rules.

Art. 17. The permanent Secretary of the Council shall be appointed by the Minister of Highways and Public Works from officials on the staff of his Ministry; and the personnel necessary to carry out the functions of the Council shall be selected by this person from officials on the staff of the Ministries of War, Navy, and Highways.

CHAPTER II—AIRCRAFT

Art. 18. For purposes of this Code, an aircraft shall be deemed every and any machine, suitable for transportation, which may rise and be flown in the airspace.

Art. 19. Aircraft shall be classified as public or private:

1. The following shall be deemed public aircraft:

a) military aircraft;

b) those which may be used by the State in the public service.

2. All others shall be deemed private aircraft.

Sole Paragraph. However, all aircraft commanded by persons on active duty with the National Armed Forces shall be deemed military; aircraft engaged exclusively in commercial or postal service shall be deemed private aircraft when operated by civilians.

Art. 20. Aircraft shall be deemed of the nationality of the State in which its certificate of registry is properly recorded, and they may not fly over Brazilian soil unless they have a nationality and one nationality only.

Sole Paragraph. Cases involving training flights by duly authorized aircraft shall be resolved according to the provisions of the regulations to be promulgated for this purpose.

Art. 21. Aircraft of nations which are signatory parties to international conventions ratified by Brazil, or to which it has adhered shall be permitted to fly over Brazilian soil, when this authorization has been given, or when there is special temporary authorization for this purpose.

Art. 22. Aircraft may be registered with the Brazilian Registry of Aircraft as private aircraft when it is owned exclusively:

- a) by a Brazilian;
- b) by a Brazilian legal entity with its main office in Brazil and with the sole management in the hands of Brazilians, and when at least $\frac{1}{3}$ of the entity's capital is owned by Brazilians domiciled here.

Art. 23. In accordance with the pertinent special regulations, all aircraft shall display distinctive registration markings so that they may be identified in flight.

Sole Paragraph. This requirement shall not extend to military aircraft whenever that is deemed expedient by the proper authorities.

Art. 24. All private aircraft must be furnished with certificates of airworthiness and registration and, when needed, with additional documents, in the manner and form prescribed by the administrative regulations.

Art. 25. The presence of radio communications equipment shall be required on board a private aircraft intended for transportation for hire with room for more than four passengers and with a range exceeding 200 Km., and the installation of such equipment shall always be contingent upon prior authorization.

Art. 26. The registration in the Brazilian Registry of Aircraft in accordance with Article 22 carries with it the automatic cancellation of any prior registration.

Sole Paragraph. The Brazilian Aircraft Registry shall be public, enabling any person to obtain a certified copy of matters recorded therein.

Art. 27. Any legal act or event which may change the legal situation of an aircraft shall be recorded in the Brazilian Registry of Aircraft and shall be noted in the certificate of registration.

CHAPTER III—AIRMEN

Art. 28. For purposes of this Code, the commander, pilot, navigator, mechanic, and radio operator actually serving the aircraft shall be deemed airmen and when provided with proper certificates of fitness and licenses, shall constitute the crew of the aircraft.

Art. 29. Certificates of fitness or licenses issued by a foreign government shall be of the same force and effect as domestic ones, by virtue of international conventions or of a decision of the competent authority.

CHAPTER IV—GROUND UNITS

Art. 30. Ground units shall be deemed airports, airdromes, customs airports and services which are necessary to, and which complement air navigation.

Art. 31. Airports or airdromes, depending on their use, shall be the land, water, or river areas constructed or adapted for aircraft to land or take off.

Paragraph 1. Airports shall be intended for public traffic and shall be open to any aircraft without discrimination as to ownership or nationality provided a landing fee is paid.

Paragraph 2. Airdromes may be designated for private use and may not be used by aircraft in commercial service.

Paragraph 3. A customs airport shall be any airport at which aircraft entering or departing from the national territory are required to land.

Art. 32. Accessory and complementary services shall be weather information services, radio-communications, guiding facilities for day or night flying, or any other services necessary for the safety and dependability of air navigation.

Art. 33. Ground facilities intended for use by private aircraft may be established with prior authorization and they shall operate subject to inspection by the competent authority.

Sole Paragraph. The authorization may be withdrawn at any time if facts which put in question the safety of air navigation are discovered.

Art. 34. Privately owned ground facilities, when expropriated by the government in whole or in part, shall be open to the public for air navigation for a fee to be established, which shall be uniform throughout the national territory for private aircraft of the same type.

Art. 35. Brazilian public aircraft shall have the right to land on any airport or airdrome without payment of a fee.

CHAPTER V—SCHEDULED AIR LINES

Art. 36. Scheduled airlines whether they have to land or not on the subjacent soil, shall be required to obtain a permit from the Brazilian Government from the time they enter Brazilian territory.

Art. 37. For purposes of granting a permit to a scheduled airline, proof of moral fitness and technical and financial capacity shall be required, and the Government shall have discretion to grant or to deny the permit in accordance with the demands of the public interest, and provided the following conditions have been met:

a) when they have proved by genuine and sufficient documents that they are properly organized in accordance with Article 22, clause b) of this Code if Brazilian, and if foreign as provided in Article 146 of the Constitution of the tenth of November 1937;

b) when they have stated the routes of air navigation which they intend to follow and the nature of the respective traffic;

c) when they have specified the airports and airdromes which they intend to use, subject in that respect to the provisions of the pertinent regulations;

d) when they have stated the personnel and the equipment at their disposal to carry out the transportation, and have furnished proof that they have been duly registered;

e) when they have undertaken to observe the schedules and rates pertaining to transportation and approved by the competent authority.

Art. 38. Airlines shall be national or international, and the Government shall distinguish them according to kind and their respective routes.

CHAPTER VI—AIR TRAFFIC

Art. 39. Flights of an aircraft over Brazilian territory shall be free so long as the restrictions set forth in the present Code and in the regulations promulgated under it are observed.

Art. 40. In exceptional cases, pertaining to external security or the maintenance of internal order, the Government may prohibit or restrict permanently or temporarily, and with immediate effect, air navigation over the national territory without incurring any liability for injuries or losses which may result from carrying out such a measure.

Art. 41. Only when the public interest requires it shall the Government be empowered to commandeer aircraft used by scheduled airlines, provided the owners are indemnified according to the laws in force.

Art. 42. A schedule for flights over Brazilian territory, with provisions for customs airports for intermediate points shall be set up by the public authorities.

Sole Paragraph. Every commander or pilot of an aircraft shall receive instructions from the competent authority as to the convenient air routes, concerning the safety of cities and control of traffic.

Art. 43. The competent authority, after having heard from the Ministries of War and the Navy, shall prescribe the location and extent of areas which are closed to private air navigation.

Sole Paragraph. Every commander or pilot of an aircraft who finds himself over a prohibited area, and who knows of that fact, shall be required to emit a distress signal, as provided in the administrative regulations, and to land as quickly as possible where he may properly do so outside of the above area.

Art. 44. Except in the case of *force majeure*, or by special authorization, no aircraft may take off except from an airport duly certified, and may land only on such an airport.

Paragraph 1. However, the authority regulating civil air navigation shall have discretion to designate certain areas in the national territory where, in the absence of an airport, aircraft may land upon any open area, be it land or water, outside inhabited sections, and take off from them.

Paragraph 2. These general authorizations shall be published, and shall only be granted temporarily.

Art. 45. Every aircraft which, coming from foreign soil, seeks to land on Brazilian territory may make the first landing only on a customs airport.

Paragraph 1. Conversely, all aircraft departing from Brazilian soil with a foreign destination shall make its last takeoff only from a customs airport.

Paragraph 2. The list of customs airports shall be published by the authority which regulates civil air navigation.

Art. 46. Except in the case of *force majeure*, duly proved, aircraft in the service of scheduled airlines may only follow the routes over the national territory which have been set out for them in the respective permits.

Art. 47. The national borders, whether sea or land, may be traversed by aircraft only over those points which have been designated for this

purpose beforehand by the competent authority upon advice of the interested ministries.

Art. 48. Air transportation between points within the national territory is hereby reserved to Brazilian aircraft. Exceptionally, the Government may permit foreign aircraft to undertake the transportation of mail within the country, as well as that of passengers between points not yet adequately served by Brazilian aircraft, and only until they are so served.

Art. 49. No private aircraft shall have the right to transport the following articles except with special authorization, and with advice to the Ministers of War and Navy:

a) explosives, fire arms, munitions of war and any means or instruments of war, or carrier pigeons;

b) photographic and cinematographic equipment, unless they are delivered to the care of the commander of the aircraft and duly sealed at the airport of entry by the competent authority, and are thus safeguarded until the interested passenger leaves the aircraft or until the arrival at a customs airport on Brazilian territory.

Art. 50. If it is in the public interest, the Government may prohibit the transportation of baggage in a private aircraft, or may compel its inspection at customs airports.

Art. 51. No aircraft shall jettison as ballast anything except water or fine sand, nor shall it be permitted, during the flight, to throw overboard any object, with the exception of mail, announcements, handbills, loose printed matter, and only if there is special authorization therefor.

Art. 52. No aircraft shall engage in acrobatic flights or dangerous maneuvers over cities or crowds of people.

Art. 53. All aircraft shall be subject during flight as well as in the area of an airdrome or airport to the regulations pertaining to lights and signals and to the general rules with respect to air navigation, promulgated by the competent authority.

Art. 54. Without prejudice to the rights granted to aircraft in scheduled air service, every private aircraft in flight over Brazilian territory shall be required to land upon being so ordered by signals from the ground that shall be provided in administrative regulations to be published by the competent authority, with advice to the Ministries of Public Works, of War and of the Navy.

Sole Paragraph. In the case of a manifest violation of the above provision an aircraft may be compelled to land by the use of force.

CHAPTER VII—CUSTOMS INSPECTION

Art. 55. Aircraft arriving from abroad and transporting passengers and merchandise shall be obliged to comply with the rules and provisions of the customs laws.

Art. 56. Every and all aircraft arriving from abroad shall be required to furnish the inspecting official boarding the aircraft at the time of its arrival with its registration papers, ship's papers and, if transporting cargo, with the cargo manifest in triplicate, which shall be visaed by the customs official.

Sole Paragraph. The ship's papers, after being examined and visaed shall be returned to the commander or the pilot with the exception of the second (2d) copy of the cargo manifest.

Art. 57. At the first airport at which an aircraft arriving from foreign territory lands, the competent authority shall record for customs purposes the name of the commander or of the pilot.

Sole Paragraph. The customs official shall, at the same time, verify whether the seal which locks the hatch or the access door of the cargo hold is intact and shall order the taking of an inventory of the shipment as reflected on the cargo manifest, as provided in the customs regulation, in the event that there is any deviation.

Art. 58. If the seal is intact and the cargo correct, the third (3d) copy of the cargo manifest shall be signed after a "clearance" by the official on duty and shall be delivered to the commander or the pilot to be returned to the fiscal authorities of the foreign country where the aircraft originated.

Art. 59. When the aircraft, for any reason, has to land at any point of the national territory, there shall be recorded upon the ship's papers by the inspecting official of the place, or in his absence, by any other official, civil or military, the reason for the landing and the statement that no cargo was unloaded in the place, and the seal of the cargo hold or hatch was intact.

Art. 60. Aircraft cargo within the national territory, with a foreign destination, shall be loaded in accordance with their respective cargo manifests in the presence of a customs official who shall check them at the hatch or door of the cargo hold, affixing thereon a seal.

TITLE II

CHAPTER I—THE RIGHT OF FLIGHT OVER PRIVATE PROPERTY

Art. 61. The right of flight over private property shall not impair the right of property on the ground as defined by the civil laws.

Sole Paragraph. The owner of the land may not oppose the departure of an aircraft compelled to land upon his property except that he has the right of attachment as security for the reparation of damages, if any, caused by the aircraft.

CHAPTER II—SEIZURE AND OTHER PREVENTIVE PROCEDURES

Art. 62. The seizure or any other preventive act in assertion of rights, resulting in the attachment of an aircraft, in defense of a private interest, which is initiated by the owner, creditor, or holder of any title in interest in the realty against the aircraft without recourse to a prior judicial condemnation, shall not be permitted when it concerns an aircraft of the State.

Art. 63. The right of the property owner shall not be prejudiced by any measure of security decreed against the person who has lawfully obtained possession of the aircraft.

Art. 64. Any interested party may avoid any of the measures provided in Art. 62, by means of the securities indicated in Art. 104.

Paragraph 1. If the security does not cover the interest claimed, an interested party may furnish sufficient funds in escrow.

Paragraph 2. Upon the presentation of proof of the existence of the security, the judge shall refuse the seizure or shall lift it, if it has already been made, and shall transmit his decision to the competent authority, and to the guarantor, if any, in order that the security may stand to cover directly the interest claimed.

Art. 65. Whenever without just cause there is exercised over an aircraft any of the preventive measures referred to in Art. 62, the person that has recourse to those measures shall be answerable for injuries and losses, as provided by the civil laws.

Art. 66. None of the provisions of this Code shall bar the issuance of an order for impounding of personal property or for its seizure or any measures applicable in the case of insolvency, nor the measures to restrain, in case of breach of the laws and regulations of customs or of health or police.

CHAPTER III—AIR TRANSPORTATION

Art. 67. For purposes of the present Code a carrier shall be deemed a natural or legal person engaged in air transportation for profit.

Art. 68. The carriage shall be deemed domestic and subject to this Code if, in accordance with the terms stipulated by the parties, the point of departure and the destination are located within the national territory whether or not there is an interruption or a change to a connecting plane.

Sole Paragraph. International transportation, in the absence of a convention or treaty, shall be regulated by the provisions of this Code.

Art. 69. Various hauls made in succession by several carriers shall be deemed a single operation provided the parties agreed to treat it as a single operation.

Sole Paragraph. The carriage shall not lose its character as domestic if the aircraft, by reason of *force majeure*, makes a stop on foreign territory, if otherwise, its departure and destination points are on Brazilian territory.

CHAPTER IV—DOCUMENTS OF AIR TRANSPORTATION

FIRST SECTION—FLIGHT TICKET

Art. 70. In passenger transportation, the carrier shall be required to issue a flight ticket which shall state:

- a) the place and date of issuance;
- b) the points of departure and destination;
- c) the name and address of the carrier or carriers.

Art. 71. The absence, incorrectness, or loss of the ticket shall not affect the existence or the validity of the carriage contract, which shall continue to be governed by this Code.

Sole Paragraph. A carrier which accepts a passenger to whom no flight ticket has been issued shall not be entitled to avail himself of the provisions of this Code which exclude or limit his liability.

SECOND SECTION—BAGGAGE CHECK

Art. 72. With respect to the transportation of baggage, excepting small objects which passengers maintain under their control, the car-

rier shall be required to deliver a baggage check executed in two copies, one for the passenger and the other for the carrier, which shall state:

- a) the place and the date of issuance;
- b) the points of departure and destination;
- c) the number of the flight ticket;
- d) the number and weight of pieces of luggage;
- e) the declared value, if any.

Art. 73. The absence, incorrectness, or loss of the baggage check shall not affect the existence or the validity of the carriage contract, which shall continue to be governed by this Code.

Sole Paragraph. If the carrier accepts baggage without delivery of said check or if the latter does not contain the information indicated in clauses c), e), and d) of the preceding Article, the carrier shall not be entitled to avail himself of the provisions of this Code which exclude or limit his liability.

THIRD SECTION—THE BILL OF LADING

Art. 74. In the transportation of merchandise, and notwithstanding the provisions of the sole paragraph, the carrier shall require from the shipper the execution and delivery of a document called "bill of lading."

Sole Paragraph. If the carrier has asked the shipper to execute a bill of lading it shall be deemed, absent proof to the contrary, to have been executed for him.

Art. 75. The bill of lading shall be executed in three copies and shall be delivered by the shipper with the merchandise.

Paragraph 1. The first copy, which shall bear the notation "for the carrier" shall be signed by the shipper.

Paragraph 2. The second copy which shall bear the notation "for the consignee" shall be signed by the shipper and by the carrier and shall go with the merchandise.

Paragraph 3. The third copy shall be signed by the carrier and shall be delivered by the latter to the shipper after accepting the merchandise.

Art. 76. When there is more than one piece the carrier may require the shipper to execute separate bills of lading.

Art. 77. The bill of lading shall state:

- a) The place and date of issuance;
- b) the points of departure and destination;
- c) the name and address of the shipper;
- d) the name and the address of the first carrier;
- e) the name and the address of the consignee, if applicable;
- f) the nature of the merchandise;
- g) the number, the type of packaging, the descriptive marking or numbering of the pieces;
- h) the weight, quantity, or dimensions of the merchandise;
- i) if the merchandise is shipped, payment on delivery, the price of the merchandise, and also, the amount of the charges;
- j) the declared value, if any;
- k) the number of bills of lading;

l) the documents delivered to the carrier that are to accompany the bill of lading;

m) the length of time and summary description of the route to be followed if such has been stipulated.

Art. 78. If the carrier accepts the shipment without the proper bill of lading, or if it does not fulfill all the requirements of the preceding article, from clause a) to clause h), inclusive, he shall not be entitled to avail himself of the provisions of this Code which exclude or limit his liability.

Art. 79. The shipper shall be answerable for the accuracy of the statements and declarations stipulated on the bill of lading, and for the damage which, by reason of his statements and declarations, if they are incorrect, inexact, or incomplete, may cause loss to the carrier or to any other person.

Art. 80. The bill of lading, absent proof to the contrary, shall be evidence of the execution of the contract, of the receipt of the shipment, and of the terms of carriage.

Art. 81. The statements on the bill of lading with respect to weight, measurements, and packaging of the shipment, as well as the number of pieces, shall be conclusive, absent proof to the contrary; those relating to quantity, dimensions and condition of the shipment may be used as evidence only against the carrier, if, in this respect, the carrier ascertained them in the presence of the shipper and noted them on the bill of lading.

Art. 82. The absence, incorrectness, or loss of the bill of lading shall not preclude the existence or validity of the contract of carriage, and it shall remain subject to the rules of this Code providing the terms of Article 78 are observed.

CHAPTER V—CIVIL LIABILITY

FIRST SECTION—CONTRACTUAL LIABILITY

Art. 83. The carrier shall be liable for any damage resulting from the death or bodily injury of a passenger by accidents occurring on board an aircraft while in flight, or while in the operations of boarding or leaving the aircraft, when they are the result:

- a) of a defect in the aircraft;
- b) of negligence of the crew.

Sole Paragraph. In cases of gratuitous transportation or carriage of a complimentary nature, responsibility shall be limited to those injuries resulting from intent or gross negligence.

Art. 84. The carrier shall be liable for any damage resulting from the destruction, loss, or damage of the baggage shipped, or of the merchandise, in accidents occurring during transportation by air.

Art. 85. Air transportation, for purposes of the preceding article, shall encompass the time during which the baggage or the merchandise are within the control of the carrier, whether at the airport, on board the aircraft, or some other place in the event of a landing outside of an airport.

Art. 86. Air transportation shall not embrace transportation by land, by sea, or on navigable waters, effected outside of an airport.

Sole Paragraph. If in the performance of the contract of air transportation any of the above should be utilized in order to haul, deliver or make a connection, any damage shall be deemed to have occurred during transportation by air, absent proof to the contrary.

Art. 87. The carrier shall be liable for any damage resulting from delay in the transportation by air of passengers, baggage or merchandise at the rate of ten per cent (10%) of the loss caused to the passenger, and in the other cases, of the value of the merchandize.

Art. 88. In any of the cases mentioned above, the carrier shall not be liable if he establishes in a satisfactory manner that measures were adopted by him or his agents to avoid the damage, or that it was impossible to do so.

Art. 89. The carrier shall not be liable for his agents in the transportation of merchandise or baggage, if he establishes that the damage was the result of pilot error, the operation of the aircraft, or an error of navigation, and that, in every other respect, the necessary measures were adopted by him or by his agents to avoid the damage.

Art. 90. If the carrier is able to prove that the damage was caused by the person who sustained the injury, or that such person was a contributing cause thereof, his liability may be excluded or reduced.

Art. 91. In the absence of an agreement to the contrary, the liability of the carrier in the transportation of passengers shall be limited to one hundred thousand cruzeiros (Cr\$100,000.00) for each person.

Paragraph 1. In the absence of an agreement between the parties in the transportation of merchandise or baggage the liability of the carrier shall be limited to two hundred cruzeiros (Cr\$200.00) per kilogram weight.

Paragraph 2. With respect to small articles which the passenger retains under his care, the liability of the carrier shall not exceed four thousand cruzeiros (Cr\$4,000.00) per passenger, and shall be due upon the latter's claim unless it is contested by the carrier.

Art. 92. The nullity of a provision aimed at excluding liability of the carrier or establishing a limit lower than that set up in this Code shall not impair the validity of the contract for carriage.

Art. 93. When the damage results from the wrongdoing of the carrier or of his agent the provisions of this Code excluding or limiting his liability shall not apply.

Art. 94. The acceptance of baggage or merchandise by the consignee without objection, absent proof to the contrary, shall give rise to a presumption that they were delivered in good order and in conformity with the shipping document.

Paragraph 1. In the event of damage, the consignee shall protest directly to the carrier within three days of the date of the receipt of the baggage or seven days from receipt of the merchandise.

Paragraph 2. Any claim for delay shall be made not later than fifteen days from the day in which the baggage or merchandise was placed at the consignee's disposal.

Paragraph 3. Any claim in the above cases shall be made by means of an exception noted in the shipping document itself, or by a separate writing.

Paragraph 4. In the absence of protest within the period aforementioned, and barring any fraud by the carrier, no action will lie against him.

Art. 95. In the case of transportation carried out in succession by several carriers, each carrier taking on passengers, baggage, or merchandise, shall be subject to the provisions of this Code, which shall be deemed incorporated in the transportation contract.

Paragraph 1. In a case of this kind of transportation the passenger or those succeeding to his rights shall have a right of action only against the carrier who was effecting the portion of the transportation during which the accident or delay occurred, unless by express stipulation, the first carrier undertook the responsibility for all the risks of the haul.

Paragraph 2. With respect to baggage or merchandise, the shipper shall have a cause of action against the first carrier, and the consignee, to whom direct delivery is to be made, against the last. Either one or the other may bring an action against the carrier who effected the transportation during which the destruction, loss, damage, or delay occurred. These carriers shall be jointly liable to the shipper and the consignee.

SECOND SECTION—LIABILITY TO THIRD PARTIES

Art. 96. The provisions relative to the liability of a carrier to third parties, shall embrace any aircraft which operates over Brazilian territory, whether public or private, domestic or foreign.

Art. 97. Any damage caused by an aircraft in flight, while executing takeoff or landing procedures, to individuals or to property on the ground shall give rise to a right of indemnification.

Sole Paragraph. Such liability may be reduced or excluded only to the extent that the injured party was at fault.

Art. 98. Under the same conditions, there shall be indemnification for any damage caused by an object or substance falling from an aircraft, or being thrown from it except in the execution of jettisoning as required by the regulations, or as a result of *force majeure*.

Art. 99. Damages caused by an aircraft while resting on the ground shall be governed by the common law.

Art. 100. The following shall be jointly liable for damages referred to in the preceding articles:

- a) the person in whose name the aircraft is registered;
- b) the person who uses or operates the aircraft;
- c) whoever on board the aircraft caused the damage, except in the case of an intentional act perpetrated by an unknown person upon equipment not in use and which the carrier or his agents were unable to prevent.

Sole Paragraph. In any case, the execution of this responsibility shall devolve principally upon the surety established by Articles 103 *et sequitur*.

Art. 101. Any of the persons jointly liable may have recourse against the person who caused the damage.

Art. 102. The joint liability with respect to each accident shall be limited;

- a) in the case of physical injury or death, to a maximum recovery of one hundred thousand cruzeiros (Cr\$100,000.00) for each person;

b) in the case of damage or destruction of property to a recovery equal to the fair value of the property.

Sole Paragraph. The person liable shall not be entitled to benefit by these limits, if the party in interest can prove that the damage was the result of intentional wrongdoing.

THIRD SECTION—SURETIES AS TO LIABILITY

Art. 103. The natural or legal person, in whose name the aircraft is registered or in whose name it is operated, shall be surety for the indemnification, in the manner and within the limits established in this Code in regard to injuries to persons or property which the aircraft may cause.

Art. 104. Such security, at the option of the carrier, the owner, or the operator of the aircraft may consist of the following:

a) in the assurance that the liability is covered by insurance furnished by a reliable organization approved by the competent authority;

b) in a bond or suitable security, approved by the Government, from a person or enterprise with its domicile or general office in Brazil;

c) in the deposit beforehand of money or securities.

Art. 105. For purposes of the above provision, the issuance or re-issuance of a certificate of airworthiness to an aircraft may be subordinated to the furnishing of any of the above securities.

Art. 106. If the security consists of an insurance contract, the certificate of airworthiness of the aircraft may be withdrawn at any time if the owner, carrier, or operator is unable to prove that he is complying regularly with the conditions of the respective policy and, particularly, with the timely payment of the premiums.

Art. 107. There shall be required of aircraft registered in a foreign country, as indemnification for damages that they may cause to persons or property on Brazilian territory, the furnishing of security at least equal or considered equivalent to those of Brazilian aircraft.

Art. 108. Any person who has a right to payment for damage shall have a direct claim upon the security furnished by the party responsible within the limits of the amount to which he is entitled.

CHAPTER VI—AVIATION INSURANCE

Art. 109. Any interest which depends upon air navigation, which does not arise from intentional wrongdoing may be insured against all risks, subject, however, to the general laws, including cases involving abandonment.

Art. 110. The owner or operator of an aircraft may insure it up to its total value against the risks of air navigation.

Art. 111. In the absence of an agreement to the contrary, the insurance shall not extend to losses or damages attributable to the fault of the owner or a defect in the machine itself.

Art. 112. The certificate of airworthiness of an aircraft which is covered by the insurance shall be referred to in the respective contract by a statement of the insured.

Sole Paragraph. Every aircraft which is furnished with this certificate in the absence of proof to the contrary, shall be presumed to have departed in a condition of airworthiness.

Art. 113. In the event of loss or damage, if the aircraft is not repairable, it may be surrendered to the insurers, as long as the extent of the loss amounts to three fourths ($\frac{3}{4}$) of the value.

Sole Paragraph. In the case of disappearance, abandonment shall be admitted three months after receipt of the last news from the aircraft.

Art. 114. In the life insurance policies or accident insurance, the interested parties may not exclude the risks arising from the transportation of the person insured on scheduled lines of air transportation.

Art. 115. The insurance of the crew on board shall be required, including those who may be required from time to time to fly in the service of the owner, carrier, or operator of the aircraft.

Art. 116. The carrier may provide, for additional charges, insurance on persons or property being transported, provided he proves that he has obtained general insurance coverage with a company licensed by the state in an amount equal to twice the maximum limit of liability required of an aircraft of greater capacity in service.

Art. 117. The insurance referred to in the preceding article, may be replaced with a deposit at a public institution, or in a bank which is so authorized by the State, or with a banker's bond.

Paragraph 1. The value of this security shall be at least five hundred thousand cruzeiros (Cr\$500,000.00).

Paragraph 2. If the carrier has more than two aircraft in service, the face amount of the security shall be twice that fixed by the preceding article.

Paragraph 3. After such coverage has been reduced by the payment of an indemnity, it shall be replenished to the established amount.

CHAPTER VII—AID AND RESCUE

Art. 118. Every commander or pilot of an aircraft in flight, without endangering his own safety, shall aid anyone at sea or on board an aircraft in danger who is in peril of his life or may have suffered injuries.

Art. 119. The duty to aid, within the terms of the preceding article, shall also attach upon receiving the radio telegraph signal SOS unless the person in danger is at such a distance that no assistance of value can be rendered.

Art. 120. No liability shall be incurred by the owner, the carrier, or the operator of an aircraft for the failure of the commander or pilot to comply with the duty of aid or rescue, except in the case where an order has been given that it should not be rendered.

Art. 121. For purposes of the preceding articles, jurisdiction over the waters or the kind or nationality of the aircraft shall not be taken into consideration.

Art. 122. Every act of aid shall give rise to a right of compensation proportional to the work and the effectiveness of the rescue which, in the absence of any agreement, shall be judicially determined and apportioned.

Sole Paragraph. There shall be no compensation if the aid has been refused expressly and with good reason.

Art. 123. An agreement for aid or rescue made in the moment of peril or while under its influence shall be subject to amendment or annulment by a court whenever the compensation is deemed excessive.

Art. 124. The compensation shall be computed on the following basis:

a) the effectiveness of the rescue, the effort and merit of those who took part in it, the risks which they incurred, the time expended, the expenses or damages which they sustained;

b) the value of the thing or person that has been rescued, limited to a maximum of one hundred thousand cruzeiros Cr\$100,000.00) for each salvage.

Art. 125. In the case of salvage of an aircraft, the owner of the baggage or merchandise being transported shall contribute an amount proportionate to the respective value.

Art. 126. In the case of salvage operations involving air mail, the carrier thereof shall contribute an amount proportionate to the charges.

CHAPTER VIII—MIDAIR COLLISIONS AND ACCIDENTS

Art. 127. A midair collision shall be deemed any collision between two or more aircraft in motion.

Sole Paragraph. The damages caused by an aircraft in motion to another aircraft also in motion and to persons aboard, shall be deemed losses of midair collision even though they are not the result of a collision.

Art. 128. The duty of indemnification for losses in case of a collision shall attach to the operator of the aircraft at fault.

Art. 129. Whoever has the aircraft within his control and who uses it for his own benefit shall be deemed the operator thereof.

Sole Paragraph. In case that the name of the operator is not recorded in the Brazilian Registry of Aircraft, the owner shall be deemed the operator, absent proof to the contrary.

Art. 130. If both of the aircraft in collision be at fault, the liability shall be divided in proportion to the gravity of the errors committed.

Sole Paragraph. In the event that it is impossible to establish the proportion, the liability shall be divided equally.

Art. 131. Notice of the collision to the authorities at the airport nearest to the accident shall be required for the limits of liability set forth in this Code to be in effect, provided however that the aircraft are subject to the jurisdiction of Brazil.

Sole Paragraph. Over the high seas, this notice shall also be required of Brazilian aircraft.

Art. 132. With respect to a serious accident in commercial aviation, the principles of maritime commercial law shall apply as well as the provisions of mercantile law pertinent to that medium, and in that case the aircraft shall be treated as a ship.

Sole Paragraph. A minor or special accident shall be controlled by the provisions of the common law.

CHAPTER IX—ENVIRONS OF AIRPORTS AND AIRDROMES

Art. 133. Property in the environs of airports and airdromes shall be subject to special restrictions.

Paragraph 1. The restrictions referred to in this article shall have reference to the use of property in regard to installations, buildings or plants which may impede the departure or landing of aircraft.

Paragraph 2. The Government shall designate the areas adjoining the airport and airdrome within which maximum altitude of the obstacles shall be established.

Paragraph 3. The Government, in special cases, may allow obstacles having a higher altitude.

Paragraph 4. The limitations of the areas and of the obstacles may only be changed by orders of the National Council of Aeronautics which, under exceptional circumstances, may restrict or enlarge the area established.

Art. 134. In the absence of natural boundaries, the boundaries of airports and airdromes shall be fixed by an adequate system of visible markings.

Art. 135. A plan of restrictions on the use of neighboring properties shall be prepared by the competent federal authority, for each airport or airdrome, upon advice of the ministries who might have an interest in the matter and upon consultation with the local, state, and municipal authorities.

Sole Paragraph. Such plan shall be approved by a decree.

Art. 136. Whenever such restrictions prevent erection of any building, the neighboring property owners shall have a right to compensation determined by the courts in the absence of direct agreement.

CHAPTER X—MORTGAGE OF AIRCRAFT

Art. 137. Aircraft may be the object of a mortgage which shall depend on recordation in the Brazilian Registry of Aircraft and which shall be copied in the pertinent certificate.

Sole Paragraph. An aircraft mortgage shall require a notarized instrument.

Art. 138. Aircraft which are subject to mortgage in this country shall not be capable of conveyance outside the country without the express consent of the creditor.

Art. 139. The preference in favor of the mortgage creditor shall attach in the case of loss or expropriation of the aircraft to the compensations paid by the person who caused the damage, by the insurer, or by the person expropriating it.

Art. 140. An aircraft mortgage shall be favored over any others, with the exception of the following:

- a) court costs or expenses intended to preserve the aircraft until a judicial sale;
- b) compensation due for assistance or rescue;
- c) fees for the use of an airport, or for services accessory to, or in aid of aerial navigation;

d) expenses incurred by the commander of an aircraft, by virtue of the powers granted to him by law, when they were required for the continuation of a trip.

Art. 141. The preferences referred to in the previous article shall only apply up to six months after it has been established subject, however, in any case to the rules which regulate insolvency or the bankruptcy of creditors.

Art. 142. The instruments establishing the mortgage on aircraft shall state, in addition to the usual terms

a) the amount of the debt secured by the mortgage, or an estimate thereof;

b) the interest stipulated;

c) the time and place of payment;

d) the registration marks of the aircraft.

Art. 143. The owner of an aircraft that has been mortgaged may subject it to other mortgages, which shall have priority in the order of their recordation.

Art. 144. An aircraft which belongs to two or more owners may not be mortgaged without the express consent of all the owners.

Art. 145. A mortgage on an aircraft shall be extinguished

a) by the loss of the aircraft;

b) by renunciation on the part of the creditors;

c) by the extinction of the principal obligation;

d) by judicial discharge or court decision.

CHAPTER XI—FLIGHT CREW

Art. 147. Only native Brazilians on duty with the military service, or naturalized citizens who have been in the military service of Brazil, may carry out professional functions on a national aircraft.

Sole Paragraph. The exercise of those functions, by aliens not in a professional capacity, shall depend in each case upon a special license by the Government in its discretion.

Art. 148. Any aircraft intended for service as a commercial carrier shall have on board a technician vested with the powers of commander, in the manner specified by the regulations in force.

Sole Paragraph. In an aircraft of minimum capacity or value it is permissive to designate a commander who may be the pilot or the navigator.

Art. 149. In the documents provided for in Art. 24, shall be recorded the name of the commander chosen by the owner of the aircraft, by the carrier, or by the operator of the aircraft.

Art. 150. The commander vested with the powers of authority and discipline on board the aircraft shall be the representative of the owner, the carrier, or operator, for the duration of the trip, as well as the depositary of the goods and baggage shipped.

Art. 151. For the duration of the trip and without prejudice to the jurisdiction of the police authorities at airports, the commander shall have authority over the crew of the aircraft and over the passengers, and require them to observe the laws and regulations pertaining to air navigation and take any disciplinary measures expressly provided.

Art. 152. As the representative of the owner, carrier, or operator, the commander of the aircraft may, without special authorization, and notwithstanding the provisions of Articles 153 and 154;

- a) purchase anything necessary to the continuation of the trip;
- b) contract for repair services which the aircraft may need;
- c) raise funds to carry out the above measures;
- d) employ the best means to act so as to safeguard the rights and interests of the owner, carrier, or operator.

Art. 153. The powers referred to in the preceding article may be enlarged or restricted, provided however that in such case they shall be binding on third parties only when embodied in the documents referred to in Article 24 of this Code.

Art. 154. The powers of commander as representative of the owner, carrier, or operator shall only be exercised where none of them maintains a permanent agent or commercial representative.

Art. 155. As the depositary of the merchandise and baggage, the commander shall exercise due care in its safekeeping and for that purpose he may, in the absence of special authorization, carry out any measures necessary therefor as the agent of the owners, carriers, or operators, respectively.

Art. 156. It shall be incumbent upon the commander of the aircraft, within the purview of the special regulations that may be promulgated, to perform the functions of a public official, empowered to execute a certificate of a birth or a death occurring on board.

Art. 157. A commander, or any crew member, who without good cause abandons the performance of his duties during a trip shall answer to the owner, carrier or operator, to the passengers or shippers, for losses or damages resulting from his negligence.

Art. 158. A commander shall answer for intentional wrongdoing or negligence to the owner, carrier, or operator, who shall have a right to recoup from him for any compensation for which they may be liable to third parties, for acts done at his direction.

CHAPTER XII—CAUSES OF ACTION AND LIMITATIONS

Art. 159. Causes of action in the field of aviation shall be subject to a statute of limitations.

Paragraph 1. The period for instituting any action shall be two years, measured as follows:

- a) in actions arising from carriage: from the date of arrival or from the date when the aircraft should have arrived at its destination, or from the time of interruption of the carriage, or from the date of the delivery of the merchandise;
- b) in actions for compensation in cases of aid or rescue: from the completion of the service;
- c) in actions involving builders, engineers and architects: from the construction, certification and designs of aircraft, counting from the day of delivery and acceptance of the aircraft, in the case of contract work, and from its conclusion in the case of construction by the administration.

Paragraph 2. If the party in interest proves that he does not have knowledge of the loss, or of the person liable therefor, within

the term of 2 years, the period of limitation shall begin to run from the day on which he obtained such knowledge.

Paragraph 3. However, this period shall definitely terminate at the end of 3 years from the loss.

Art. 160. It shall be incumbent upon an air carrier to retain its copies of the transportation documents until the end of the most extended period of limitation (3 years).

TITLE III—VIOLATIONS AND PENALTIES

Art. 161. There shall be imposed a penalty of from five hundred cruzeiros (Cr\$500.00) to two thousand cruzeiros (Cr\$2,000.00), and in addition the possible suspension of the license pertaining to the certificate of fitness, upon any person who, without special authority or proof of *force majeure*:

- a) pilots an aircraft over a city or crowd of persons at an altitude lower than that established by regulation;
- b) performs acrobatic flights or dangerous maneuvers over a city or a crowd of persons;
- c) pilots an aircraft without the proper markings of nationality and registration, with the exception of the provisions of the sole paragraph of Art. 23.
- d) pilots an aircraft without the proper certificate of airworthiness, or without the same having been properly renewed;
- e) pilots or mans an aircraft without the necessary certificate of fitness and the corresponding license, or without these having been properly renewed.

Art. 162. There shall be imposed a fine of from one thousand cruzeiros (Cr\$1,000.00) to three thousand cruzeiros (Cr\$3,000.00) and in addition the possible suspension of the license pertaining to the certificate of fitness, upon any person who:

- a) violates the general rules of aerial navigation, whether during a flight or in the vicinity of airports or airdromes;
- b) pilots an aircraft without the documents prescribed by law or regulations;
- c) violates or fails to comply with the provisions of the regulations relative to the use of these documents.

Art. 163. In the case of recurrence of any of the violations to which the preceding articles have reference, by an aircraft belonging to the same owner, carrier or operator, the certificate of airworthiness may be withdrawn.

Art. 164. There shall be imposed a fine of from two thousand cruzeiros (Cr\$2,000.00) to five thousand cruzeiros (Cr\$5,000.00) upon any person who:

- a) uses on board an aircraft, without special authorization, any photographic equipment or any object the operation or use of which is prohibited;
- b) uses, without authorization, any aircraft which has not been recorded in the proper registry, or who permits its use;
- c) obstructs or renders difficult the prompt identification of an aircraft, whether by changing its markings or distinguishing symbols or by obstructing the view of them, excepting however the provision in the sole paragraph of Art. 23;

d) violates, or fails to comply with the provisions of the regulations pertaining to lights and signals as used by aircraft or ground units;

e) wrongfully throws substances or objects from an aircraft, or fails to observe the provisions respecting jettisoning;

f) violates the provisions relative to the duty of rescue.

Art. 165. There shall be imposed a fine of from five thousand cruzeiros (Cr\$5,000.00) to ten thousand cruzeiros (Cr\$10,000.00) upon any person who:

a) constructs airdromes, or any other ground unit of a permanent nature without the required authorization;

b) operates without the necessary franchise a scheduled line of air navigation.

Art. 166. There shall be imposed a fine of from ten thousand cruzeiros (Cr\$10,000.00) to fifty thousand cruzeiros (Cr\$50,000.00) upon any person who:

a) pilots over national territory, without special permission or international convention, any foreign aircraft;

b) flies wrongfully over restricted areas.

Art. 167. The penalties provided for in the preceding articles shall be imposed by the competent administrative authority and graduated according to the gravity of the violations.

Art. 168. Violations against the security of the means of transportation, which constitute a crime as provided in the penal laws, shall be punished under the respective laws.

Art. 169. Smuggling, when practiced in air transportation, shall be punished with twice the penalty provided in the pertinent laws.

Art. 170. The provisions of this Code shall not impair the penalties imposed by laws or regulations of a military, police, fiscal, sanitary or customs nature.

TRANSITIONAL PROVISIONS

Art. 171. Only in the absence of licensed Brazilian airmen, as provided in Art. 147 of this Code, shall there be admitted foreigners who are duly qualified, in a temporary manner and under stated conditions.

Art. 172. The Executive branch of the Government is hereby authorized to promulgate regulations pertaining to customs inspection in the field of air navigation, establishing such fines and other penalties that may be necessary and that are not provided for in this Code.

Art. 173. Any provisions to the contrary are hereby abrogated.

PRESIDENTIAL DECREE No. 46,124, DATED THE 26TH DAY OF MAY, 1959 ¹

Indicating the procedure for entering Brazil and flying over its territory by foreign aircraft not engaged in scheduled service

The President of the Republic, in the exercise of the prerogatives vested in him by Article 87, Paragraph I, of the Constitution decrees:

Article 1. The entry into and flight over Brazilian territory by any foreign aircraft not engaged in scheduled international airline serv-

¹ Published in Diário Oficial, May 29, 1959.

ice shall be subject to the procedures established in this decree without impairing the powers and regulatory functions of the Departments of Customs, Police, Immigration or Public Health.

CHAPTER I—INITIAL PROVISIONS PERTAINING TO AIRCRAFT WHOSE ENTRY INTO THE TERRITORY DOES NOT REQUIRE AUTHORIZATION

Article 2. An aircraft registered in any of the countries parties to the Convention on International Civil Aviation (Chicago, 1944) shall be permitted to enter Brazilian territory and fly over its territory free of permit, in accordance with the first part of Article 5 of said Convention when such aircraft does not engage in traffic for profit (passengers and/or freight) or when such an aircraft transports for money but flies in transit, *i. e.*, without discharging or loading on Brazilian territory completely, or in part.

First Paragraph. However, the owner, lessee, or commander of the aircraft shall inform the authority at the customs air port (Article 16, item a) where the aircraft will land upon first entering into Brazil and which is the closest airport to the point of entry on the border and, except in those cases which are controlled by the sole paragraph of Article 5, the estimated date and time of arrival as well as the nationality markings and type of the aircraft. This report shall be made at least 24 hours in advance.

Second Paragraph. Aircraft shall not be deemed engaged in transport service for profit when carrying out the following functions:

- a. Flights for rescue work or religious assistance or in search and rescue of another aircraft;
- b. Trips for pleasure or business purposes, when the owner, shipper, or lessee of the aircraft is a natural person and travels on such trip;
- c. Trips of directors or representatives of companies or corporations, when the aircraft is owned, chartered, or leased by such company or corporation in whose service such directors or representatives are flying.

Third Paragraph. The authority at the airport of entry shall accept a written statement to that effect from the commander as sufficient evidence that the aircraft has undertaken such a trip with any one of the objectives indicated above, except in the case of evidence to the contrary.

Fourth Paragraph. On Brazilian territory those responsible for the aircraft shall proceed in the manner provided for in Chapter III.

CHAPTER II—INITIAL PROVISIONS PERTAINING TO AN AIRCRAFT WHOSE ENTRY REQUIRES AUTHORIZATION

Article 3. An aircraft registered in any of the countries which are parties to the Convention on International Civil Aviation (Chicago, 1944) when engaged in transportation for money (passengers and/or freight) in non-scheduled international air service destined in part or in whole for Brazilian territory may enter the national territory and fly over it only with authorization obtained beforehand from the Civil Aeronautics Board (Article 5 at the end of the said Convention).

Sole Paragraph. Where an aircraft is registered in a non-member country, such aircraft shall always require authorization obtained before hand from the Minister who has jurisdiction and, who may delegate such authority whenever he judges it convenient.

Article 4. The owner or operator (or his authorized representatives) of an aircraft may seek authorization directly from the Civil Aeronautics Board, but not less than 15 days before the estimated date of arrival of the aircraft at the first customs-airport in Brazil. If the party interested were to elect diplomatic channels, or in any case where the aircraft is registered in one of the non-member countries to the Convention, the period shall be at least thirty days.

The petition for clearance shall include the following information:

- a) the estimated date of arrival at the customs-airport of entry;
- b) the name, nationality, and domicile of the owner, or operator of the aircraft;
- c) the nationality and registration markings of the aircraft;
- d) the name of the commander of the aircraft and his nationality;
- e) the number of the crew, their positions aboard, and the country issuing their licenses;
- f) the route the aircraft will follow and whether the aircraft is equipped to fly under IFR;
- g) the customs-airport of entry in accordance with Article 5 of this Presidential Decree, the intermediate stops and the airport of final destination in Brazil, or the customs airport to be used upon departure;
- h) the reasons for the flight, the number of passengers and the freight to be transported (indicating the airport of origin and of destination, the nature of the freight and its approximate gross weight);
- i) the period of time desired for the stay of the aircraft in Brazil;
- j) in the case of transportation for money to points served by scheduled airlines, there shall be furnished papers enforming the approval of the licenses of each scheduled airlines.

Second Paragraph. In the public interest the Brazilian authority may refuse to grant authorization or in granting it may condition it upon other routes and stops.

Third Paragraph. Once authorization has been granted, it shall be effective only after it has been made known to the interested parties in any suitable manner.

Paragraph 4. While on Brazilian territory, the persons responsible for the aircraft shall act according to the applicable provisions of Chapter III.

CHAPTER III—CONSIDERATIONS APPLICABLE EQUALLY TO AIRCRAFT REQUIRING OFFICIAL AUTHORIZATION AS WELL AS TO AIRCRAFT NOT REQUIRING OFFICIAL AUTHORIZATION

SECTION A—ENTRY OF AIRCRAFT

Article 5. The entry of a foreign aircraft, whether destined for Brazil or in transit to another country shall be made with the re-

quired stop at the Brazilian customs airport (Article 16, paragraph a) closest to that point where the aircraft crosses the border except in those cases where authorization has been granted by the Civil Aeronautics Board to stop at another customs-airport.

Sole Paragraph. The authorization referred to in this article may be requested by telegram but it shall be effective only after receipt by the interested party abroad of a communication confirming such authorization.

Article 6. When approaching the border of Brazil a foreign aircraft shall establish communication with the flight safety service unit which it can contact, in order to obtain instructions for the flight to the customs airport for which it is destined. If an aircraft fails to establish such contact, it may maintain its course under visual flight conditions to that or the nearest other customs airport where it shall make a written declaration of that fact, for investigation.

Article 7. Upon landing at the first customs airport, the commander of a foreign aircraft shall fill out a questionnaire as to the aircraft, crew, passengers, and course (Art. 16), and shall submit to the authority the following documents:

- a) the certificate of registration of the aircraft;
- b) the certificate of airworthiness of the aircraft;
- c) the license of each crew member and the respective certificates (of technical proficiency and physical fitness);
- d) proof of insurance coverage against injuries to third parties on the ground (Art. 16, paragraph c).

First Paragraph. The airport authorities shall examine each of these documents and shall ascertain whether their contents are in agreement with the entries on the questionnaire.

Second Paragraph. When the airport authorities determine that the documents furnished are not in order and valid, in conformity with the Chicago Convention and its annexes, or if there is doubt with respect to any of the statements made in the questionnaire, concerning the nature of the transportation or the purpose of the trip, the aircraft shall be detained pending a decision of the Civil Aeronautics Board.

Third Paragraph. In any of the circumstances foreseen in the Second Paragraph, the airport authorities shall communicate by telegraph with the Board, which shall send instructions thereon within the shortest time possible.

Article 8. The Authorities at a customs airport shall communicate to the Police, Health and Customs authorities the estimated date and time of arrival at the national territory of each foreign aircraft (Articles 2, 3 and 4), and shall only permit the flight to be continued after all formalities related to the landing of passengers, crews, baggage, and freight have been met to the satisfaction of those authorities.

SECTION B—STAY OF AN AIRCRAFT IN BRAZIL

Article 9. The maximum period of stay on Brazilian territory of any aircraft referred to in Chapter I of this Decree, shall be 105 days, absent express extension by the competent authority.

First Paragraph. Upon the completion of 90 days from the date of the arrival of the aircraft at the first Brazilian customs airport

and if it is desired to extend that period, the owner, lessee, or commander shall communicate to the aeronautics authority how long he plans to have the aircraft remain in Brazil, in what States, Territories or regions it will be used and the airport where the aircraft will be based.

Second Paragraph. Such communications shall be made to the Civil Aeronautics Board either directly or through the airport authorities where the aircraft may be found upon the completion of the 90 day period—for consideration by the authority.

Third Paragraph. When the 105 days from the arrival of the aircraft at the customs airport of entry have expired and no extension of the stay has been granted in the manner set forth in the preceding paragraphs, the foreign aircraft shall be detained at the airport on which it is and from there it may take off only to depart from the national territory on the route and with the stops designated for it to reach the border in the direction of one of the adjoining countries.

Article 10. The period of stay and the route of the aircraft dealt with in Chapter II shall be set out in the authorizations granted. When the period has expired, the provisions of the third paragraph of Article 9 shall govern.

Article 11. Depending upon the circumstances and when the authorities of the Ministry of Aeronautics deem it necessary, any foreign aircraft shall be ordered to leave Brazil, or shall be prevented from any flight prior to departure, or shall be restrained to prevent its departure before doubtful aspects may be clarified concerning its flight or stay in Brazil, or fines or bonds to cover damages or injuries caused, have been paid.

First Paragraph. The detention of an aircraft shall be dependent upon an investigation or other formality which may be undertaken from the time when the Brazilian authorities have knowledge of the fact which, in their judgment, gives evidence of any of the violations referred to in the following paragraph.

Second Paragraph. The measures indicated in this Article shall be taken when regulations or laws have been violated generally, and specifically when any of the following violations or infractions have been committed:

a) Failure to observe the law, regulations, traffic rules or instructions which regulate the operation of foreign aircraft (articles 9, 10, 11, 12 and 13 of the Convention on International Civil Aviation, Chicago 1944);

b) effecting transportation for money (Article 7 of the Convention) by aircraft to which Chapter I pertains;

c) failure to pay fees for the use of the airport or failure to pay taxes and/or assessments upon the aircraft (Article 15 of the said Convention);

d) failure to pay fines which might be imposed upon the owner, charterer, or lessee of the aircraft and/or its commander for violation of laws, regulations, or rules pertaining to air traffic;

e) the use of the aircraft by third parties, of foreign or Brazilian nationality, directly or indirectly, or for the benefit and/or in the service of third parties even when flown by the same pilot who brought it into Brazilian territory;

- f) the illegal sale, charter, or hire of an aircraft to third parties either foreign or Brazilian while the aircraft remains in Brazil;
- g. the use of any manner of subterfuge or any other fraudulent means to avoid the observance of Brazilian laws and regulations on the matter of the entry of aircraft, on the matter of accessories and spare parts for the same, or of merchandise in general, and/or concerning dealings in foreign exchange.

SECTION C—FLIGHT OF AIRCRAFT IN BRAZIL

Article 12. Upon departure from the customs airport of entry, all flights by foreign aircraft shall follow the flight plan approved by the Brazilian authorities at each airport where the aircraft may land.

Article 13. For reasons of flight safety and as determined by the Directorate of Air Routes, flight plans which might encompass areas which are devoid of aids to air navigation shall not be approved.

First Paragraph. If, however, the commander of a foreign aircraft does not concur with the rejection of his flight plan, he may file a petition with the Directorate of Air Routes setting forth the routes to be followed and asking to be granted special permission as provided for in the second part of Article 5 of the Convention on International Civil Aviation (Chicago, 1944).

Second Paragraph. The petition referred to in the first paragraph may be presented to a flight safety agency which, in turn, shall submit it to the decision of the Directorate of Air Routes. The request shall not be given any consideration if the Directorate, upon examination of the particular case, judges that the flight is inadvisable due to unsafe conditions under which it would have to be carried out.

Article 14. At every airport where a foreign aircraft lands, the authorities shall verify the validity of the certificates of airworthiness of the aircraft, the certificates pertaining to each member of the crew, and the proof of insurance against damages to third parties while on the ground (Article 7, paragraphs b, c, and d) as well as whether the period of stay is still unexpired.

SECTION D—DEPARTURE OF AIRCRAFT

Article 15. When leaving Brazil, every foreign aircraft shall make a final landing on a Brazilian customs airport, where it shall indicate the first landing it will make abroad.

Sole Paragraph. The authorities at the customs airport shall permit the departure of the aircraft when the aviation authorities do not consider it disabled and after it has been cleared by the police, customs and health authorities, and such fact shall be immediately communicated to the Division of Traffic and the Civil Aeronautics Board.

CHAPTER IV—GENERAL PROVISIONS

Article 16. The Ministry of Aeronautics shall publish, and revise as needed, the following information:

- a) the list of customs airports in operation in Brazil;
- b) a statement as to the countries which are members of the Convention on International Civil Aviation (Chicago, 1944), with a list of the nationality markings assigned to each country;

c) the approved insurance coverage against injuries to third parties on the ground;

d) the type of questionnaire referred to in Article 7 and any others which may be deemed suitable.

Article 17. In order that the procedures set out in this Decree might more feasibly be carried into effect and observed, the Ministry of Aeronautics, upon notice to the Commission for Studies Relative to International Air Navigation (CERNAI), may promulgate regulations deemed to be necessary, and the Civil Aeronautics Board shall, as a matter of course, establish an appropriate system of controls over the term of stay of foreign aircraft in Brazil, so organized that the facts concerning any aircraft shall be known at any and all times; that is, from the time it enters the national territory until it departs.

Article 18. The Directorate of Air Routes shall inform the units which constitute the Flight Safety Service as to those areas over which flight plans will not be approved (Article 13).

Article 19. This Decree shall take effect after the legal waiting period (Article 1 and accompanying paragraphs of Decree No. 4,657 of 9.4.42 and all preceding statutes to the contrary shall be abrogated.) Its provisions may be applied by the Ministry of Aeronautics, to those who desire it, prior to that term.

BULGARIA

LAW ON AERIAL NAVIGATION (DV No. 68, MARCH 24, 1948) AND
REGULATION CONCERNING CONTROL OVER AERIAL NAVIGATION (DV
No. 36, FEBRUARY 14, 1948)

LAW ON AERIAL NAVIGATION ¹

Section 1. The State shall have the monopoly of aerial navigation in the country. Aircraft and all aeronautical equipment shall belong to it.

Public organizations and private persons may not possess and use aircraft without permission from the Council of Ministers.

Section 2. The administration of civil aerial navigation shall organize and direct all activities of civil aviation. Exceptions shall be made upon decision of the Council of Ministers.

The organization, work structure, and scope of activity of civil aerial navigation [as well as], the rights and duties of its employees shall be governed by a regulation approved by the Council of Ministers.

This organization, work structure, and scope of activity of the [military] air forces [as well as] the rights and duties of their employees shall be governed by the law on the armed forces.

The organization and scope of activity of air sport shall be governed by a regulation approved by the Council of Ministers.

Section 3. Civil aircraft must be entered on the register for aircraft at the administration of civil aerial navigation. On registration they shall receive proper insignia and documents.

In order to fly, civil aircraft and persons who are aboard must meet the requirements prescribed in the special regulation approved by the Council of Ministers.

Section 4. Persons who have obtained training in aerial navigation shall receive a certificate of qualification (brevet).

Section 5. Foreign aircraft may fly over the country and land in it only with special permission, while aircraft of States with which Bulgaria has entered into an aerial navigation convention [shall fly] in accordance therewith.

The crew and passengers of these airplanes must possess the necessary documents and permits according to the laws and regulations of the country.

Section 6. Aircraft which fly over Bulgarian territory and persons traveling aboard may not carry objects of such a nature as to endanger the security of the country or to present a danger for the passengers and the aircraft.

Section 7. Air traffic over certain areas may be prohibited temporarily or permanently, entirely or up to a certain altitude.

¹ Published in Duzhaven Vestnik (Bulgarian Official Law Gazette, hereinafter abbreviated as DV), No. 68, Mar. 24, 1948. Since December 1950: IPNS.

Section 8. Foreign aircraft which are permitted to fly over Bulgarian territory must cross the borders at precisely fixed places and altitudes and follow fixed air routes.

Foreign aircraft may land only on airports open to them.

Section 9. No construction work may be done around airports without the permission of the aerial navigation authorities.

Section 10. Control over aircraft which fly over Bulgarian territory and do not land at the airports, issuance of permits to foreign aircraft to fly over the country, to take off or land in it during peacetime, shall belong to the jurisdiction of the Ministry of the Interior, to which all other government agencies as well as all citizens must render full assistance. This control shall be exercised according to the regulation approved by the Council of Ministers.

During a period of war, the control over aerial navigation shall be exercised by the Ministry of National Defense.

Section 11. Airport fees shall be fixed by ordinances issued by the administration of civil aerial navigation.

Section 12. [Repealed by Section 12 of the Edict on Pensions, Lump-Sum Remuneration, and Aids to Civil Aviation Pilots of February 17, 1953, IPNS No. 14].

Section 13. Pilots shall receive special remuneration for flying and remuneration for hours or kilometers flown by them in the amount and under the conditions indicated in a special regulation approved by the Council of Ministers.

Technicians and specialists in aerial navigation and all other aerial navigation personnel shall receive special technicians' and bonus remuneration. The amount and conditions for the receipt of such remunerations shall be fixed by a separate regulation approved by the Council of Ministers.

Persons employed in aerial navigation, when flying in an official capacity, shall have the right to remuneration under Paragraphs 1 and 2 of Section 12 as well as to remuneration for the hours and kilometers flown by them. [See section 12, supra.]

Section 14. For every violation of the provisions of this law and the regulations, ordinances and directives concerning aerial navigation issued pursuant to this law, the authorities of the Ministry of the Interior, the Ministry of National Defense, and the Ministry of Railroad, Automobile and Water Communications—the administration of civil aerial navigation—shall prepare a record which shall have full evidentiary power until the contrary has been proven. They may also make an investigation for clarification of the circumstances stated in the record and take proper measures against violators.

If necessary, they may contain [i.e., detain] the aircraft and persons aboard it until the question is settled by the competent authorities.

Section 15. For every crossing of the borders of the country without permit by an aircraft, for carrying prohibited objects, non-observance of the air routes when in flight, landing or taking off outside airports without [being in] distress; for [committing] a violation of the flight rules; for allowing persons not possessing proper documents in the aircraft; for failure to permit the control authorities to supervise the aircraft, the guilty persons shall be punished by imprisonment in a dark cell, unless another law provides more severe

punishment; and the aircraft and objects found in it may be confiscated.

Section 16. [Repealed by Section 334 of the Criminal Code of February 13, 1951, IPNS No. 13, as amended].

Section 17. [Repealed by the Law on the Court and the Government Attorney's Office in Transport Cases of February 24, 1950, DV No. 46 in connection with Regulation of the Council of Ministers of December 18, 1954, concerning creation of Department of Civil Air Transport "TABSO"].

Section 18. For all other violations of the present law and the regulations, ordinances and directives issued concerning aerial navigation pursuant to this [law], the authorities of the Ministry of the Interior, the Ministry of National Defense and the Ministry of Railroad, Automobile and Water Communications—the administration of civil aerial navigation—may impose fines of up to 100,000 leva, as determined by the same regulations. An order for punishment by fines of up to 10,000 leva shall not be subject to appeal.

Section 19. Regulations and ordinances shall be issued in implementation of the present law.

The present Law shall repeal the Law on Aerial Navigation together with all amendments and supplements as well as all other laws which contradict it.

The enforcement of the present Law shall be assigned to the Minister of the Interior, the Minister of National Defense and the Minister of Railroad, Automobile and Water Communications.

REGULATION CONCERNING CONTROL OVER AERIAL NAVIGATION ²

CHAPTER ONE—GENERAL PROVISIONS

Section 1. The present Regulation shall have the task of determining the conditions of crossing the border by aircraft and their flights over the territory (land and territorial waters) of the country [Bulgaria] in peace time.

Section 2. Control of the air traffic over the country [Bulgaria] shall be exercised by the Ministry of the Interior.

The regulation issued by the Minister of National Defense shall apply to Bulgarian military aircraft. For the observance of the rules concerning flights and landings outside of airports, they [military aircraft] shall be placed under the control of the supervisory authorities according to the present Regulation.

CHAPTER TWO—RIGHT TO FLY OVER BULGARIAN TERRITORY

Section 3. Bulgarian civil aircraft may fly, after they have been entered on the aerial navigation register at the Directorate of Air Communications and issued a permit for this purpose.

This permit shall certify the airworthiness of the aircraft and its Bulgarian nationality.

Section 4. No aircraft may fly over Bulgarian territory if they do not have the proper insignia and documents.

² Durzhaven Vestnik (Bulgarian Official Law Gazette), No. 36, February 14, 1948.

All Bulgarian civil aircraft must display the signs LZ and the colors of the Bulgarian flag on the vertical rudder of the tail.

[Amended by Resolution of the Council of Ministers of October 4, 1950, DV No. 234]. All Bulgarian military aircraft shall have, on both sides of their body, on the undersides and on the vertical rudder, a five-pointed star with red rays against a background of concentric red, green and white circles.

Section 5. All Bulgarian pilots who perform services in aircraft must, when flying, have certificates (brevet), a permit (flight order) and service identification cards while all other citizens, flying with them [must have] identification cards.

Section 6. No Bulgarian aircraft may take off without having a flight plan, certified by the commanding officer of the aircraft before departure; a permit for the aircraft; a document showing that [it] is registered; a logbook for the aircraft; and a list of the crew and passengers. If flying abroad [they must have] passports for all persons flying on the aircraft; permission of the respective States through which the aircraft is going to fly; while the pilots [must have] the documents prescribed in Section 5.

Section 7. Civil and military aircraft of States with which Bulgaria has entered into aerial navigation conventions shall observe the provisions of these conventions, as well as the law on aerial navigation and the provisions of the present Regulation, inasmuch as the latter have not been repealed by the same conventions.

Civil and military aircraft of States which do not have [entered into] aerial navigation conventions with Bulgaria may cross the borders, fly over, land in, and take off from the country only if they have special permission therefor.

Section 8. Requests to fly over Bulgarian territory by foreign aircraft shall be filed through the Ministry of Foreign Affairs.

In this request [the following] must be indicated: type and insignia of the aircraft; purpose of flight; route and time of flight; stay on Bulgarian territory; names of crew and passengers; declarations that the latter know the aerial navigation provisions of the country [Bulgaria], that [they] have valid documents in accordance with Sections 5 and 6 [of this Regulation] and that [they] do not carry explosives, military equipment, still cameras, movie cameras, pigeons and radio-sets, but the weapons [they do carry are accompanied by] a permit.

The flight permit and the papers according to Sections 5 and 6 must be carried in the aircraft.

Section 9. If the request [to fly] is for a civil aircraft, the permission shall be issued by the Ministry of the Interior, and if [the request] is for a military one, the permission shall be issued by the same ministry in concurrence with the Ministry of National Defense.

The permission must indicate the date; period of time for crossing the border; the border place over which the aircraft is going to fly; route and time of flight; period of time for the stay on Bulgarian territory; names of crew and passengers; declarations which they made; permissions and prohibitions which have been determined for them.

Section 10. A foreign aircraft which has permission to fly over Bulgarian territory must give notification thereof through diplomatic channels [within] 24 hours before the flight.

The notification may not be dispensed with by conventions; however, the time [of flight] may be amended or the notifications may be made once for several flights.

Section 11. Foreign aircraft which do not cross the border at the fixed time and place lose the right granted by the permission, and, in order to fly over, must request permission anew.

If such aircraft is damaged in the course of the trip or [has] excusable reasons and is able to fly over within 48 hours after the expiration of its time, it may ask by radiocable for an eventual prolongation of the time for flying over.

Section 12. As military aircraft shall be considered all [those] which:

- (1) have military persons among the crew (whether or not in uniform);
- (2) are included in the [military] air forces of a State;
- (3) carry arms or are equipped for carrying such [arms]; or
- (4) carry still cameras, movie cameras, or military equipment for observation or measurement [mapping].

Section 13. Foreign aircraft, when flying over Bulgarian territory, may not carry prohibited objects and persons. In case of violation, the object shall be confiscated, and the persons [shall be] detained.

Foreign aircraft may not carry: arms, explosives, military equipment, still cameras, movie cameras, pigeons and radio sets, with the exception of the radio sets which are aboard. They [the foreign aircraft] may be allowed to carry light weapons.

CHAPTER THREE—FLIGHT, LANDING AND DEPARTURE OF AIRCRAFT

Section 14. Aircraft may land on, and take off, from an airport, and in case of distress must try to land only on empty, unfenced places or on water.

No objects shall be thrown out of the aircraft except in cases of emergency.

Use of combat material on board aircraft shall be prohibited.

Section 15. Aircraft may not fly over inhabited areas, railroad stations, factories, construction [sites], electrical centers, dams, bridges, antennas, aircables, and the like at a height below 500 meters, nor perform acrobatic flights over such places, and over inhabited areas at a height below 800 meters.

Section 16. A foreign aircraft which has permission to fly over the country [Bulgaria] must cross the border at the place and time assigned and fly no higher than 500 meters measured from the highest point within a region of 5 kilometers; [must] fly in corridors as specified in the permission, without delay and deviation from its route; and [must] land only at the airport of Vrazhdebna [near Sofia] or at the airport specified in the [international] convention or the permission.

Section 17. After landing at the airport, the commanding officer of the foreign aircraft must present his documents and file a questionnaire-declaration, submitted to him by the airport authorities. Thereafter, the commanding officer, the crew and the passengers shall facilitate the control upon them and the aircraft. They shall observe the order of the airport and all police, customs, sanitary and financial

regulations in the country [Bulgaria], as well as pay all fees due. After the control and verification of flight plan, the foreign aircraft must take off at the hour [time] assigned in the route, fly in the corridor assigned, without delay and deviation from the route and cross the border at the time and place assigned, at a height below 500 meters, measured from the highest point within a region of 5 kilometers.

Section 18. A foreign aircraft which flies over the country [Bulgaria], has permission therefor and observes the aerial navigation regulations and its permission, shall enjoy the same assistance as Bulgarian aircraft, upon payment of the fixed fees.

Section 19. [Air] traffic in certain zones may be prohibited temporarily or permanently, entirely or below a certain altitude.

Places for crossing the border by foreign aircraft, corridors in which they may fly and zones prohibited to them shall be communicated to the foreign countries through diplomatic channels.

Section 20. A foreign aircraft which [flies³] over Bulgarian territory without permission, or if [it] has permission but does not cross the border at the time, place and height assigned, does not fly in the air routes, enters a prohibited zone, does not stop at the airport of Vrazhdebna or at the airport fixed in the convention or its permission, [if] parachutes or objects are dropped from it, [if it] causes damage, deviates from its air route or is late without communicating the cause for the tardiness, violates the laws and this Regulation, shall be warned by an order—signal for landing—by three shots, fired in an interval of 10 seconds, which are to oblige it to direct itself in the shortest way [possible] to the nearest corridor and [following] this [corridor] to fly towards the airport of Vrazhdebna or the airport fixed in the convention or its permit; in doing this it [must] fly below 500 meters of height.

If the aircraft does not obey the order—signal, it shall be forced by shooting or other compulsory means to fulfill the order; it may also be destroyed.

Section 21. After the shooting down of such aircraft, it and the persons aboard shall be detained, a record shall be drawn up by the authorities of the people's police or border armed forces, and the violators shall be delivered to the judicial authorities.

Section 22. If the aircraft falls or lands outside the airport, the authorities of the people's police and/or the border armed forces, with the assistance of all other state authorities, must immediately take proper measures to establish the reasons for the landing, the nationality of the aircraft, [and must take] measures for aid and for the detention of the aircraft as well as the persons aboard it, especially if [the aircraft] is a foreign one, flies without permission and has landed voluntarily.

In such cases, the authorities of the Ministry of the Interior shall draw up a record; if [persons] are killed [the authorities] shall immediately notify the nearest government attorney.

[In case an] aircraft has landed or crashed at the airport, its commanding officer must take measures that nobody leaves it [the air-

³Translator's Note: The original text does not contain this verb; there is only a blank space.

craft] and no objects are taken away from it and [that all] wait for the arrival of the authorities of the Ministry of the Interior, without the permission of which [the aircraft] may not fly off [depart].

After the arrival of the state authorities, the commanding officer, crew and passengers shall deliver their papers, permit control [of the aircraft] and, if so ordered, leave the aircraft.

If the control authorities do not arrive, the commanding officer shall, without leaving [the place], give signs and signals concerning the accident, for the purpose of informing the latter [the control authorities].

Section 23. An aircraft which has landed or crashed outside an airport may not fly off without permission of the authorities of the Ministry of the Interior; which [fact] shall be entered on its log.

If such an aircraft flies off without permission, it is to be given an order—signal for landing in accordance with Section 20.

Section 24. If the landed or crashed aircraft is Bulgarian, did not cause damage and has valid documents, it may be permitted to take off again.

If damage is caused [by it], the authorities of the Ministry of the Interior shall draw up a record and [then it] shall be released to take off.

Section 25. If the landed or crashed aircraft is foreign, has permission and did not commit a violation, a record shall be drawn up in accordance with Section 24 after this has been established.

If the landed or crashed aircraft is foreign and [it has] violated the aerial navigation regulations, or regardless to whom the aircraft belongs—[if] crimes are committed, a record shall be drawn up and the aircraft and persons aboard shall be detained.

Section 26. If the landed or crashed aircraft cannot fly off or it has to be detained, it must be safeguarded until it has been repaired or removed.

The state authorities shall not be responsible for damage caused to such an aircraft in the course of its removal for the purpose of its detention or because it could not fly off, if sufficient care has been taken for its safeguarding.

Section 27. If the persons traveling aboard the foreign aircraft do not observe the regulations of the airport, the laws of the country and this Regulation, or such aircraft does not fly off at the fixed time, the commanding officer shall be warned to take off and leave the country [Bulgaria] in the determined manner, whenever this is possible, within three hours. If he does not comply with such an order, the aircraft shall be confiscated, while the persons accompanying it shall be sent across the border as long as they are not to be detained for purposes of prosecution in accordance with the laws of the country.

Section 28. The commanding officer shall be responsible also for all crimes, violations, and damage committed in or by the aircraft or by the persons aboard it.

CHAPTER FOUR—CONTROL

Section 29. The Minister of the Interior shall carry out, through the people's police, border armed forces, and other persons especially

authorized for that purpose, the control of aircraft which cross the border, fly over Bulgarian territory, land, and take off from it.

Section 30. The Ministry of the Interior may, if the interests of the country so require, withdraw the permission already granted to a foreign aircraft to fly over [Bulgarian territory], or [it may] order the departure of the foreign aircraft which is still in the country [Bulgaria] together with the persons accompanying it.

Section 31. The Ministry of the Interior shall organize observation and warning posts for control over aircraft as well as services to prevent the commission of violation of the aerial navigation regulations in the country [Bulgaria].

Section 32. All other state agencies and private persons shall be obliged to give assistance to the control services of the aerial navigation [authorities].

Section 33. The observation and warning services of the aerial navigation [authorities] must be informed in due time concerning all permissions granted for flying of foreign aircraft, for crossing the border by Bulgarian and foreign aircraft, as well as all flights within a district of 20 kilometers along the border.

Section 34. For all violations [of] the provisions of the law on aerial navigation, this Regulation and other aerial navigation regulations, the control services of the aerial navigation as well as all other state agencies and private persons shall inform the Ministry of the Interior—"Service of "Control of Aerial Navigation," in the fastest way possible. The latter shall also inform the service [the agency] whose airplane has committed the violation.

Section 35. For every violation of the law on aerial navigation, this Regulation and other aerial navigation regulations, the agencies of the Ministry of the Interior and other agencies authorized by the Ministry of the Interior shall draw up a record which shall have full evidentiary power until the contrary has been proven. They may also initiate an investigation for clarification of the circumstances under the record as well as when other crimes are committed.

If necessary, they may detain the aircraft and the persons aboard it until the question is settled by the judicial authorities.

Records drawn up on the grounds of this Regulation, in cases of crime, shall be forwarded to the proper government attorney, and if [these records] establish only civil damages, [these] shall be forwarded to the Ministry of the Interior for appropriate measures and [placed] at the disposal of the [persons] concerned.

Section 36. For every flight by foreign aircraft over the border of the country [Bulgaria] without proper permission, without the documents required by this regulation, when [they] carry objects which are prohibited to be carried, when the border is crossed not in the fixed places or not in the air routes, or in prohibited zones, or heights, when [they] do not land on, or take off from an airport without proper permission, the violators shall be punished according to the law on aerial navigation.

For all violations of the provisions of this Regulation, penalties shall be imposed in accordance with the law on aerial navigation or in accordance with the law on the people's police.

Section 37. Issuance of an ordinance concerning the airport fees shall be assigned to the Director of Air Communications.

Section 38. [Issuance of] a map of the country [Bulgaria] indicating the prohibited zones, the air routes, the border places for flights by aircraft and the permitted heights to be flown over by them shall be assigned to the Minister of the Interior in concurrence with the Minister of National Defense.

Section 39. Also, all crimes, violations, and damage committed in the airspace over the Bulgarian territory shall be adjudicated in accordance with the laws of the country [Bulgaria].

Section 40. Enforcement of the present Regulation shall be assigned to the Ministry of the Interior.

The present Regulation shall repeal the regulation of 1934 concerning the flight of foreign [air] craft over Bulgaria.

CANADA

CHAPTER 2.

An Act to authorize the control of Aeronautics.

SHORT TITLE.

1. This Act may be cited as the *Aeronautics Act*. R.S., Short title. c. 3, s. 1.

PART I.

1944-45, c. 28, s. 1.

INTERPRETATION.

2. In this Part, "Minister" means the Minister of Transport or such other Minister as the Governor in Council may from time to time designate, except that in any matter relating to defence, "Minister" means the Minister of National Defence. 1950, c. 23, s. 1.

3. It is the duty of the Minister

- (a) to supervise all matters connected with aeronautics;
- (b) to undertake, and to co-operate with persons undertaking, such projects, technical research, study or investigation as in his opinion will promote the development of aeronautics in Canada;
- (c) to construct and maintain all Government aerodromes and air stations, including all plant, machinery and buildings necessary for their efficient equipment and upkeep;
- (d) to control and manage all aircraft and equipment necessary for the conduct of any of Her Majesty's services;
- (e) to operate such services as the Governor in Council may approve;
- (f) to prescribe aerial routes;
- (g) to co-operate with other officers of Her Majesty, and to assist in the carrying out of any services under their jurisdiction that may require aerial work of any nature, and to collaborate with the officers employed in existing air services of Her Majesty in such extension of their present work as the development of aeronautics may require;

Duties of
Minister.

- (h) to take such action as may be necessary to secure, by international regulation or otherwise, the rights of Her Majesty in respect of Her Government of Canada, in international air traffic;
- (i) to co-operate with the officers of his Department on all questions relating to the air defence of Canada;
- (j) to co-operate with the Air staffs or authorities of other governments or countries for any purposes pertaining to air services;
- (k) to investigate, examine and report on the operation and development of commercial air services within or partly within Canada or the limits of the territorial waters of Canada;
- (l) to consider, draft and prepare for approval by the Governor in Council such regulations as may be considered necessary for the control or operation of aeronautics in Canada or within the limits of the territorial waters of Canada and for the control or operation of aircraft registered in Canada wherever such aircraft may be; and
- (m) to perform such other duties as the Governor in Council may from time to time impose. R.S., c. 3, s. 3; 1950, c. 23, s. 2.

Powers of
Minister
to make
regulations
with
approval
of Governor
in Council.

4. (1) Subject to the approval of the Governor in Council, the Minister may make regulations to control and regulate air navigation over Canada and the territorial waters of Canada and the conditions under which aircraft registered in Canada may be operated over the high seas or any territory not within Canada, and, without restricting the generality of the foregoing, may make regulations with respect to

- (a) licensing pilots and other persons engaged in the navigation of aircraft, and the suspension and revocation of such licences;
- (b) the registration, identification, inspection, certification and licensing of all aircraft;
- (c) the licensing, inspection and regulation of all aerodromes and air-stations;
- (d) the conditions under which aircraft may be used or operated;
- (e) the conditions under which goods, mails and passengers may be transported in aircraft and under which any act may be performed in or from aircraft or under which aircraft may be employed;

- (f) the prohibition of navigation of aircraft over such areas as may be prescribed, either at all times or at such times or on such occasions only as may be specified in the regulation, and either absolutely or subject to such exceptions or conditions as may be so specified;
- (g) the areas within which aircraft coming from any places outside of Canada are to land, and the conditions to be complied with by any such aircraft;
- (h) aerial routes, their use and control;
- (i) the institution and enforcement of such laws, rules and regulations as may be deemed necessary for the safe and proper navigation of aircraft in Canada or within the limits of the territorial waters of Canada and of aircraft registered in Canada wherever such aircraft may be.

(2) Any regulation made under subsection (1) may authorize the Minister to make orders or directions with respect to such matters coming within this section as the regulations may prescribe.

Minister may carry out regulations by ministerial order or direction. Offence and penalty.

(3) Every person who violates the provisions of a regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding one year or to both fine and imprisonment.

(4) Every person who violates an order or direction of the Minister made under a regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. R.S., c. 3, s. 4; 1950, c. 23, s. 3.

5. (1) The Governor in Council may make regulations prescribing the compensation to be paid, the persons to whom, and the manner in which, such compensation shall be payable, for the death or injury resulting directly from a flight undertaken in the course of duty in the public service of Canada of any person employed in the public service of Canada, or employed under the direction of any department of the public service of Canada.

Governor in Council may prescribe compensation payable for death or injury, directly resulting from a flight undertaken in course of duty.

(2) Such regulations shall not extend to the payment of compensation for any death or injury in respect of which provision for the payment of compensation or a gratuity or pension is made by any other Act, unless the claimant elects to accept the said compensation, instead of the compensation, gratuity or pension under any such other Act. R.S., c. 3, s. 7.

PART II.

INTERPRETATION.

- Definitions.** **6.** (1) In this Part,
- "Aircraft." (a) "aircraft" means any machine used or designed for navigation of the air;
- "Air carrier." (b) "air carrier" means any person who operates a commercial air service;
- "Board." (c) "Board" means the Air Transport Board;
- "Commercial air service." (d) "commercial air service" means any use of aircraft in or over Canada for hire or reward;
- "Hire or reward." (e) "hire or reward" means any payment, consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected for the use of an aircraft by a person who, as owner, lessee, hirer, pilot or otherwise, has possession of or control over the aircraft or has directed the movement of the aircraft;
- "Minister." (f) "Minister" means the Minister of Transport or the Minister designated by the Governor in Council under section 2.
- Application.** (2) This Part does not apply to aircraft that are used by Her Majesty's Forces or by any armed forces co-operating with Her Majesty's Forces and bear the insignia or markings of Her Majesty's Forces or any such forces. 1944-45, c. 28, s. 6; 1945, c. 9, s. 1; 1950, c. 23, s. 4.
- Air Transport Board.** **7.** (1) There shall be a board to be known as the Air Transport Board consisting of three members appointed by the Governor in Council.
- Term of office.** (2) The members shall hold office during good behaviour for a period of ten years, but may be removed at any time for cause by the Governor in Council and the members first appointed shall be appointed for periods of ten, seven and four years respectively.
- Re-appointment.** (3) Any retiring member is eligible for re-appointment.
- Payment of services.** (4) Each member shall be paid such sum for his services as the Governor in Council may from time to time determine.
- Chairman.** (5) The Governor in Council shall designate one of the members to be chairman of the Board.
- Substitutes.** (6) If any member of the Board by reason of absence or other incapacity is unable at any time to perform the duties of his office, the Governor in Council may appoint a temporary substitute member upon such terms and conditions as the Governor in Council may prescribe.

(7) No member of the Board shall either directly or indirectly engage in manufacturing or selling aircraft or in the transport of goods or passengers by aircraft for hire or reward and no member of the Board shall be a shareholder, member, director or partner of any company, association or firm engaged in manufacturing or selling aircraft or in the transport of goods or passengers by aircraft for hire or reward. Independence of members of the Board.

(8) Two members of the Board constitute a quorum. Quorum.

(9) No vacancy on the Board impairs the authority of the remaining members to act. Vacancies. 1944-45, c. 28, s. 6; 1945, c. 9, s. 2.

8. (1) The Board has full jurisdiction to inquire into, hear and determine any matter Jurisdiction.

(a) where it appears to the Board that any person has failed to do any act, matter or thing required to be done by this Act or by any regulation, licence, permit, order or direction made thereunder by the Board, or that any person has done or is doing any act, matter or thing contrary to or in violation of this Part, or any such regulation, licence, permit, order or direction, or Inquiries.

(b) where it appears to the Board that the circumstances may require the Board, in the public interest, to make any order or give any direction, leave, sanction or approval that by law it is authorized to make or give, or with respect to any matter, act, or thing that by this Part or any such regulation, licence, permit, order or direction is prohibited, sanctioned or required to be done.

(2) The Board may order and require any person to do, forthwith, or within or at any specified time and in any manner prescribed by the Board so far as it is not inconsistent with this Act, any act, matter or thing that such person is or may be required to do under this Part, or any regulation, licence, permit, order or direction made thereunder by the Board and may forbid the doing or continuing of any act, matter or thing that is contrary to this Part or any such regulation, licence, permit, order or direction and, for the purposes of this section, has full jurisdiction to hear and determine all matters, whether of law or fact. Mandatory orders.

(3) The Board shall, as regards the attendance, swearing and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry of and inspection of property and other matters necessary Powers of a court.

or proper for the due exercise of its jurisdiction, have all such powers, rights and privileges as are vested in a superior court of record.

Enforcement
of Board
orders.

(4) Any decision or order made by the Board may, for the purpose of enforcement thereof, be made a rule, order or decree of the Exchequer Court or of any superior court of any province of Canada and shall be enforced in like manner as any rule, order or decree of such court.

Practice and
procedure.

(5) To make a decision or order of the Board a rule, order or decree of any such court, the practice and procedure authorized by section 50 of the *Railway Act* may be followed with such variations as circumstances may require. 1945, c. 9, s. 3; 1950, c. 23, s. 5.

Witnesses
and
evidence.

9. (1) The Board may order that any person resident or present in Canada may be examined upon oath before, or make production of books, papers, documents or articles to the Board, or any member of the Board, or before or to any officer of the Board, or before or to any other person named for the purpose by the order of the Board, and may make such orders as seem proper for securing the attendance of such witness and his examination, and the production by him of books, papers, documents, or articles, and the use of the evidence so obtained, and otherwise exercise, for the enforcement of such orders or punishment for disobedience thereof, all powers that are exercised by any superior court in Canada for the enforcement of subpoenas to witnesses or punishment of disobedience thereof.

(2) No person is compellable, against his will, to attend for such examination or production at any place outside the province in which he is served with the order of the Board for the purpose, and every person attending pursuant to subpoena is, in the discretion of the Minister or the Board, entitled to receive fees and allowances as if summoned to appear before the Exchequer Court.

Commissions
to take
evidence in
foreign
countries.

(3) The Board may issue commissions to take evidence in a foreign country, and make all proper orders for the purpose, and for the return and use of the evidence so obtained. 1945, c. 9, s. 3.

Rules of
the Board.

10. The Board may make rules for the regulation of its proceedings and the performance of its functions and duties under this Act. 1944-45, c. 28, s. 6.

11. Subject to the directions of the Minister, the Board shall from time to time make investigations and surveys relating to the operation and development of commercial air services in Canada and relating to such other matters in connection with civil aviation as the Minister may direct. 1944-45, c. 28, s. 6.

Investigation and surveys.

12. The Board shall from time to time make recommendations to the Minister with reference to any investigation or survey made by it and shall advise the Minister in the exercise of his duties and powers under this Act in all matters relating to civil aviation. 1944-45, c. 28, s. 6.

Recommendations.

13. Subject to the approval of the Governor in Council, the Board may make regulations:

Regulations.

- (a) requiring air carriers to file with the Board returns with respect to their capital, traffic, equipment, working expenditure and any other matters relating to the operation of commercial air services;
- (b) requiring any person to furnish information respecting ownership, transfer, consolidation, merger or lease or any proposed transfer, consolidation, merger or lease of commercial air services;
- (c) requiring copies of agreements respecting any such consolidation, merger, lease or transfer, copies of mail contracts and proposed mail contracts and copies of agreements affecting commercial air services to be filed with the Board;
- (d) establishing classifications or groups of air carriers or commercial air services;
- (e) prohibiting the transfer, consolidation, merger or lease of commercial air services except subject to such conditions as may by such regulations be prescribed;
- (f) excluding from the operation of the whole or any part of this Part or any regulation, order or direction made or issued pursuant thereto, any air carrier or commercial air service or class or group of air carriers or commercial air services;
- (g) prescribing fees for licences to operate commercial air services and requiring applicants for such licences to furnish information respecting their financial position, their relation to other air carriers, the nature of the proposed routes, the proposed tariffs of tolls and such other matters as the Board may consider advisable;
- (h) prescribing forms for the purposes of this Part;

- (i) respecting traffic, tolls and tariffs, and providing for the disallowance or suspension of any tariff or toll by the Board, the substitution of a tariff or toll satisfactory to the Board or the prescription by the Board of other tariffs or tolls in lieu of the tariffs or tolls so disallowed;
- (j) respecting the manner and extent to which any regulations with respect to traffic, tolls or tariffs shall apply to any air carrier licensed by the Board or to any person operating an international air service pursuant to any international agreement or convention relating to civil aviation to which Canada is a party;
- (k) prescribing the term of the licence and providing for renewal thereof;
- (l) prescribing maximum hours and other working conditions for pilots and co-pilots employed by any air carrier;
- (m) prescribing forms of accounts and records to be kept by air carriers, and providing for access by the Board to such records;
- (n) prescribing penalties, enforceable on summary conviction, for
 - (i) contravention of or failure to comply with this Part or any such regulations or any direction or order made by the Board pursuant to this Act or such regulations,
 - (ii) making any false statement or furnishing false information to or for the use or information of the Board, or
 - (iii) making any false statement or furnishing false information when required to make a statement or furnish information pursuant to any regulation, direction or order of the Board.
 but such penalties shall not exceed a fine of five thousand dollars or imprisonment for six months, or both such fine and such imprisonment; and
- (o) providing for the effective carrying out of the provisions of this Part. 1944-45, c. 28, s. 6; 1945, c. 9, s. 5; 1950, c. 23, s. 6.

Penalties.

Free and reduced rate transportation.

14. Notwithstanding any previous contract or commitment or any other general or special Act or provision, no air carrier shall issue free or reduced rate transportation except with the approval in writing of the Board and under such terms, conditions and forms as the Board may direct. 1945, c. 9, s. 6.

15. (1) Subject to the approval of the Minister, the Board may issue to any person applying therefor a licence to operate a commercial air service. Licences.

(2) No such licence shall be issued in respect of a commercial air service, owned, leased, controlled or operated by any person who is engaged in the transport of goods or passengers for hire or reward by means other than aircraft unless the Governor in Council is of opinion that it is in the public interest that such licence be issued. Not to be issued to persons engaged in other than aircraft transport.

(3) The Board shall not issue any such licence unless it is satisfied that the proposed commercial air service is and will be required by the present and future public convenience and necessity. Only in case of public convenience and necessity.

(4) The Board may exempt from the operation of the whole or any part of subsection (3), any air carrier or commercial air service or any class or group thereof, except a scheduled commercial air service operating wholly within Canada or the operator thereof either generally or for a limited period or in respect of a limited area, if in the opinion of the Board such exemption is in the public interest. Exception.

(5) Notwithstanding the issue of a licence under subsection (1), no air carrier shall operate a commercial air service unless he holds a valid and subsisting certificate issued to him by the Minister certifying that the holder is adequately equipped and able to conduct a safe operation as an air carrier over the prescribed route or in the prescribed area. Operating certificate necessary.

(6) In issuing any licence, the Board may prescribe the routes that may be followed or the areas to be served and may attach to the licence such conditions as the Board may consider necessary or desirable in the public interest, and, without limiting the generality of the foregoing, the Board may impose conditions respecting schedules, places of call, carriage of passengers and freight, insurance, and, subject to the *Post Office Act*, the carriage of mail. Routes and conditions.

(7) The Board shall upon application grant to Trans-Canada Air Lines a licence to operate a commercial air service under such terms and subject to such conditions as will enable Trans-Canada Air Lines to perform any agreement made, under section 15 or 24 of the *Trans-Canada Air Lines Act*, between the Minister of Transport and Trans-Canada Air Lines or between the Minister of Transport and any corporation created under section 19 of that Act. Licence to T.C.A.

- Suspension, cancellation or amendment. (8) The Board may issue a licence that differs from the licence applied for and may suspend, cancel or amend any licence or any part thereof where, in the opinion of the Board, public convenience and necessity so requires.
- Appeals to the Minister. (9) Where the Board suspends, cancels or amends a licence or any part thereof, refuses to issue a licence applied for, or attaches conditions to which the applicant objects, an appeal may be made to the Minister.
- Cancellation or suspension of licence. (10) Where in the opinion of the Board, an air carrier has violated any of the conditions attached to his licence the Board may cancel or suspend the licence.
- Appeal. (11) Any air carrier whose licence has been so cancelled or suspended may appeal to the Minister.
- Rules as to appeals. (12) The Board may make rules limiting the time and prescribing the manner in which appeals to the Minister may be made. 1944-45, c. 28, s. 6; 1945, c. 9, s. 9; 1950, c. 23, s. 7.
- No operation without licence. **16.** (1) No person shall operate a commercial air service unless he holds a valid and subsisting licence issued under section 15.
- Offence and penalty. (2) Every person who violates subsection (1) is guilty of an offence and is liable upon summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both fine and imprisonment.
- Penalty to directors or officers of corporation. (3) Where a person guilty of an offence under subsection (2) is a corporation, every person who at the time of the commission of the offence was a director or officer of the corporation is guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent, or that he exercised all due diligence to prevent the commission of such offence. 1950, c. 23, s. 9.
- G. in C. may grant assistance. **17.** The Governor in Council may authorize the Minister to enter into a contract with any air carrier for the grant of such assistance, financial or otherwise, as may be specified by the Governor in Council payable out of moneys to be appropriated by Parliament for that purpose. 1944-45, c. 28, s. 6.
- Powers subject to international agreement. **18.** The powers conferred by this Part on the Board shall be exercised subject to any international agreement or convention relating to civil aviation to which Canada is a party. 1945, c. 9, s. 11.

19. (1) An appeal lies from the Board to the Supreme Court of Canada upon a question of jurisdiction or a question of law, or both, upon leave therefor being obtained from a judge of the Supreme Court upon application made within one month after the making of the order, decision, rule or regulation sought to be appealed from or within such further time as the judge under special circumstances may allow, and upon notice to the parties and the Board, and the costs of such application are in the discretion of the judge.

Appeal from Board to Supreme Court of Canada.

(2) On the hearing of any appeal, the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board, and are necessary for determining the question of jurisdiction, or law, as the case may be, and shall certify its opinion to the Board, and the Board shall make an order in accordance with such opinion.

Court to certify opinion to Board and Board to order accordingly.

(3) The Court may fix the costs to be paid upon such appeals, and the rules and practice applicable to appeals from the Exchequer Court are applicable to appeals under this section. 1944-45, c. 28, s. 6.

Costs. Rules and practice.

PART III.

20. Such officers, clerks and employees as may be necessary for the proper administration of this Act may be employed in the manner authorized by law. 1944-45, c. 28, s. 6.

Employment of officers, clerks and employees.

21. A civil servant who prior to or at the time of his appointment under this Act as a member of the Air Transport Board was or is a contributor under the provisions of the *Civil Service Superannuation Act* is eligible, notwithstanding the *Civil Service Superannuation Act*, to continue to be a contributor under the said Act; his service under this Act shall be counted as service in the Civil Service for the purposes of the *Civil Service Superannuation Act* and he, his widow and children, or other dependants, if any, are eligible to receive the respective allowances or gratuities provided by the said Act; and in the event of his being retired from his office or position under this Act for any reason other than that of misconduct, he is eligible to receive the same benefits under the *Civil Service Superannuation Act* as if his office or position had been abolished. 1944-45, c. 28, s. 6.

Civil Service Superannuation rights preserved.

Salaries
and
expenses.

22. All salaries mentioned herein and all expenses incurred under the provisions of this Act shall be paid out of such money as may be appropriated by Parliament therefor. 1944-45, c. 28, s. 6.

Prosecution
within
twelve
months.

23. A prosecution for any offence under this Act or the regulations may be commenced at any time within twelve months from the time the offence is committed. 1950, c. 23, s. 10.

Proof of
documents.

24. In any action or proceedings under this Act or the regulations

(a) any document purporting to be certified by the Secretary or Assistant Secretary of the Air Transport Board and sealed with the seal of the Board or any document purporting to be certified by the Secretary of the Department of Transport to be a true copy of any minute, decision, licence, permit, certificate, order, instruction, book of reference, book entry, or other document or any part thereof, is without proof of the signature of the Secretary or Assistant Secretary of the Board or of the Secretary of the Department of Transport, as the case may be, *prima facie* evidence of the original document of which it purports to be a copy, made, given, or issued by or by the authority of or deposited with the Minister or the Board, as the case may be, and that the same was made, given, issued or deposited at the time stated in the certificate, if a time is stated therein, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed as shown or appearing from such certified copy, and

(b) a certificate purporting to be signed by the Secretary or Assistant Secretary of the Air Transport Board and sealed with the seal of the Board or a certificate purporting to be signed by the Secretary of the Department of Transport, stating that a valid and subsisting licence, permit, certificate or other document of authorization under this Act or any regulation made thereunder, has or has not been issued by the Minister or the Board, as the case may be, to a person or persons named in the said certificate, is *prima facie* evidence of the facts therein stated, without proof of the signature or of the official character of the person appearing to have signed the same and without further proof thereof. 1950, c. 23, s. 10.

CHAPTER 302.

An Act to amend the Aeronautics Act.

1. (1) Subsection (1) of section 4 of the *Aeronautics Act*, chapter 2 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following paragraph:

“(j) the height, use and location of buildings, structures and objects, including objects of natural growth, situated on lands adjacent to or in the vicinity of airports, for purposes relating to navigation of aircraft and use and operation of airports, and including, for such purposes, regulations restricting, regulating or prohibiting the doing of anything or the suffering of anything to be done on any such lands, or the construction or use of any such building, structure or object.”

Powers of Minister to make regulations with approval of Governor in Council.

(2) Section 4 of the said Act is further amended by adding thereto the following subsections:

“(5) In addition to any other mode of publication prescribed by law, a copy of every regulation made under the authority of paragraph (j) of subsection (1), (in this section called a “zoning regulation”), shall be published in two successive issues of at least two newspapers serving the area wherein the airport in relation to which the regulation was made is situated.

Publication of zoning regulations.

(6) A plan and description of the lands affected by a zoning regulation shall be signed and deposited in the same manner as a plan and description is by subsection (1) of section 9 of the *Expropriation Act* required to be signed and deposited, and a copy of the regulation shall be deposited with the plan and description.

Deposit of plan and description of lands affected.

(7) Where a regulation deposited as required by subsection (6) is amended, a copy of the amendment shall be deposited in the same office where the regulation amended thereby was deposited, but a further plan and description need not be deposited unless additional lands are affected by the amendment.

Amendments.

Compensation.

(8) Every person whose property is injuriously affected by the operation of a zoning regulation is entitled to recover from Her Majesty, as compensation, the amount, if any, by which the property was decreased in value by the enactment of the regulation, minus an amount equal to any increase in the value of the property that occurred after the claimant became the owner thereof and is attributable to the airport.

Time-limit.

(9) No proceedings to recover any compensation to which a person may be entitled under subsection (8) by reason of the operation of a zoning regulation shall be brought except within two years after a copy of the regulation was deposited pursuant to subsection (6) or (7)."

SOR/58-236

AERONAUTICS ACT**Crop Spraying—Private Aircraft Order****AIR NAVIGATION ORDER, SERIES VII, No. 1**

The Minister of Transport, pursuant to the Aeronautics Act and the Air Regulations, is pleased hereby to make the annexed Crop Spraying—Private Aircraft Order (Air Navigation Order, Series VII, No. 1).

Dated at Ottawa, this third day of June, 1958.

GEORGE HEES,
Minister of Transport.

AIR NAVIGATION ORDER, SERIES VII, No. 1**CROP SPRAYING—PRIVATE AIRCRAFT**

1. In this Order, "farmer" means a person whose chief source of income is from farming.

2. No farmer shall use or permit the use of his aircraft in the aerial spraying or dusting of crops unless,

- (a) as pilot-in-command he has not less than 150 hours flight time as pilot-in-command, including not less than 25 hours flight time on the type of aircraft being used,
- (b) when the aircraft is flown by a person other than a farmer, the pilot is the holder of a valid Commercial Pilot Licence,
- (c) the spray tanks or dust hoppers have been installed in a manner that prevents danger to occupants of the aircraft from the dusting or spraying material, and
- (d) only the minimum necessary flight crew members are carried on spraying or dusting flights.

3. Except as authorized by the appropriate air traffic control unit, the aerial spraying and dusting of crops shall not be conducted within a control zone.

SOR/58-400

AERONAUTICS ACT**Air Regulations, amended**

P.C. 1958-1309

AT THE GOVERNMENT HOUSE AT OTTAWA

THURSDAY, the 18th day of SEPTEMBER, 1958.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

His Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to section 4 of the Aeronautics Act, is pleased hereby to approve the annexed schedule of amendments of the Air Regulations, approved by Order in Council P.C. 1954-1821 of 23rd November, 1954⁽¹⁾, as amended⁽²⁾, made by the Minister of Transport on 4th September, 1958.

SCHEDULE

1. Paragraph (49) of section 101 of the *Air Regulations* is revoked and the following substituted therefor:

(49) "night" means, in respect of any place in Canada, the period of time in any day when the centre of the sun's disc is more than six degrees below the horizon and in any area of Canada where the sun rises and sets daily, night may be calculated as the period of time commencing not less than one-half hour after sunset and ending not less than one-half hour before sunrise.

2. Section 213 of the said Regulations is revoked and the following substituted therefor:

213. The Minister may cancel or suspend a certificate of airworthiness or a flight permit where

- (a) he is of the opinion that cancellation or suspension is advisable having regard to the safety of aerial navigation,
- (b) the certificate or permit has been mutilated, altered or rendered illegible, or
- (c) the aircraft in respect of which the certificate or permit was issued has been destroyed or withdrawn from use.

⁽¹⁾ SOR/54-588, CANADA GAZETTE PART II, Vol. 88, No. 23, Dec. 8, 1954, p. 2087 and Statutory Orders and Regulations Consolidation 1955, Vol. 1, p. 1

⁽²⁾ SOR/58-177, CANADA GAZETTE PART II, Vol. 92, No. 10, May 28, 1958

3. Section 542 of the said Regulations is revoked and the following substituted therefor:

542. The amount of fuel and oil carried on board any aircraft at the commencement of any VFR flight shall be sufficient, anticipated wind and other weather conditions having been considered, to fly to the place of intended landing and thereafter,

- (a) in the case of an aircraft other than a helicopter for forty-five minutes at normal cruising speed, and
- (b) in the case of a helicopter, for twenty minutes at normal cruising speed.

4. Section 703 of the said Regulations is revoked and the following substituted therefor:

703. The Minister may cancel or suspend a certificate issued under this Part where

- (a) the person to whom the certificate is issued has failed to conduct the service in a safe and proper manner or to maintain adequately the equipment required in connection with the operation of a service,
- (b) the certificate has been mutilated, altered or rendered illegible, or
- (c) the service in respect of which the certificate was issued is discontinued.

5. Section 705 of the said Regulations is revoked and the following substituted therefor:

705. (1) Every operator of a commercial air service shall, when required by a person thereto authorized by the Minister, permit such person to have access to and to inspect and examine all parts of the premises, aircraft and equipment used in such commercial air service, including aircraft when in flight whether on scheduled or non-scheduled commercial flights or otherwise.

(2) The Minister may make such inquiries into the manner of conducting any commercial air service as he deems necessary for purposes of this Part.

6. Subsection (1) of section 809 of the said Regulations is amended by striking out the word "or" at the end of paragraph (b) thereof, by revoking paragraph (c) thereof and by adding thereto, immediately after paragraph (b) thereof, the following:

- (c) make or assist in making or procure the making of any false representations for the purpose of obtaining for himself or any other person the issuance of a certificate, permit or other documents issued under these Regulations; or
- (d) mutilate, alter or render illegible any licence, certificate, permit or other document issued under these Regulations.

AERONAUTICS ACT**Security Control of Air Traffic Order****AIR NAVIGATION ORDER, SERIES V, No. 14**

The Minister of Transport pursuant to the Aeronautics Act and the Air Regulations, is pleased hereby to make the annexed Security Control of Air Traffic Order (Air Navigation Order, Series V. No. 14).

Dated at Ottawa, the 28th day of October, 1957.

AIR NAVIGATION ORDER SERIES V, No. 14.

Security Control of Air Traffic

1. (1) In this Order,

- (a) "coastal CADIZ" or "Coastal Canadian Air Defence Identification Zone", means the airspace extending upward from those areas off the coast of Canada described in Schedule A,
- (b) "domestic CADIZ" or "Domestic Canadian Air Defence Identification Zone", means the airspace extending upward from that area of Canada described in Schedule B,
- (c) "DEWIZ" or "Distant Early Warning Identification Zone", means the airspace extending upward from that area of Canada described in Schedule C,
- (d) "DEWIZ aerodrome" means an aerodrome described in Schedule D,
- (e) "DEWIZ beacon", means a non-directional low or medium frequency radio navigation aid beacon lying within the DEWIZ and described in Schedule E.
- (f) "DVFR" or "Defence Visual Flight Rules", means the rules governing a VFR flight conducted in accordance with the provisions of this Order,
- (g) "DVFR Flight Plan", means a flight plan which includes,
 - (i) the contents of a VFR Flight plan as set out in section 2 of the Flight Plans Order, Air Navigation Order, Series V, No. 4, and
 - (ii) states the altitude above sea level to be flown,
- (h) "MIDIZ" or "Mid Canada Identification Zone", means the airspace extending upward from that area of Canada described in Schedule F,
- (i) "MIDIZ beacon", means a non-directional low or medium frequency radio navigation aid beacon lying within or near the MIDIZ, and described in Schedule G,
- (j) "MIDIZ clearance aerodrome", means an aerodrome described in Schedule H, at which communication facilities exist for the immediate forwarding of flight plans to a MIDIZ beacon or an appropriate air traffic control unit,
- (k) "SIZ" or "Security Identification Zone", means an airspace extending upward to an altitude of 3,000 feet above the terrain over the area described in Schedule I,
- (l) "southbound", means in a southerly direction on any route between 091° true and 269° true,
- (m) "westbound" means in a westerly direction on any route between 153° true and 331° true.

(2) In this Order, a reference to a time or estimated time shall be to Greenwich Mean Time.

PART I

Domestic Cadiz Rules

2. In the airspace extending upward from that area where a portion of the MIDIZ lies within the CADIZ only the rules for flight within the MIDIZ shall apply.

3. No person shall operate an aircraft into or within a domestic CADIZ above 3,000 feet above terrain unless he has filed an IFR or DVFR flight plan with an appropriate air traffic control unit.

4. Position reports or estimates of domestic CADIZ penetration above 3000 feet above terrain shall be provided to an appropriate air traffic control unit as follows:

- (a) an IFR flight within controlled airspace shall comply with normal IFR position reporting requirements,
- (b) an IFR flight outside controlled airspace or a DVFR flight shall report
 - (i) over the last reporting point on the route of the flight prior to entering the domestic CADIZ, its position, altitude, time and estimated time of arrival over its next reporting point, or
 - (ii) if it is impossible to make the report and estimate referred to in subparagraph (i), it shall report its altitude and estimated time and place of penetration at least 15 minutes prior to penetrating the domestic CADIZ.

PART II

Coastal Cadiz Rules

5. No person shall operate an aircraft into or within a coastal CADIZ unless he has filed an IFR or DVFR flight plan with an appropriate air traffic control unit.

6. A flight shall not penetrate a coastal CADIZ toward Canada unless an appropriate air traffic control unit is provided with position reports required by the instrument flight rules and, in addition, a position report is made at the time of the penetration.

PART III

Security Identification Zone Rules

7. No person shall operate an aircraft southbound into the Eastern or Western SIZ or westbound into the Hope SIZ unless he has filed an IFR or DVFR flight plan with an appropriate air traffic control unit.

8. Subject to section 9, position reports or estimates of Eastern or Western SIZ penetration southbound or penetration of the Hope SIZ westbound shall be provided to an appropriate air traffic control unit as follows:

- (a) an IFR Flight within controlled airspace shall comply with normal IFR position reporting requirements,

- (b) an IFR Flight outside controlled airspace or a DVFR flight shall report
 - (i) over the last reporting point on the route of flight prior to entering the SIZ its position, altitude, time and estimated time of arrival over its next reporting point, or
 - (ii) if it is impossible to make the report and estimate referred to in subparagraph (i), it shall report its altitude and estimated time and place of penetration at least 15 minutes prior to penetrating the SIZ.

9. If it is impossible to make the report and estimate required by paragraph (b) of section 8, an aircraft shall be operated for at least five minutes at an indicated airspeed of 110 knots and shall,

- (a) when penetrating the eastern or western SIZ southbound maintain a route between 170° true and 190° true, or
- (b) when penetrating the Hope SIZ westbound maintain a route between 230° true and 250° true.

PART IV

Mid Canada Identification Zone Rules

10. The pilot-in-command of an aircraft departing from a location which has facilities for the immediate transmission of flight plans to an appropriate air traffic control unit shall

- (a) file an IFR or DVFR flight plan for any flight which will operate within or penetrate the MIDIZ southbound,
- (b) include in such flight plan the estimated time and place of MIDIZ penetration where applicable,
- (c) establish radio contact with a MIDIZ beacon at least 5 minutes before penetrating the MIDIZ southbound or immediately after take-off from within the MIDIZ and make a position report, and
- (d) obtain authorization before proceeding with the flight.

11. For a flight which will penetrate the MIDIZ southbound or operate within the MIDIZ, the pilot-in-command, when departing from a location which does not have facilities for the immediate transmission of flight plans to an appropriate air traffic control unit, shall

- (a) land at a location which has facilities for the immediate transmission of flight plans to an appropriate air traffic control unit or MIDIZ beacon and proceed in accordance with section 10, or
- (b) establish radio contact with a MIDIZ beacon, at least 5 minutes before penetrating the MIDIZ southbound or immediately after take-off from within the MIDIZ, and
 - (i) file an IFR or DVFR flight plan, and
 - (ii) request visual identification and in accordance with instructions proceed to the nearest MIDIZ beacon and circle the beacon VFR at an altitude not exceeding 4000 feet above terrain until an authorization is obtained from the MIDIZ beacon to proceed with the flight.

12. No person shall conduct a flight on a route through the MIDIZ or from point to point within the MIDIZ at an angle of less than 45° to the length of the MIDIZ unless special arrangements have been made through an appropriate air traffic control unit, or MIDIZ beacon.

PART V

Distant Early Warning Identification Zone

13. The pilot-in-command of a flight originating outside Canada or a non-stop flight originating in Canada which penetrates the DEWIZ inbound shall

- (a) file an IFR or DVFR flight plan before take-off from the last location prior to penetrating the DEWIZ inbound, and shall include in the flight plan the estimated location and time of inbound penetration,
- (b) prior to DEWIZ penetration, establish radio-telephone communications with an appropriate DEWIZ beacon and transmit a position report,
- (c) penetrate the DEWIZ within plus or minus one hour and plus or minus 100 nautical miles of his flight plan estimate of time and place of penetration,
- (d) when requested to do so by a DEWIZ beacon, amend his flight planned estimate of time and place of penetration of the DEWIZ in minutes early or late and nautical miles east or west,
- (e) maintain a continuous listening watch on the frequency on which communication has been established with the appropriate DEWIZ beacon until the flight is through the DEWIZ, and
- (f) maintain an altitude at least 6000 feet above terrain, unless the safety of the flight requires operation at a lower altitude.

14. A flight operating laterally within the DEWIZ shall only originate at a base having facilities to forward flight plan information to a DEWIZ beacon, and the pilot-in-command shall

- (a) before take-off, file an IFR or DVFR flight plan, with a DEWIZ beacon or an appropriate air traffic control unit,
- (b) establish radio-telephone communications with a DEWIZ beacon as soon as possible after take-off and provide a position report,
- (c) where practicable, conduct as much of the flight as is possible south of the DEWIZ and operate in accordance with radar advisory navigation provided through the DEWIZ beacon,
- (d) report any deviation in excess of 5 minutes of his estimate or 10 nautical miles of his flight planned track to a DEWIZ beacon, and
- (e) maintain a continuous listening watch on the frequency on which communications have been established with the DEWIZ beacon until released by the beacon.

15. The pilot-in-command of a flight originating north of the DEWIZ where facilities do not exist for forwarding flight plans to a DEWIZ beacon or an appropriate air traffic control unit shall

- (a) operate under VFR conditions while in the DEWIZ,
- (b) establish radio-telephone communication with an appropriate DEWIZ beacon prior to entering the DEWIZ and transmit a position report,
- (c) proceed in accordance with instructions issued by a DEWIZ beacon, which will normally require the flight,
 - (i) to proceed to the nearest DEWIZ beacon for visual identification, or
 - (ii) to land at a stated location,
- (d) maintain a continuous listening watch on the frequency on which communications have been established with a DEWIZ beacon until released by the beacon, and
- (e) maintain an altitude of at least 6000 feet above terrain, unless the safety of the flight requires operation at a lower altitude.

PART VI

General

16. The pilot-in-command of an aircraft shall revise his position report with the appropriate air traffic control unit or MIDIZ beacon when the aircraft is not within

- (a) a time tolerance of plus or minus 5 minutes of the estimated time over a reporting point, or point of penetration of a CADIZ, SIZ or MIDIZ or the point of destination within a CADIZ or MIDIZ, or
- (b) a distance tolerance of 10 nautical miles from the centre line of the route of flight indicated on the flight plan or the estimated point of penetration of a CADIZ, SIZ or MIDIZ.

17. No person shall operate an aircraft on an IFR or a DVFR flight plan into or within any identification zone unless it is equipped with a two-way radio capable of permitting the communications required by this Order.

18. No deviation shall be made from a DVFR or IFR flight plan filed for a flight into or within an identification zone unless

- (a) prior notification is given to the appropriate air traffic control unit or MIDIZ or DEWIZ beacon, or
- (b) where prior notification is not possible, the deviation is reported to an appropriate air traffic control unit or MIDIZ or DEWIZ beacon as soon as practicable.

19. When, due to an emergency, the pilot-in-command of an aircraft is unable to comply with any provision of this Order he shall submit a detailed report of the emergency in writing to the Director General, Air Services within 48 hours of the emergency.

20. In the event of a radio failure, the pilot-in-command shall,
- (a) on an IFR flight, comply with the requirements of Air Navigation Order, Series V, No. 5, and
 - (b) on a DVFR flight, proceed in accordance with his flight plan or shall land at the nearest suitable aerodrome on the route of flight specified in his flight plan.

SCHEDULE "A"

1. The Pacific coastal CADIZ is the airspace extending upward from the area described as follows, commencing at:

Latitude 48°30' North, Longitude 125°00' West; thence to
 Latitude 48°30' North, Longitude 132°10' West; thence to
 Latitude 51°30' North, Longitude 134°00' West; thence to
 Latitude 53°28' North, Longitude 130°35' West; thence to
 Latitude 51°15' North, Longitude 128°00' West; thence to
 Latitude 50°30' North, Longitude 129°00' West; thence to
 Latitude 50°10' North, Longitude 128°16' West; thence to
 the point of beginning.

2. The Atlantic coastal CADIZ is the airspace extending upward from the area described as follows, commencing at

Latitude 43°00' North, Longitude 65°48' West; thence to
 Latitude 45°00' North, Longitude 61°00' West; thence to
 Latitude 46°30' North, Longitude 58°00' West; thence to
 Latitude 46°30' North, Longitude 52°30' West; thence to
 Latitude 48°00' North, Longitude 52°30' West; thence to
 Latitude 51°30' North, Longitude 55°00' West; thence to
 Latitude 53°00' North, Longitude 54°00' West; thence to
 Latitude 57°00' North, Longitude 59°00' West; thence to
 Latitude 61°00' North, Longitude 63°00' West; thence to
 Latitude 64°00' North, Longitude 63°00' West; thence to
 Latitude 65°00' North, Longitude 66°00' West; thence to
 Latitude 65°00' North, Longitude 71°30' West; thence to
 Latitude 63°00' North, Longitude 71°30' West; thence to
 Latitude 61°00' North, Longitude 69°20' West; thence to
 Latitude 61°00' North, Longitude 70°40' West; thence to
 Latitude 63°00' North, Longitude 73°00' West; thence to
 Latitude 66°00' North, Longitude 73°00' West; thence to
 Latitude 66°00' North, Longitude 66°00' West; thence to
 Latitude 63°00' North, Longitude 60°00' West; thence to
 Latitude 54°30' North, Longitude 52°00' West; thence to
 Latitude 48°00' North, Longitude 48°00' West; thence to
 Latitude 45°00' North, Longitude 50°00' West; thence to
 Latitude 43°50' North, Longitude 53°15' West; thence to
 Latitude 39°30' North, Longitude 63°45' West; thence to
 the point of beginning.

SCHEDULE "B"

1. The domestic CADIZ is the airspace extending upward from the area described as follows, commencing at

Latitude 53°28' North, Longitude 130°35' West; thence to
Latitude 57°00' North, Longitude 123°00' West; thence to
Latitude 57°00' North, Longitude 115°00' West; thence to
Latitude 51°00' North, Longitude 115°00' West; thence to
Latitude 51°00' North, Longitude 70°00' West; thence to
Latitude 52°30' North, Longitude 65°00' West; thence to
Latitude 56°00' North, Longitude 65°00' West; thence to
Latitude 63°00' North, Longitude 71°30' West; thence to
Latitude 65°00' North, Longitude 71°30' West; thence to
Latitude 65°00' North, Longitude 66°00' West; thence to
Latitude 64°00' North, Longitude 63°00' West; thence to
Latitude 61°00' North, Longitude 63°00' West; thence to
Latitude 57°00' North, Longitude 59°00' West; thence to
Latitude 53°00' North, Longitude 54°00' West; thence to
Latitude 51°30' North, Longitude 55°00' West; thence to
Latitude 48°00' North, Longitude 52°30' West; thence to
Latitude 46°30' North, Longitude 52°30' West; thence to
Latitude 46°30' North, Longitude 58°00' West; thence to
Latitude 45°00' North, Longitude 61°00' West; thence to
Latitude 43°00' North, Longitude 65°48' West; thence to
Latitude 44°30' North, Longitude 66°45' West; thence to
Latitude 44°30' North, Longitude 67°07' West; thence to
Latitude 44°46'36" North, Longitude 66°54'11" West; thence along
the United States-Canadian Boundary to
Latitude 47°10' North, Longitude 69°32' West; thence to
Latitude 47°10' North, Longitude 85°31' West; thence along
the United States-Canadian Boundary to
Latitude 49°00' North, Longitude 121°00' West; thence to
Latitude 50°10' North, Longitude 122°00' West; thence to
Latitude 50°10' North, Longitude 128°16' West; thence to
Latitude 50°30' North, Longitude 129°00' West; thence to
Latitude 51°15' North, Longitude 128°00' West; thence to
the point of beginning.

SCHEDULE "C"

1. The DEWIZ is the airspace extending upward from the area described as follows, commencing at

Latitude 71°00' North, Longitude 141°00' West; thence to Latitude 71°00' North, Longitude 132°00' West; thence to Latitude 71°45' North, Longitude 125°00' West; thence to Latitude 70°15' North, Longitude 115°00' West; thence to Latitude 70°15' North, Longitude 68°00' West; thence to Latitude 67°30' North, Longitude 57°00' West; thence to Latitude 63°00' North, Longitude 60°00' West; thence to Latitude 66°00' North, Longitude 66°00' West; thence to Latitude 67°00' North, Longitude 63°00' West; thence to Latitude 68°25' North, Longitude 68°00' West; thence to Latitude 68°20' North, Longitude 73°00' West; thence to Latitude 69°00' North, Longitude 77°00' West; thence to Latitude 68°00' North, Longitude 86°00' West; thence to Latitude 68°25' North, Longitude 101°00' West; thence to Latitude 68°50' North, Longitude 105°00' West, thence to Latitude 68°10' North, Longitude 114°00' West; thence to Latitude 69°55' North, Longitude 125°00' West; thence to Latitude 68°30' North, Longitude 136°00' West; thence to Latitude 69°30' North, Longitude 141°00' West; thence to the point of beginning.

SCHEDULE "D"

1. The DEWIZ aerodromes are located as follows:

<i>Place</i>	<i>Location</i>
Cape Dyer	Latitude 66°34'30" North, Longitude 61°37'00" West
Broughton	Latitude 67°33'00" North, Longitude 64°03'00" West
Cape Hooper ..	Latitude 68°25'30" North, Longitude 66°46'30" West
Mid-Baffin	Latitude 68°39'20" North, Longitude 71°09'30" West
Foley	Latitude 68°56'30" North, Longitude 75°18'00" West
Rowley	Latitude 69°05'00" North, Longitude 79°02'00" West
Hall Lake	Latitude 68°46'30" North, Longitude 81°14'00" West
West Melville .	Latitude 68°18'13" North, Longitude 85°40'35" West
West Simpson .	Latitude 68°26'15" North, Longitude 89°39'00" West
Shepherd Bay .	Latitude 68°49'00" North, Longitude 93°24'30" West
King William .	Latitude 68°39'30" North, Longitude 97°48'00" West
Jenny Lind ...	Latitude 68°39'10" North, Longitude 101°43'39" West
Cambridge Bay	Latitude 69°06'00" North, Longitude 105°08'00" West
Unnamed Point	Latitude 68°45'10" North, Longitude 109°04'12" West
Lady Franklin .	Latitude 68°29'33" North, Longitude 113°13'11" West
Young Point ..	Latitude 68°56'10" North, Longitude 116°55'52" West
Clinton Point .	Latitude 69°35'02" North, Longitude 120°44'45" West
Cape Parry ...	Latitude 70°10'05" North, Longitude 124°41'10" West
Nicholson	Latitude 69°57'00" North, Longitude 128°54'30" West
Tuk Tuk	Latitude 69°26'45" North, Longitude 133°00'19" West
Shingle Point ..	Latitude 68°57'00" North, Longitude 137°12'00" West

SCHEDULE "E"

1. The DEWIZ beacons are described as follows:

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Cape Dyer.....	Latitude 66°38'50" North Longitude 61°23'20" West	VN	248 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Broughton.....	Latitude 67°33'19" North Longitude 63°49'16" West	VM	230 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Cape Hooper.....	Latitude 68°26'15" North Longitude 66°44'00" West	UZ	287 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Mid-Baffin.....	Latitude 68°40'47" North Longitude 71°14'48" West	UW	324 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Foley.....	Latitude 68°53'45" North Longitude 75°09'38" West	UV	275 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s

SCHEDULE "E" (Continued)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Rowley.....	Latitude 69°03'30" North Longitude 79°01'37" West	UG	257 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Hall Lake.....	Latitude 68°45'25" North Longitude 81°13'35" West	UX	239 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
West Melville.....	Latitude 68°18'03" North Longitude 85°40'29" West	UU	212 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
West Simpson.....	Latitude 68°26'42" North Longitude 89°45'14" West	UF	201 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Shepherd Bay.....	Latitude 68°48'38" North Longitude 93°25'57" West	US	321 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
King William.....	Latitude 68°40'16" North Longitude 97°48'36" West	UR	300 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s

SCHEDULE "E" (Continued)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Jenny Lind.....	Latitude 68°40'12" North Longitude 101°43'40" West	UQ	218 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Cambridge Bay.....	Latitude 69°06'47" North..... Longitude 105°07'10" West	VK(In operation only when CB beacon in- operative)	245 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
.....	Latitude 69°06'00" North Longitude 105°08'00" West	CB	245 kc/s	4355 kc/s 4703.5 kc/s	4355 kc/s 4703.5 kc/s 3023.5 kc/s
Unnamed Point.....	Latitude 68°45'30" North Longitude 109°04'12" West	UK	272 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s
Lady Franklin.....	Latitude 68°28'42" North Longitude 113°12'32" West	UJ	227 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s 3023.5 kc/s

SCHEDULE "E" (Concluded)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Young Point.....	Latitude 68°55'47" North Longitude 116°56'45" West	UI	260 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 5295 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 5295 kc/s
Clinton Point.....	Latitude 69°34'40" North Longitude 120°47'50" West	UH	209 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	3023.5 kc/s 122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s
Cape Parry.....	Latitude 70°10'20" North Longitude 124°43'40" West	UE	203 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	3023.5 kc/s 122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s
Nicholson.....	Latitude 69°53'33" North Longitude 128°58'13" West	UC	254 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	3023.5 kc/s 122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s
Tuk Tuk.....	Latitude 69°26'38" North Longitude 132°59'34" West	UB	236 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	3023.5 kc/s 122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s
Shingle Point.....	Latitude 68°56'41" North Longitude 137°13'06" West	UA	221 kc/s	122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s	3023.5 kc/s 122.2 mc/s 121.5 mc/s 236.6 mc/s 243.0 mc/s 5295 kc/s

SCHEDULE "F"

1. The MIDIZ is the airspace extending upward from the area described as follows: commencing at

Latitude 55°50' North, Longitude 120°08'30" West; thence to
Latitude 55°50' North, Longitude 115°30' West; thence to
Latitude 56°40' North, Longitude 113°00' West; thence to
Latitude 56°40' North, Longitude 110°30' West; thence to
Latitude 55°30' North, Longitude 107°40' West; thence to
Latitude 55°00' North, Longitude 103°30' West; thence to
Latitude 54°55' North, Longitude 99°30' West; thence to
Latitude 56°40' North, Longitude 93°50' West; thence to
Latitude 56°40' North, Longitude 91°00' West; thence to
Latitude 55°40' North, Longitude 87°00' West; thence to
Latitude 54°40' North, Longitude 81°20' West; thence to
Latitude 55°30' North, Longitude 77°00' West; thence to
Latitude 55°30' North, Longitude 65°00' West; thence to
Latitude 55°37' North, Longitude 60°10'30" West; thence to
Latitude 55°07' North, Longitude 60°10'30" West; thence to
Latitude 55°00' North, Longitude 65°00' West; thence to
Latitude 55°00' North, Longitude 77°00' West; thence to
Latitude 54°10' North, Longitude 81°20' West; thence to
Latitude 55°10' North, Longitude 87°00' West; thence to
Latitude 56°10' North, Longitude 91°00' West; thence to
Latitude 56°10' North, Longitude 93°50' West; thence to
Latitude 54°25' North, Longitude 99°30' West; thence to
Latitude 54°30' North, Longitude 103°30' West; thence to
Latitude 55°00' North, Longitude 107°40' West; thence to
Latitude 56°10' North, Longitude 110°30' West; thence to
Latitude 56°10' North, Longitude 113°00' West; thence to
Latitude 55°20' North, Longitude 115°30' West; thence to
Latitude 55°20' North, Longitude 120°08'30" West; thence to
the point of beginning.

SCHEDULE "G"

1. The MIDIZ beacons are described as follows:

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Harp Lake.....	Latitude 55°18'39" North Longitude 61°49'30" West	EB	358 kc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Border.....	Latitude 55°20'01" North Longitude 63°16'15" West	EC	318 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Advance.....	Latitude 55°16'10" North Longitude 64°49'15" West	EE	284 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Retty.....	Latitude 55°15'44" North Longitude 66°04'15" West	EF	220 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Knob Lake.....	Latitude 54°50' North Longitude 66°50' West	KL	203 kc/s	126.18 mc/s 121.5 mc/s 3023.5 kc/s 5680 kc/s	126.18 mc/s 121.5 mc/s 3023.5 kc/s 5680 kc/s
Gillespie.....	Latitude 55°10'52" North Longitude 67°35'25" West	EH	350 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Brass.....	Latitude 55°11'33" North Longitude 69°01'20" West	EJ	308 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Bulldog.....	Latitude 55°10'52" North Longitude 70°34'50" West	EQ	358 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s

SCHEDULE "G" (Continued)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Robin.....	Latitude 55°14'43" North..... Longitude 72°12'05" West	EW	318 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Eagle.....	Latitude 55°14'55" North Longitude 73°44'45" West	EY	284 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Raven.....	Latitude 55°17'35" North Longitude 75°16'27" West	EZ	220 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Sparrow.....	Latitude 55°16'17" North Longitude 76°47'25" West	KB	350 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Great Whale River.....	Latitude 55°16' North Longitude 77°45' West	GW	371 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 320 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 3023.5 kc/s
Burton.....	Latitude 54°59'27" North Longitude 78°17'05" West	KE	308 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Cape Jones.....	Latitude 54°38'17" North Longitude 79°44'38" West	KH	358 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Bear Island.....	Latitude 54°20'29" North Longitude 81°05'40" West	KJ	318 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Big Owl.....	Latitude 54°44'00" North Longitude 82°24'15" West	KM	284 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s

SCHEDULE "G" (Continued)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Crow.....	Latitude 54°51'55" North Longitude 83°24'45" West	KP	203 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Wachi.....	Latitude 55°04'05" North Longitude 84°51'30" West	KQ	380 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Winisk.....	Latitude 55°14' North Longitude 85°07' West	WN	215 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 265 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 3023.5 kc/s
Gooseberry.....	Latitude 55°17'25" North Longitude 86°25'15" West	KU	308 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Beaver.....	Latitude 55°35'40" North Longitude 87°52'10" West	KV	358 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Canary.....	Latitude 55°58'25" North Longitude 89°13'25" West	KW	318 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Beach.....	Latitude 56°17'25" North Longitude 90°39'40" West	KX	294 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Hayes.....	Latitude 56°22'55" North Longitude 92°11'10" West	KZ	250 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Penny.....	Latitude 56°23'37" North..... Longitude 93°20'30" West	OB	338 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s

SCHEDULE "G" (Continued)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Bird.....	Latitude 56°30'10" North Longitude 94°12'27" West	BJ	315 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 365 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 3023.5 kc/s
Kettle Lake.....	Latitude 56°10'02" North Longitude 94°42'07" West	OF	289 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Gunn Lake.....	Latitude 55°48'24" North Longitude 96°05'23" West	OH	201 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Lucky Bay.....	Latitude 55°18'58" North Longitude 97°15'22" West	OI	294 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Black Island.....	Latitude 54°54'58" North Longitude 98°30'28" West	OK	320 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Hayward.....	Latitude 54°37'50" North Longitude 99°53'10" West	OP	220 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Cranberry Portage.....	Latitude 54°35'05" North Longitude 101°22'16" West	BP	215 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 269 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 3023.5 kc/s
Millwater.....	Latitude 54°36'52" North Longitude 101°20'36" West	OJ	335 kc/s		

SCHEDULE "G" (Continued)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Hanson.....	Latitude 54°39'04" North..... Longitude 102°43'03" West	OU	347 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Swallow.....	Latitude 54°53'48" North Longitude 104°16'15" West	OZ	227 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Egg Lake.....	Latitude 54°55'50" North Longitude 105°43'44" West	VF	294 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Tippo Lake.....	Latitude 55°04'29" North Longitude 107°08'20" West	VH	375 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Canoe.....	Latitude 55°19'23" North Longitude 108°05'46" West	VS	246 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Peter Pond.....	Latitude 55°59'46" North..... Longitude 109°17'00" West	VY	308 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Birch Lake.....	Latitude 56°21'35" North Longitude 110°23'43" West	VZ	249 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Stony Mountain.....	Latitude 56°23' North..... Longitude 111°16' West	TN	371 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 312 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 3023.5 kc/s

SCHEDULE "G" (Concluded)

Name	Location	Identification	Frequency	Transmitting Frequencies	Receiving Frequencies
Horse.....	Latitude 56°31'00" North Longitude 111°47'25" West	XM	299 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Livock.....	Latitude 56°24'17" North Longitude 113°04'15" West	XN	318 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Nipisi.....	Latitude 55°49'20" North..... Longitude 114°39'20" West	XV	308 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Buffalo Bay	Latitude 55°32'30" North Longitude 116°07'15" West	XW	249 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Watino.....	Latitude 55°31'06" North Longitude 117°43'30" West	YA	347 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Saddle Hill.....	Latitude 55°34'02" North Longitude 119°13'23" West	YH	299 kc/s	255.4 mc/s 122.2 mc/s	255.4 mc/s 122.2 mc/s 3023.5 kc/s
Dawson Creek.....	Latitude 55°47' North Longitude 120°12' West	DQ	394 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 352 kc/s	236.6 mc/s 243.0 mc/s 126.18 mc/s 121.5 mc/s 3023.5 kc/s

2. All MIDIZ beacons operate only on request except for Knob Lake, Great Whale River, Winisk, Bird, Cranberry Portage, Stony Mountain and Dawson Creek which are on continuous operation.

SCHEDULE "H"

The MIDIZ clearance Aerodromes are located as follows:

<i>Place</i>	<i>Location</i>
Great Whale River .	Latitude 55°17' North, Longitude 77°46' West
Winisk	Latitude 55°14' North, Longitude 85°07' West
Churchill	Latitude 58°45' North, Longitude 94°04' West
Ilford	Latitude 56°04' North, Longitude 95°37' West
Flin Flon	Latitude 54°45' North, Longitude 101°50' West
Lac La Ronge	Latitude 55°05' North, Longitude 105°20' West
Buffalo Narrows	Latitude 55°52' North, Longitude 108°29' West
McMurray	Latitude 56°39' North, Longitude 111°13' West
Peace River	Latitude 56°14' North, Longitude 117°26' West
Fort St. John	Latitude 56°14' North, Longitude 120°44' West

SCHEDULE "I"

1. The Western SIZ is the airspace extending upward from the area described as follows: commencing at

Latitude 50°30' North, Longitude 129°00' West; thence to
 Latitude 50°30' North, Longitude 121°45' West; thence to
 Latitude 50°10' North, Longitude 121°26' West; thence to
 Latitude 50°10' North, Longitude 128°16' West; thence to
 the point of beginning.

2. The Eastern SIZ is the airspace extending upward from the area described as follows, commencing at

Latitude 47°25' North, Longitude 69°16' West; thence
 along the United States-Canada Boundary to
 Latitude 47°10' North, Longitude 69°32' West; thence to
 Latitude 47°10' North, Longitude 85°31' West; thence
 along the United States-Canada Boundary to
 Latitude 47°30' North, Longitude 86°19' West; thence to
 Latitude 47°30' North, Longitude 70°00' West; thence to
 the point of beginning.

3. The Hope SIZ is the airspace extending upward from the area described as follows: commencing at

Latitude 50°10' North, Longitude 122°00' West; thence to
 Latitude 50°10' North, Longitude 121°26' West; thence to
 Latitude 49°00' North, Longitude 120°30' West; thence to
 Latitude 49°00' North, Longitude 121°00' West; thence to
 the point of beginning.



THE AIR REGULATIONS

23rd NOVEMBER, 1954
(Order in Council P. C. 1954-1821)

With amendments

15th JUNE, 1955
(Order in Council P.C. 1955-888)

2nd FEBRUARY, 1956
(Order in Council P. C. 1956-190)

20th SEPTEMBER, 1956
(Order in Council P. C. 1956-1430)

20th JUNE, 1957
(Order in Council P.C. 1957-873)

7th AUGUST, 1957
(Order in Council P.C. 1957-1048)

28th MAY, 1958
(Order in Council P.C. 1958-)

THE AIR REGULATIONS

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PART I

GENERAL

SHORT TITLE

100. These regulations may be cited as the *Air Regulations*.

INTERPRETATION

101. In these regulations,

- (1) "acrobatic flight" means manoeuvres intentionally performed by an aircraft, involving an abrupt change in its attitude, an abnormal attitude, or an abnormal variation in speed;
- (2) "aerodrome" means a defined area of land or water used or intended to be used either wholly or in part for the arrival, departure, movement or servicing of aircraft, (including any buildings, installations and equipment in connection therewith);
- (3) "aeroplane" means a power-driven heavier-than-air aircraft, deriving its lift in flight from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;
- (4) "aircraft" means any machine capable of deriving support in the atmosphere from the reactions of the air;
- (5) "aircraft accident" means an occurrence associated with the operation of an aircraft that takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which
 - (a) any person suffers death or serious injury as a result of being in or upon the aircraft or by direct contact with the aircraft or anything attached thereto, or
 - (b) the aircraft receives substantial damage or is destroyed;

- (6) "airport" means aerodrome for which, under Part III, an airport licence has been issued by the Minister;
- (7) "airport traffic" means all traffic on the manoeuvring area of an airport and all aircraft flying in the vicinity of an airport;
- (8) "airship" means a power-driven lighter-than-air aircraft;
- (9) "air traffic" means all aircraft in flight and aircraft operating on the manoeuvring area of an aerodrome;
- (10) "air traffic control clearance" means authorization by an air traffic control unit for an aircraft to proceed under specified conditions;
- (11) "air traffic control service" means a service as specified in Part VI, provided for the purpose of
 - (a) preventing collisions
 - (i) between aircraft; and
 - (ii) on the manoeuvring area between aircraft and obstructions, and
 - (b) expediting and maintaining an orderly flow of air traffic;
- (12) "air traffic control unit" means
 - (a) an area control centre established to provide air traffic control service to IFR flights;
 - (b) an approach control tower unit established to provide air traffic control service to IFR flights arriving at, or departing from, one or more airports; or
 - (c) an airport control tower unit established to provide air traffic control service to airport traffic;as the circumstances require;
- (13) "alternate airport" means an aerodrome specified in a flight plan to which a flight may proceed when a landing at the intended destination becomes inadvisable;
- (14) "balloon" means a motorless lighter-than-air aircraft;

- (15) "Canadian aircraft" means an aircraft registered in Canada under Part II;
- (16) "ceiling" means the lowest height at which a broken or overcast condition exists, or the vertical visibility when an obscured condition such as snow, smoke or fog exists, whichever is the lower;
- (17) "certificate of airworthiness" means a conditional certificate of fitness for flight issued in respect of a particular aircraft under Part II of these regulations or under the laws of the state in which the aircraft is registered;
- (18) "civil aircraft" means any aircraft other than a military aircraft;
- (19) "commercial aircraft" means an aircraft operated or available for operation for hire or reward;
- (20) "commercial air service" means any use of aircraft for hire or reward;
- (21) "contracting state" means a state that is a party to the Convention;
- (22) "control area" means a controlled airspace extending upwards vertically from a specified height above the surface of the earth;
- (23) "controlled airport" means an airport at which an air traffic control unit is provided;
- (24) "controlled airspace" means an airspace of defined dimensions within which air traffic control service is provided;
- (25) "control zone" means a controlled airspace extending upwards vertically from the surface of the earth;
- (26) "Convention" means the Convention on International Civil Aviation signed on behalf of Canada at Chicago on the seventh day of December, 1944;
- (27) "critical engine" means the engine the failure of which gives the most adverse effect on the aircraft characteristics relative to the aircraft under consideration;
- (28) "cruising altitude" means an altitude, as shown by a constant altimeter indication in relation to a

fixed and defined datum, maintained during a flight or portion thereof;

- (29) "flight crew member" means a crew member acting as pilot-in-command, co-pilot, flight navigator, or flight engineer of an aircraft during flight time;
- (30) "flight notification" means specified information submitted in accordance with section 534, relative to the intended flight of an aircraft;
- (30A) "flight permit" means a permit issued pursuant to section 211;
- (31) "flight plan" means specified information submitted in accordance with section 534 or 551, relative to the intended flight of an aircraft;
- (32) "flight time" means the total time from the moment the aircraft first moves under its own power for the purpose of taking off until the moment it comes to rest at the end of the flight;
- (33) "flight visibility" means the average range of visibility at any given time forward from the cockpit of an aircraft in flight;
- (34) "glider" means a motorless heavier-than-air aircraft, deriving its lift in flight from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;
- (35) "ground visibility" means the visibility at an airport, as reported by an observer accredited by the Minister for the purpose;
- (36) "heavier-than-air aircraft" means any aircraft deriving its lift in flight from aerodynamic forces;
- (37) "helicopter" means a heavier-than-air aircraft supported in flight by the reactions of the air on one or more power-driven rotors on substantially vertical axes;
- (38) "instrument flight rules" means the rules set forth in Part V of these regulations and the orders and directions made by the Minister thereunder;
- (39) "IFR" means the instrument flight rules;
- (40) "IFR weather conditions" means weather conditions below the minimum prescribed for flights under visual flight rules (VFR);

- (41) "IFR flight" means a flight conducted in accordance with the instrument flight rules;
- (42) "issue", in relation to any document, includes any renewal, endorsement or validation thereof as provided in these regulations, and "issued" has a corresponding meaning;
- (43) "landing", in relation to an aircraft, means the act of coming into contact with a supporting surface, and includes the immediately preceding and following acts, and in relation to an airship or free balloon means the act of bringing the airship or balloon under restraint, and includes the immediately preceding and following acts;
- (44) "lighter-than-air aircraft" means any aircraft supported by its buoyancy in the air;
- (45) "magnetic track" means the angle measured clockwise from magnetic North to the path followed by an aircraft over the earth;
- (46) "making way" means the state of being under way on surface of the water and having a velocity relative to such surface;
- (47) "manœuvring area" means that part of an airport ordinarily used for the taking off and landing of aircraft and for the movement of aircraft associated with take-off and landing;
- (48) "Minister" means the Minister as defined in the *Aeronautics Act*;
- (49) "night", within Canada, means the period of time between the end of Evening Civil Twilight and the beginning of Morning Civil Twilight, but commencing not less than one-half hour after sunset and ending not less than one-half hour before sunrise;
- (50) "operator", with reference to an aircraft, means the person in possession of the aircraft, whether as owner, lessee, hirer, or otherwise; and with reference to an airport, means the holder of the airport licence, or the person in charge of such airport, whether as employee, agent or representative of the holder of such licence;

- (51) "overtaking aircraft" means an aircraft that is approaching another from the rear on a line forming an angle of less than 70° with the plane of symmetry of the latter; i.e. is in such a position with reference to the other aircraft that at night it is not ordinarily possible to see either of the aircraft's forward lights;
- (52) "owner", with reference to an aircraft, includes:
- (a) the person in whose name the aircraft is registered,
 - (b) a person in possession of the aircraft as purchaser under a conditional sale or hire-purchase agreement that reserves to the vendor the title to the aircraft until payment of the purchase price or the performance of certain conditions,
 - (c) a person in possession of the aircraft as chattel mortgagor under a chattel mortgage, and
 - (d) a person in possession of the aircraft under a *bona-fide* lease or agreement of hire;
- (53) "pilot-in-command" means the pilot responsible for the operation and safety of the aircraft during flight time;
- (54) "private aircraft" means a civil aircraft other than a commercial aircraft or a state aircraft;
- (55) "state aircraft" means a civil aircraft owned by and exclusively used in the service of Her Majesty in right of Canada or in right of any province;
- (56) "taking off", in relation to an aircraft, means the act of abandoning a supporting surface and includes the immediately preceding and following acts, and in relation to an airship or balloon means the act of freeing the airship or balloon from restraint, and includes the immediately preceding and following acts;
- (56A) "ultra-light aircraft" means an aircraft designated as such pursuant to subsection (3) of section 211;
- (57) "under control" means the state of being manoeuvrable in accordance with these regulations or the regulations under the *Canada Shipping Act* for preventing collisions at sea;

- (58) "under way" means the state of being on the surface of the water but not moored or fastened to any fixed object on the land or in the water;
- (59) "VFR" means the visual flight rules;
- (60) "VFR flight" means a flight conducted in accordance with the visual flight rules, and "special VFR flight" means a flight conducted in accordance with directions issued by the Minister under section 503;
- (61) "VFR weather conditions" means weather conditions equal to or above the minima prescribed for flight under the visual flight rules;
- (62) "visibility" means the distance at which prominent unlighted objects may be identified by day and prominent lighted objects may be identified by night; and
- (63) "visual flight rules" means the rules set forth in Part V of these regulations and the orders and directions made by the Minister thereunder.

Application

102. (1) Except as provided in this Part, these regulations apply in respect of all aircraft in Canada and all Canadian aircraft when flown outside of Canada.

- (2) These regulations do not apply in respect of
 - (a) a military aircraft of Her Majesty when manoeuvring under the authority of the Minister of National Defence, or
 - (b) military aircraft of a country other than Canada, to the extent that the Minister of National Defence has specifically exempted any such aircraft from the application of these regulations.
- (3) These regulations do not apply in respect of Canadian aircraft when flown within or over the territory of a country other than Canada, insofar as they are inconsistent with or repugnant to the laws and procedures of such other country.
- (4) The Minister may exempt any person, aircraft or aerodrome in whole or in part from the application of these regulations or any portion thereof.

103. For the purposes of these regulations a state aircraft shall be deemed to be a commercial aircraft.

PART II**REGISTRATION, CERTIFICATION AND MARKING****DIVISION I****AIRCRAFT REGISTRATION**

200. No person shall fly an aircraft in Canada unless it is registered

- (a) under this Part, or
- (b) under the laws of a contracting state or a state that is a party to an agreement entered into with Canada relating to interstate flying.

201. The Minister shall cause a register of aircraft to be maintained in which shall be entered the names of the owner or owners of every aircraft registered under this Part and such other particulars concerning the aircraft as the Minister directs.

202. Subject to this Part, the Minister may direct that no aircraft shall be registered under this Part except upon application for registration of the aircraft in such form as may be prescribed by the Minister and except upon such terms and conditions as may be prescribed by him.

203. The Minister may, subject to this Part, register any aircraft under this Part as a commercial aircraft, private aircraft or state aircraft.

204. (1) No aircraft shall be registered under this Part unless,

- (a) it is a state aircraft or is owned exclusively by a person qualified under subsection (2) to be the registered owner of a Canadian aircraft;
- (b) there is in force in respect of the aircraft a certificate of airworthiness or a flight permit issued under this Part;
- (c) all duties due and payable under the laws of Canada in respect of the importation of the aircraft into Canada have been paid; and

(d) the aircraft is not registered elsewhere than in Canada.

(2) For the purpose of paragraph (a) of subsection (1), a person is qualified to be the registered owner of a Canadian aircraft who is

(a) a Canadian citizen,

(b) a person lawfully admitted to Canada for permanent residence who, since being so admitted, has been ordinarily resident in Canada for a period of not more than six years,

(c) a corporation incorporated under the laws of Canada or any province, the chairman or acting chairman and at least two-thirds of the directors of which are Canadian citizens and at least three-fourths of the shares of which (having full voting rights under all circumstances) belong to

(i) Canadian citizens, or

(ii) a corporation other than a corporation controlled directly or indirectly by citizens or subjects of a country other than Canada, or

(d) in the case of a private aircraft,

(i) a citizen or subject of a contracting state, or

(ii) a corporation incorporated under the laws of Canada or a province.

205. Notwithstanding anything in this Part, an aircraft that is the subject of

(a) a chattel mortgage, or

(b) a conditional sale or hire-purchase agreement that reserves to the vendor the title to the aircraft until payment in full of the purchase price or the satisfaction of some other condition

may be registered in the name of the mortgagor or purchaser as owner of the aircraft if such mortgagor or purchaser is qualified under section 204 to be the registered owner of a Canadian aircraft and the Minister is satisfied that it is in the public interest so to do.

206. Upon the registration of an aircraft under this Part a registration mark and certificate of registration shall be issued and delivered to the owner as prescribed by the Minister.

207. (1) Where any Canadian aircraft is destroyed or permanently withdrawn from use, the registered owner of the aircraft shall forthwith so notify the Minister in writing and the registration and certificate of registration of the aircraft shall be deemed to have been cancelled as of the date of such notification.

(2) Where the ownership of a Canadian aircraft is changed, the registered owner of the aircraft shall forthwith so notify the Minister in writing and the registration and certificate of registration shall be deemed to have been cancelled as of the date of such change of ownership, but the nationality and registration marks shall not be altered unless the aircraft is subsequently registered in a country other than Canada.

(3) The Minister may at any time cancel the registration of any aircraft under this Part.

208. Where a Canadian aircraft that is a private aircraft is owned by any person other than a Canadian citizen or a corporation mentioned in paragraph (c) of subsection (2) of section 204, no person shall

- (a) operate the aircraft from a base outside Canada for an aggregate period of more than six months in any period of twelve months; or
- (b) fly the aircraft in any country other than Canada or the country of which the registered owner is a citizen or subject.

209. (1) No person shall operate any aircraft in Canada for an aggregate period of more than six months in any 12-month period unless it is registered

- (a) under this Part, or
- (b) under the laws of the contracting state that grants reciprocal privileges under like terms and conditions in respect of aircraft registered under this Part.

(2) No person shall use an aircraft in a commercial air service that is operated wholly within Canada unless the aircraft is registered

- (a) under this Part as a commercial aircraft, or
- (b) in a contracting state and special permission has been granted by the Minister to use the aircraft for that purpose.

DIVISION II

AIRCRAFT AIRWORTHINESS

210. No person shall fly or attempt to fly an aircraft unless there is in force in respect of the aircraft a certificate of airworthiness issued under this Part or under the laws of the country in which the aircraft is registered or a flight permit issued under this Part, and unless all conditions upon which the certificate or permit was issued have been complied with.

211. (1) The Minister may establish standards of airworthiness for aircraft, including requirements in respect of the design, construction, weight, instruments and equipment of the aircraft and any other matter relating to the safety of such aircraft.

(2) The Minister, upon being satisfied that an aircraft conforms to the standards of airworthiness established in respect of that aircraft, may issue a certificate, to be known as a certificate of airworthiness, in a form prescribed by the Minister, and may renew an existing certificate of airworthiness by an endorsement thereon.

(3) The Minister may designate any aeroplane or fixed wing glider as an ultra-light aircraft when, by reason of its low weight or low wing loading and its particular design, it is not practicable to prescribe standards of airworthiness for it.

(4) The Minister may issue in respect of an ultra-light aircraft or a private aircraft a permit (to be known as a flight permit) in a form prescribed by the Minister,

and may make directions concerning equipment, weight, instruments and any other matters relating to the operation of such aircraft.

(5) The Minister may issue in respect of an aircraft a permit (to be known as a flight permit) in a form prescribed by the Minister, in any case where the aircraft is to be operated for purposes of experiment, test, demonstration or other special flight.

(6) A certificate of airworthiness or flight permit issued under this Part shall contain such conditions relating to the equipment, maintenance and operation of the aircraft as may be prescribed by the Minister, and the conditions so prescribed may be amended at any time by the Minister.

(7) The Minister may at any time inspect or cause to be inspected any aircraft in respect of which a certificate of airworthiness or a flight permit has been issued under this Part.

212. The Minister may, if he has reason to believe that an aircraft is unsafe for flying, suspend the certificate of airworthiness or flight permit issued in respect of that aircraft.

213. The Minister may cancel or suspend a certificate of airworthiness or a flight permit at any time when, in his opinion, such cancellation or suspension is necessary or advisable having regard to the safety of aerial navigation.

214. An aircraft type approval may be issued by the Minister in respect of any type of aircraft that in his opinion complies with standards of airworthiness approved or established by the Minister.

215. The Minister may make directions with respect to the times when a certificate of airworthiness is in force.

216. The Minister may prescribe such additional requirements in respect of the equipment and maintenance of any aircraft as he considers necessary by reason of the conditions under which the aircraft is operated.

217. No person shall fly or attempt to fly any aircraft unless

- (a) the weight of the aircraft and its load does not exceed the maximum permissible weight specified in the certificate of airworthiness;
- (b) the load is properly disposed of in accordance with the conditions of the certificate of airworthiness;
- (c) the equipment and any cargo carried are secured so as to prevent shifting in flight and are not so placed as to block or restrict the exit of passengers in an emergency;
- (d) the required emergency equipment is carried on board and is in good condition; and
- (e) the aircraft is safe and fit in all respects for the intended flight.

DIVISION III

NATIONALITY AND REGISTRATION MARKS

218. (1) No person shall fly or attempt to fly an aircraft unless its nationality and registration marks are painted on or affixed to the aircraft in the manner prescribed by the laws of the state in which the aircraft is registered, and are clean and visible.

(2) The nationality and registration marks of a Canadian aircraft shall be painted on or affixed to the aircraft as may be directed by the Minister.

219. Every aircraft shall carry a fireproof identification plate inscribed with its nationality and registration marks, which plate shall be secured in a prominent position near the main entrance to the aircraft.

220. The nationality mark of a Canadian aircraft shall be a combination of two capital letters, and the registration mark shall be a combination of three capital letters, as specified by the Minister.

PART III

AERODROMES

300. No area of land or water shall be used as an airport unless it has been licensed as such as provided in this Part.

301. The Minister may issue in respect of any aerodrome that contains such installations and equipment for the arrival, departure, movement or servicing of aircraft as are specified by him, a licence, to be known as an airport licence, entitling the person named therein to operate the aerodrome as an airport.

302. Every airport licence shall be in such form as the Minister prescribes and shall contain such conditions relating to the installation, equipment, maintenance, lighting, marking, use and operation of the airport as the Minister deems necessary, and the conditions so contained in the licence may be amended at any time by the Minister.

303. Subject to these regulations, the Minister may prescribe the conditions upon which airport licences may be issued and the form of applications for airport licences.

304. The Minister may cancel or suspend an airport licence at any time for any reason that to him seems sufficient.

305. The holder of an airport licence shall

- (a) comply with all conditions of issue of such licence; and
- (b) keep the licence and a copy of the tariff of fees prescribed or approved for the airport displayed in a prominent place at the airport;

306. An airport licence is not valid after fourteen days from the date of any change in the ownership of the airport in respect of which it was issued, unless sooner renewed by the Minister.

307. No person shall knowingly use any airport for any purpose contrary to the conditions of issue of the airport licence.

308. State aircraft shall be permitted the use of any airport and its facilities at all reasonable times, subject to the conditions of issue of the airport licence.

309. As soon as possible after landing at any airport, the pilot-in-command of the aircraft shall report or cause to be reported the fact of such landing to the operator of the airport or his accredited representative.

310. Every airport and all aircraft using the airport are subject at all times to inspection by the Minister or any person thereto authorized by him, but no building used exclusively for purposes relating to the construction or design of aircraft or aircraft equipment is subject to inspection by any such person except upon the written order of the Minister.

311. The Minister may make directions

- (a) prescribing the marks and lights to be displayed by day and by night at any aerodrome;
- (b) prescribing or approving the fees that may be charged for the use of any airport or its facilities; and
- (c) prescribing such other conditions as he deems necessary respecting the operation of any aerodrome.

312. During daytime periods of poor visibility, lights used for the night lighting of aerodromes shall be operated whenever possible and insofar as may be necessary under the circumstances.

313. No person shall

- (a) walk or stand, or drive or park any vehicle, on any part of an airport used for the movement of aircraft except in accordance with permission given by the appropriate air traffic control unit or, in the absence of any such unit, by the operator of the airport;
- (b) operate any vessel on or cause any floating or other obstruction on the surface of any part of the water area of an airport that is necessary for the safe and proper navigation of aircraft to be kept clear of obstructions, when warned off, by signal or otherwise, by the appropriate air traffic control unit or other person as provided in paragraph (a);

- (c) mark or display at any place other than an aerodrome any mark, light or signal calculated or likely to induce any person to believe that the place is an aerodrome;
- (d) exhibit at or in the vicinity of an aerodrome any light or signal which may endanger the safety of aircraft by reason of glare or by causing confusion with or preventing clear visual reception of any light or signal prescribed by these regulations;
- (e) knowingly remove, deface, extinguish or interfere with any light or signal used for the purpose of air navigation;
- (f) allow any animal that is owned by him or is in his custody or control to run at large within the boundaries of an airport or an aerodrome; or
- (g) discharge any firearm within or into the boundaries of an airport or an aerodrome without the permission of the operator of the airport or the aerodrome.

314. The operator of an airport may remove or cause to be removed from the water surface of the airport any logs or any other floating obstruction or obstacle that, in his opinion, constitutes a menace to the safe operation of aircraft at or in the vicinity of the airport, and may convey or cause to be conveyed such logs or other thing causing or forming part of such obstruction or obstacle to such convenient place as he deems suitable and proper.

315. The use of any licensed or unlicensed area for landing or taking off an aircraft is *prima facie* proof of the acceptance by the pilot-in-command of the aircraft of the suitability of that area for the intended operation.

PART IV

PERSONNEL LICENSING

400. Except as provided in this Part, no person shall fly or attempt to fly as a flight crew member of an aircraft unless he is the holder of a valid and subsisting licence or permit appropriate to his duties, issued under this Part.

401. Except as otherwise directed by the Minister, a person is entitled to fly as a flight crew member of an aircraft registered in a contracting state if he is the holder of a licence or permit appropriate to his duties issued or validated under the laws of that state.

402. The Minister may direct that no person shall perform or attempt to perform duties, other than duties of a flight crew member, of a kind specified by the Minister, that affect or may affect the safety of any aircraft, unless that person is the holder of a licence appropriate to his duties, issued under this Part.

403. The Minister may make directions specifying

- (a) the various classes of licences and permits that may be issued under this Part;
- (b) the duties and functions that may be carried out by the holder of a licence or permit of any class;
- (c) the kinds of aircraft and the types of aircraft operations in which the privileges attaching to licences or permits of flight crew members may be exercised;
- (d) the qualifications as to age, physical conditions, knowledge, experience and skill of persons to whom licences or permits may be issued under this Part;
- (e) the nature of the examinations or tests to be undergone and information to be submitted by any person applying to have a licence or permit issued, renewed or validated or to have the conditions or privileges of a licence or permit varied; and
- (f) such other conditions and limitations as the Minister deems advisable affecting the privileges attaching to licences or permits issued under this Part.

404. The Minister may, upon being satisfied as to the qualifications of any applicant,

- (a) issue to the applicant a licence or permit appropriate to his qualifications, in a form prescribed by the Minister;
- (b) issue to the applicant a document, in a form prescribed by the Minister, validating in Canada any licence appropriate to the qualifications of the applicant, held by the applicant under the laws of a contracting state or a country that is a party to an agreement entered into with Canada relating to interstate flying; or
- (c) enter on any licence or permit held by the applicant an endorsement extending to the applicant the privilege of performing additional duties or functions appropriate to his qualifications.

405. No licence or permit shall be issued to a person and no licence held by a person shall be validated under this Part unless that person is

- (a) a Canadian citizen;
- (b) a person lawfully admitted to Canada for permanent residence who, since being so admitted, has been ordinarily resident in Canada for a period of not more than six years; or
- (c) a citizen or subject of a contracting state that grants like privileges to Canadian citizens on equal terms and conditions as citizens or subjects of that state.

406. A licence, permit or document validating any licence issued under this Part may contain such conditions as the Minister prescribes, and the conditions may be amended at any time by the Minister.

407. The Minister may at any time for any reason that to him seems sufficient cancel or suspend a licence, permit or document validating any licence issued under this Part.

408. No person shall fly or attempt to fly as a flight crew member of an aircraft, or otherwise act or attempt to

act in the capacity in which a licence issued or validated under this Part entitles him to act,

- (a) if he is aware of being under any physical disability that might render him unable to meet the requirements as to physical condition for the issue or renewal of the licence;
- (b) while his ability so to act is impaired by alcohol or a drug;
- (c) during any period for which his licence or the document validating his licence has been suspended; or
- (d) after his licence or the document validating his licence has been cancelled or has expired.

PART V

RULES OF THE AIR

DIVISION I

500. All Canadian aircraft in flight over the high seas shall comply with the Rules Of the Air contained in Annex 2 to the Convention as amended from time to time.

DIVISION II

GENERAL RULES

501. The pilot-in-command of an aircraft, prior to the commencement of any flight, shall ascertain whether the conditions of flight are such as to enable the flight to be conducted in accordance with the visual flight rules.

502. In any case where the pilot-in-command of an aircraft ascertains that the conditions of flight are not such as to enable the flight to be conducted in accordance with the visual flight rules, the flight shall be conducted in accordance with the instrument flight rules.

503. When so directed by the Minister, visual flights may be conducted within control zones under IFR weather conditions without complying with the instrument flight rules.

504. Prior to the commencement of any flight the pilot-in-command of an aircraft shall familiarize himself with all available information appropriate to the intended flight.

505. The pilot-in-command of an aircraft shall comply with all air traffic control clearances or instructions received by him.

506. When so directed by the Minister, aircraft flown at night within controlled airspace shall comply with the instrument flight rules.

507. No person shall create a hazard to persons or property on the ground or water by dropping anything from an aircraft in flight.

508. (1) Subject to this section, the Minister may make directions prohibiting or restricting the navigation of aircraft over such areas as are specified by the Minister, either absolutely or subject to such exceptions or conditions as may be specified by him.

(2) No aircraft shall be flown over

(a) any penitentiary, as defined in the *Penitentiary Act*, or

(b) any area specified by direction of the Minister as an area over which the navigation of aircraft is prohibited,

or so near thereto that the angle between the perpendicular and a line from the aircraft to the nearest point of such area is less than twenty degrees, except with the permission of the Minister and subject to such terms and conditions as may be specified by the Minister.

509. No object shall be towed by any aircraft, except in accordance with such conditions as may be specified by the Minister.

510. Parachute descents, other than emergency descents, shall not be made in controlled airspace except in accordance with the written authorization of the Minister.

511. No person shall enter or attempt to enter any aircraft in flight or leave or attempt to leave any aircraft in flight except for the purpose of making a parachute descent, or give upon any aircraft in flight any gymnastic or other like exhibition.

512. No aircraft shall be flown in any acrobatic flight

(a) so as to endanger or be likely to endanger air traffic in the vicinity of the aircraft;

(b) over any urban or other populous area; or

(c) within any airway or air route designated as such by the Minister.

513. No aircraft shall be flown in any acrobatic flight or exhibition flight over any assembly of persons except in accordance with the written authorization of the Minister.

514. No person in any aircraft shall execute any acrobatic flying unless he is the sole occupant of the aircraft

or is a flying instructor authorized in accordance with these regulations to engage in giving dual flying instructions.

515. No aircraft shall be operated in such a negligent or reckless manner as to endanger or be likely to endanger the life or property of any person.

516. The pilot-in-command of an aircraft operated on or in the vicinity of an aerodrome shall

- (a) observe other aerodrome traffic for the purpose of avoiding collision;
- (b) conform with or avoid the pattern of traffic formed by other aircraft in operation;
- (c) make all turns to the left, when approaching for a landing and after taking off, unless otherwise directed by the Minister, except that an air traffic control unit may authorize a turn or partial turn to the right when desirable in specific instances;
- (d) land and take off, insofar as practicable into the wind unless otherwise authorized by the appropriate air traffic control unit;
- (e) maintain a continuous watch on the radio frequencies designated for airport control communications or, if such continuous watch is not possible, keep a watch for such instructions as may be issued by visual means in any case where an air traffic control unit is in operation; and
- (f) obtain, either by radio or by visual signal, such authorization for his movements from the appropriate air traffic control unit, if any such unit is in operation, as may be necessary for the protection of airport traffic.

517. No person shall fly an aircraft at a height of less than two thousand feet over an aerodrome except for the purpose of landing or taking off or except as otherwise directed by an air traffic control unit.

518. No aircraft shall be flown in such proximity to any other aircraft as to create a collision hazard.

519. No aircraft shall be flown in formation except by pre-arrangement between the pilots-in-command of such

aircraft and, within any control zone, between the pilots-in-command of such aircraft and the appropriate air traffic control unit.

520. When two aircraft are on converging courses at approximately the same altitude, the aircraft that has the other on its right shall give way, except as follows:

- (a) power-driven heavier-than-air aircraft shall give way to airships, gliders and balloons;
- (b) airships shall give way to gliders and balloons;
- (c) gliders shall give way to balloons;
- (d) power-driven aircraft shall give way to aircraft that are seen to be towing aircraft or other objects.

521. The aircraft that has the right-of-way shall maintain its course and speed, but nothing in this Part relieves the pilot-in-command of any aircraft from the responsibility of taking such action as is necessary to avoid collision; any aircraft that is required to keep out of the way of another shall avoid passing over or under, or crossing, ahead of the other unless passing or crossing well clear of it.

522. When two aircraft are approaching head-on or approximately so and there is danger of collision, each shall alter its course to the right.

523. An aircraft that is being overtaken has the right-of-way and the overtaking aircraft, whether climbing, descending or in horizontal flight, shall keep out of the way of the other aircraft by altering its course to the right and no subsequent change in the relative positions of the two aircraft shall absolve the overtaking aircraft from the obligation so to alter its course until it is entirely past and clear of the other.

524. Aircraft in flight or manœuvring on the ground or water shall give way to other aircraft landing or about to land.

525. Where two or more heavier-than-air aircraft are approaching an aerodrome for the purpose of landing

the aircraft at the higher altitude shall give way to aircraft at the lower altitude, but the latter shall not take advantage of this requirement to manoeuvre in front of another aircraft that is about to land, or to overtake that aircraft; power-driven heavier-than-air aircraft shall give way to gliders where both such aircraft are approaching an airport for the purpose of landing.

526. No aircraft shall take off or attempt to take off until such time as there is no apparent risk of collision with any other aircraft.

527. Where the pilot-in-command of an aircraft is aware that another aircraft is compelled to land, he shall give way to such other aircraft.

528. Where the pilot-in-command of an aircraft declares that an emergency situation exists as a result of which it is necessary for the appropriate air traffic control unit to give priority to such aircraft, the pilot-in-command shall make a full report of the situation to such air traffic control unit within forty-eight hours thereafter.

529. Except when taking off or landing or except as specifically authorized by the Minister, aircraft shall not be flown

- (a) over the built-up areas of cities, towns or other settlements or over an open-air assembly of persons, except at altitudes that will permit, in the event of an emergency, the landing of the aircraft without undue hazard to persons or property on the surface; such altitudes shall not in any case be less than one thousand feet above the highest obstacle within a horizontal radius of two thousand feet from the aircraft; and
- (b) elsewhere than over any area mentioned in paragraph (a), except at altitudes of not less than five hundred feet above the surface of the ground or water, unless such flight may be made without undue hazard to persons or property on the surface.

530. An aircraft in level cruising flight at one thousand feet or more above the surface of the ground or water shall maintain the following cruising altitudes:

- (a) within controlled airspace, such altitude appropriate to the direction of flight as is prescribed by the Minister; and
- (b) elsewhere than within controlled airspace, such altitude appropriate to the magnetic track as is prescribed by the Minister.

531. The pilot-in-command of an aircraft on the water shall,

- (a) when on the waters of the Great Lakes, their connecting and tributary waters and on the Ottawa and St. Lawrence rivers and their tributaries as far east as the lower exit of the Lachine Canal and the Victoria Bridge at Montreal, comply with the "Rules of the Road for the Great Lakes" established pursuant to the *Canada Shipping Act*; and
- (b) when on any other inland waters in Canada or on the high seas, comply with the "Regulations for Preventing Collisions at Sea" established pursuant to that Act.

532. (1) When two aircraft or an aircraft and a vessel are approaching one another on the water and there is a risk of collision, the aircraft in question shall proceed with careful regard to existing circumstances and conditions including the limitations of the respective craft.

(2) An aircraft on the water that has another aircraft or a vessel on its right shall give way so as to keep well clear.

(3) An aircraft on the water approaching another aircraft or a vessel head-on, or approximately so, shall alter its heading to the right so as to keep well clear.

(4) The aircraft or vessel on the water that is being overtaken has the right of way, and the one overtaking shall alter its heading to keep well clear.

(5) Aircraft landing on or taking off from the water shall, insofar as practicable, keep well clear of all vessels and avoid impeding their navigation.

533. By night, at airports used or available for night flying, aircraft parked or being moved on the manoeuvring area or in proximity thereto shall be clearly illuminated or lighted, or the area that they occupy marked with obstruction lights; between sunset and sunrise an aircraft on the water and not under way shall display where it can best be seen a white light visible in all directions on the horizon at a distance of at least one mile unless within any area specifically exempted by the Minister.

534. The pilot-in-command of any aircraft shall, in accordance with any direction of the Minister in that behalf,

- (a) submit a flight plan to the appropriate air traffic control unit prior to the commencement of any VFR flight; and
- (b) submit a flight notification to a responsible person prior to the commencement of any flight for which no flight plan is required by these regulations.

535. No person shall knowingly submit any flight plan or flight notification as required by these regulations that contains any false or misleading statement or matter, or that is calculated to deceive any person to whom it is so required to be submitted.

536. Where any flight is made in deviation from a VFR flight plan or a flight notification, the pilot-in-command of the aircraft shall, as soon as practicable, notify the person or agency with whom the flight plan or flight notification was filed of such deviation.

537. The pilot-in-command of an aircraft for which a VFR flight plan or a flight notification has been filed shall report his arrival, as soon as possible after landing, to the person or agency with whom the flight plan or flight notification was filed, unless such person or agency was previously notified that no arrival report would be filed.

538. No single-engined landplane shall be operated on a commercial air service over water beyond gliding distance from shore except as authorized by the Minister, nor shall any flight be commenced in any single-engined

aircraft with intent that the flight should be a trans-oceanic flight; multi-engined landplanes unable to maintain flight in the event of failure of the critical engine shall be deemed to be single-engined landplanes for the purpose of this section.

DIVISION III

VISUAL FLIGHT RULES (VFR)

539. In controlled airspace no flight being made in accordance with the visual flight rules shall be continued in accordance with the instrument flight rules except with the authority of the appropriate air traffic control unit.

540. When operated in accordance with the visual flight rules, aircraft shall be flown with visual reference to the ground or water unless otherwise authorized by the appropriate air traffic control unit in accordance with any directions of the Minister in that behalf.

541. VFR flights within controlled airspace and elsewhere shall be made in accordance with such VFR flight minima as may be directed by the Minister.

542. The amount of fuel and oil carried on board any aircraft at the commencement of any VFR flight shall be sufficient, anticipated wind and other weather conditions having been considered, to fly to the place of intended landing and thereafter for forty-five minutes at normal cruising speed.

543. No aircraft shall be flown under simulated instrument flight conditions unless,

- (a) the aircraft is equipped with fully functioning dual controls; and
- (b) a competent pilot occupies a control seat to act as safety pilot for the person who is flying under simulated instrument flight conditions; the safety pilot shall have adequate vision forward and to each side of the aircraft, or a competent observer in communication with the safety pilot shall occupy a position in the aircraft from which his field of vision adequately supplements that of the safety pilot.

DIVISION IV

INSTRUMENT FLIGHT RULES (IFR)

544. In controlled airspace all flights being made in accordance with the instrument flight rules shall continue in accordance with the instrument flight rules, regardless of weather conditions, unless and until such time as the appropriate air traffic control unit is notified to the contrary.

545. The pilot-in-command of an aircraft may elect to conduct a flight under the instrument flight rules in conditions of visibility and distance from cloud equal to or better than VFR minima.

546. For the purposes of any IFR flight,

- (a) the pilot of the aircraft shall possess such special qualifications as may be directed by the Minister; and
- (b) the aircraft shall be equipped with such instruments and radio apparatus as may be directed by the Minister.

547. (1) Except as directed by the Minister, no IFR flight shall be commenced unless, wind and other anticipated meteorological conditions having been considered, sufficient fuel and oil are carried to fly to the airport of intended landing, thence to an alternate airport and thereafter for forty-five minutes at normal cruising speed.

(2) The provisions of subsection (1) respecting alternate airports do not apply to flights confined to areas in the vicinity of an airport.

548. Where there are indications that traffic delays may be encountered, such quantities of fuel and oil as may be necessary in addition to the minima required by this Division shall be carried to meet such conditions.

549. The weather operating minima in respect of any airport as specified in the "Canada Air Pilot" issued under the authority of the Minister or elsewhere specified and duly approved by the Minister, apply in respect of all landings and take-offs made in accordance with the instrument flight rules at that airport.

550. Except when taking off or landing, or except as specifically authorized by the Minister, aircraft in IFR flight shall not be flown except at altitudes of at least one thousand feet above the highest obstacle located within a horizontal radius of five miles from the estimated position of the aircraft in flight, but the Minister may direct that flights over any area specified by him shall not be conducted except at such higher minima altitude as may be specified by him.

551. (1) Prior to taking off from any point within and prior to entering any controlled airspace during IFR flight, a flight plan for the flight containing such information as may be specified by the Minister shall be submitted by the pilot-in-command of the aircraft to the appropriate air traffic control unit.

(2) Except as otherwise authorized by the Minister, no IFR flight shall be made in controlled airspace unless the flight plan as submitted includes an alternate airport having a landing area suitable for use by the aircraft in question.

(3) A particular alternate airport shall be included in the flight plan only when current forecasts show a trend indicating that the ceiling and visibility at that alternate airport will, at the expected time of arrival, be at or above such minima as may be specified by the Minister.

552. (1) Prior to taking off from any point within and prior to entering any controlled airspace during IFR flight, an air traffic control clearance based on the flight plan shall be obtained from the appropriate air traffic control unit, and the aircraft shall be flown in accordance with such clearance, and, unless otherwise authorized by the appropriate air traffic control unit, shall follow the instrument approach procedures approved for the airport to be used.

(2) No deviations shall be made from the requirements of any air traffic control clearance except in an emergency that necessitates immediate action, in which case, as soon as possible after any action has been taken in connection

with such emergency, the pilot-in-command of the aircraft shall inform the appropriate air traffic control unit of the deviation and, if necessary, obtain an amended clearance.

553. (1) Subject to subsection (2), no aircraft shall be flown in accordance with the instrument flight rules within controlled airspace unless a continuous listening watch is maintained on the appropriate radio frequency of the air traffic control unit concerned and two-way communication is established therewith.

(2) If unable to maintain two-way radio communication as required by subsection (1), the pilot-in-command of the aircraft shall comply with such alternative procedures as may be directed by the Minister.

554. (1) During IFR flight, position reports to the appropriate air traffic control unit shall be made over such reporting points as are designated by the Minister and over such other reporting points as are specified by the appropriate air traffic control unit; in the absence of reporting points designated by the Minister, position reports to the air traffic control unit shall be made at such intervals and at such locations as are specified by such unit.

(2) All position reports required by subsection (1) shall contain such information and shall be made in such manner as may be directed by the Minister.

555. IFR flights shall be made at the following cruising altitudes:

- (a) within controlled airspace, at an altitude approved by the appropriate air traffic control unit; and
- (b) elsewhere, subject to this Part, at such altitude above sea level appropriate to the magnetic track as may be directed by the Minister.

556. The pilot-in-command of an aircraft making an IFR flight for which a flight plan has been submitted shall report his arrival to the appropriate air traffic control unit as soon as possible after landing.

DIVISION V

LIGHTS AND VISUAL SIGNALS

557. In this Division, "visible", in relation to any light or signal, means visible on a dark night in a clear atmosphere.

558. (1) By night all heavier-than-air aircraft in flight or manœuvring on the ground and between sunset and sunrise all aircraft under way on the water shall display the following lights:

- (a) a forward red light displayed on the left side and a forward green light on the right side, either steady or flashing, each showing an unobstructed light between two vertical planes whose dihedral angle is 110° when measured to the left and right respectively of the aircraft from dead ahead; such forward lights shall be spaced laterally as far apart as practicable and shall be visible at a distance of at least five miles; and
- (b) a rear steady white light, or flashing white, or alternating white and red, displayed as far aft as possible, showing between two vertical planes a light visible aft throughout a dihedral angle of 140° bisected by a vertical plane through the longitudinal axis of the aircraft, such light to be visible at a distance of at least three miles.

(2) By night all aircraft, other than heavier-than-air aircraft, in flight or manœuvring on the ground and between sunset and sunrise all seaplanes and other amphibian aircraft on the surface of the water but not under way shall display such lights as may be prescribed by the Minister.

(2a) Aircraft carrying passengers by night shall be equipped with a functioning landing light or landing lights.

(3) No lights other than those prescribed by this section shall be displayed by any aircraft that might be mistaken for the lights so prescribed.

559. Distress and urgency signals shall be given in accordance with such directions as may be issued by the Minister, but nothing in this section shall be held to prevent the use by a member of the flight crew of an aircraft in distress of any means at his disposal to attract attention and to make known the position of the aircraft and obtain help.

560. No light signal or ground marking for the control of air traffic shall be given or displayed at any airport except by the appropriate air traffic control unit or, if no such unit is in operation, by a person thereto authorized by the Minister, and no such signal or marking shall be given or displayed except as prescribed by section 561.

561. (1) Directional light signals to aircraft in flight shall be given as follows:

- (a) a steady green light means "CLEARED TO LAND";
- (b) a steady red light means "GIVE WAY TO OTHER AIRCRAFT AND CONTINUE CIRCLING";
- (c) a series of green flashes means "RETURN FOR LANDING", and shall be followed at the proper time by a steady green light; and
- (d) a series of red flashes means "AIRPORT UNSAFE; DO NOT LAND".

(2) Directional light signals to aircraft on the manœuvring area of an aerodrome shall be given as follows:

- (a) a steady green light means "CLEARED FOR TAKE-OFF";
- (b) a steady red light means "STOP";
- (c) a series of green flashes means "CLEARED TO TAXI";
- (d) a series of red flashes means "TAXI CLEAR OF LANDING AREA IN USE"; and
- (e) a flashing white light means "RETURN TO STARTING POINT ON AIRPORT".

(3) The firing of a red pyrotechnical light, whether by day or night and notwithstanding any previous instruction, means "DO NOT LAND FOR THE TIME BEING".

(4) By day or by night a series of projectiles discharged at intervals of ten seconds, each showing on bursting, red and green lights or stars, means: "YOU ARE IN THE VICINITY OF A PROHIBITED DANGER OR RESTRICTED AREA, ALTER COURSE".

(5) Ground markings displayed for the control of air traffic at any aerodrome or other area on the land or water shall be in accordance with such directions as may be issued by the Minister.

562. The pilot-in-command of an aircraft in respect of which any light signal or ground marking is given or displayed as prescribed by section 561 shall comply with such signal or marking according to its meaning.

PART VI

AIR TRAFFIC CONTROL

600. The Minister may, subject to these regulations, make such directions as he deems necessary

- (a) respecting the provision of air traffic control service within such portions of the airspace and at such airports as may be specified by him; and
- (b) respecting the standards and procedures to be followed in the operation of any air traffic control service or any air traffic control unit.

601. Any person who, by virtue of his employment in association with the movement of air traffic, is under a duty to forward information received by him to an appropriate air traffic control unit shall, immediately upon receipt of the information or as soon thereafter as possible, forward such information to the appropriate air traffic control unit.

PART VII

COMMERCIAL AIR SERVICE OPERATIONS

700. No person shall operate in Canada any commercial air service unless he holds a valid and subsisting certificate issued by the Minister certifying that the holder thereof is adequately equipped and able to conduct a safe operation as an air carrier over a prescribed route or in a prescribed area.

701. Every certificate issued under this Part shall be in such form as the Minister prescribes and shall contain such special terms and conditions for the safe and proper operation of the service as the Minister deems necessary.

702. Subject to these regulations, no person shall operate any commercial air service except in accordance with such standards for the safe and proper operation of the service as may be prescribed by the Minister.

703. A certificate issued under this Part may be suspended or cancelled by the Minister in the event of the failure of the person to whom it is issued to conduct the service in a safe and proper manner or to maintain the equipment required in connection with the operation of the service.

704. Every owner of a commercial aircraft shall make such returns and furnish such particulars to the Minister in connection with the aircraft as the Minister may prescribe.

705. The Minister may at any time inspect and examine the premises, aircraft and other equipment belonging to or used in connection with any commercial air service and may make such inquiries into the manner of conducting any commercial air service as he deems necessary for purposes of this Part.

706. (1) In this part, "farming" includes tillage of the soil, livestock raising, raising of poultry, dairy farming and fruit growing, but does not include an office or employment under a person engaged in the business of farming.

(2) A person whose chief source of income is from farming is exempted from the provisions of this Part, if

- (a) he owns an aircraft having a disposable load not exceeding 1,100 pounds,
- (b) he engages in aerial spraying or dusting for hire and reward within an area having a radius of twenty-five miles from the centre of his farm, and
- (c) he complies with such conditions and limitations as may be directed by the Minister.

PART VIII**DIVISION I****MISCELLANEOUS PROVISIONS**

800. (1) Explosives and other dangerous articles or substances shall not be carried on board any aircraft except as authorized by the Minister.

(2) No person shall send or take upon an aircraft any explosives or other dangerous articles or substances without distinctly marking their nature on the outside of the containers thereof or otherwise giving notice thereof to the person in charge of the aircraft, or the person whose duty it is to receive such goods on board.

(3) No aircraft carrying explosives or other dangerous articles or substances shall carry any passenger other than the owner of such goods or his accredited representative.

(4) Subsection (3) does not apply in respect of ammunition ordinarily used for hunting or sporting purposes or as emergency equipment, and subsections (1) to (3) do not apply in respect of explosives or other dangerous articles or substances necessary for the operation of the aircraft or for the safety of crew members or passengers on board.

801. The engine or engines of any aircraft shall not be started unless the pilot's seat is occupied by a person competent to control the aircraft or unless the aircraft is prevented from moving forward, and the engines shall not be left running unless the pilot's seat is occupied by a person competent to control the aircraft.

802. No aircraft carrying passengers shall take off or land by night at an unlighted aerodrome.

803. (1) The pilot-in-command of an aircraft who is given a signal to land, in a form prescribed by the Minister, or given any instruction to land shall, subject to any direction given by any air traffic control unit, forthwith land the aircraft in accordance with the signal or instruction.

(2) For the purposes of subsection (1), a signal or instruction to land may be given by a peace officer, an officer of customs or immigration, an officer of the Royal Canadian Air Force acting within the scope of his duty or any person thereto authorized by the Minister.

(3) No person shall give any signal or instruction to land as provided in subsection (1) without good and sufficient cause, and for the purposes of any prosecution for a contravention of the provisions of this subsection the onus of proof that he had such good and sufficient cause is on the person accused of such contravention.

804. The owner or operator of an aircraft shall, upon notice by mail to his registered address given by the Minister, advise the Minister as to where the aircraft is then stationed and whether or not it is then in a serviceable condition.

805. The owner or operator of any aircraft shall, upon reasonable notice given to him by the Minister, make available such aircraft for inspection in accordance with the notice.

806. Every person who

- (a) is the holder of any licence, certificate or permit issued under these regulations;
- (b) is the owner, operator or pilot-in-command of any aircraft in respect of which any certificate, log book or other document is kept; or
- (c) has in his possession any licence, certificate or permit issued under these regulations or any log book or other document relating to any aircraft or commercial air service;

shall, upon demand,

- (d) produce the licence, certificate, permit, log book or other document, as the case may be, for inspection by a peace officer, officer of customs or immigration or any person thereto authorized by the Minister; or
- (e) surrender the licence, certificate, permit, log book or other document, as the case may be, to a peace

officer or any person thereto authorized by the Minister.

807. Where any licence, certificate, permit or other document issued under these Regulations has been cancelled or suspended, the person to whom it was issued shall forthwith return it to the Minister.

808. The Minister may withhold the issue of any licence, certificate, permit or other document under these regulations if, in his opinion, the issue thereof is not in the public interest.

809. (1) No person shall knowingly

- (a) use, deal with or act upon any licence, certificate, permit or other document issued under these regulations that has been cancelled or suspended, or to which he is not by these regulations entitled;
- (b) lend any licence, certificate, permit or other document issued under these regulations to any person who is not by these regulations entitled thereto, or allow the same to be used by any such person; or
- (c) make, assist in making or procure the making of any false representations for the purpose of obtaining for himself or any other person the issue of any document mentioned in paragraph (b).

(2) No person shall knowingly mutilate, alter or render illegible any log book or any entry made therein, or make, procure or assist in the making of, any false entry in, or omission from, any log book, nor shall any person knowingly destroy any log book during the period for which it is required by these regulations to be kept.

810. (Revoked by SOR/56-365)

811. Where the Minister has reason to believe, upon complaint or otherwise, that an aircraft within Canada is intended or is about to proceed upon a flight in contravention of these regulations or while in a condition unfit for flight, he may make such directions and take such action by way of the provisional detention of the

aircraft or otherwise as he deems necessary, for the purpose of causing the circumstances relating to the flight to be investigated, or the aircraft to be detained until such time as he is satisfied that the regulations are being complied with or until such alterations or repairs as he deems necessary to render the aircraft fit for flying have been made.

812. No person shall wilfully obstruct or impede any person in the execution of his powers or duties under these regulations.

813. Neglect on the part of any person to whom any licence, certificate or permit has been issued under these regulations of any precaution that may be required by the ordinary practice of the air or by the special circumstances of the case, or the contravention of these regulations or any direction of the Minister thereunder by any such person is cause for the suspension of such licence, certificate or permit.

814. Failure on the part of any person to whom any licence, certificate or permit has been issued under these regulations to observe or comply with the conditions upon which such licence, certificate or permit was issued shall be deemed to constitute a contravention of these regulations by such person.

815. Every person who

- (a) flies or manœuvres or otherwise uses or operates any aircraft contrary to the provisions of these regulations or any direction of the Minister thereunder,
- (b) uses or operates any aerodrome contrary to the provisions referred to in paragraph (a),
- (c) is a party to any act described in paragraph (a) or (b),
- (d) is the owner or operator or the pilot-in-command of any aircraft by means of which any act described in paragraph (a) is committed, or

(e) is the operator of any aerodrome in respect of which any act described in paragraph (b) is committed, shall be deemed to have contravened the provisions so referred to unless, in any prosecution for such contravention, he establishes that the act so described took place without his knowledge or consent or that he exercised all due diligence to prevent its commission.

816. In complying with these regulations due regard shall be had to all dangers of navigation and of possible collision, and to any special circumstances rendering non-compliance therewith necessary to avoid immediate danger, and in any prosecution for a contravention of these regulations or any direction of the Minister thereunder it is a good defence if the person in charge therewith establishes that the contravention took place due to stress of weather or other unavoidable cause as contemplated by this section.

817. Nothing in these regulations shall be held to relieve the owner, operator or flight crew member of an aircraft of the consequences of any neglect in the use of lights or signals, or of any neglect to keep a proper lookout, or of neglect of any precaution that is required by the ordinary practice of the air or by the special circumstances of the case.

818. Before any licence, certificate or permit is first issued under these regulations, the applicant therefor shall remit to the Minister,

- (a) for a certificate of registration of an aircraft, a fee of \$5.00;
- (b) for a certificate of airworthiness of an aircraft, a fee of \$5.00;
- (bb) for a flight permit for an ultra-light or a private aircraft, a fee of \$5.00.
- (c) for an aircraft type approval, a fee of \$25.00;
- (d) for an airport licence, a fee of \$10.00; and
- (e) for any licence or permit under Part IV, a fee of \$5.00.

819. No photographic apparatus shall be installed in, nor shall any photographs be taken from any aircraft while operating in or over Canadian territory unless such aircraft is registered in Canada.

820. (1) No person shall make a photographic survey from an aircraft of features and properties of the earth over any part of Canada or the territorial waters of Canada without the permission of the Minister.

(2) Subsection (1) does not apply to a person who surveys an area owned or leased by him in an aircraft owned by him and registered as a Canadian commercial aircraft pursuant to these Regulations.

(3) The permission of the Minister referred to in subsection (1) may be given subject to such terms and conditions as the Minister may prescribe.

DIVISION II

CERTIFICATES, LICENCES, MANUALS, LOGS AND RECORDS

821. No person shall fly any aircraft unless there is carried on board the aircraft the certificate of registration, certificate of airworthiness and journey log book relating to the aircraft, the authority and licence for the equipment and working of the radio equipment, if any, and the licences or permits of all members of the flight crew of the aircraft.

822. (1) Every owner of a commercial aircraft shall keep and maintain, in a form prescribed by the Minister,

- (a) an aircraft log book and a journey log book for the aircraft;
- (b) an engine log book for each engine of the aircraft; and
- (c) a propeller log book for each propeller of the aircraft;

and shall enter or cause to be entered therein such particulars as may be specified by the Minister.

(2) The owner of a private aircraft shall keep and maintain a journey log book in a form prescribed by the Minister, and in addition, a detailed engineering history of the aircraft including a record of repairs, replacements, overhauls and modifications and shall enter or cause to be entered therein such particulars as may be specified by the Minister.

823. Entries in log books shall be made accurately and in ink as soon as possible after the events they record; entries to be made in the journey log book may first be made in a note book but shall be permanently entered within twenty-four hours after the events recorded; all entries in log books shall be made by a competent person and signed by such person, and no erasures shall be made in, nor any leaf torn from, any log book required by these regulations to be kept.

824. Every owner of an aircraft shall

- (a) preserve all log books for the aircraft or its engines or propellers for a period of not less than two years after the date of the last entry therein; and
- (b) on the first page of every log book taken into use to replace another log book, enter the last two entries from the log book so replaced.

825. In any prosecution for a contravention of these regulations or any direction of the Minister thereunder, an entry in any log book is, as against the person who made the entry and the owner and operator of the aircraft to which the log book relates, *prima facie* proof of the truth of the statements contained therein.

DIVISION III

ACCIDENTS AND BOARDS OF INQUIRY

826. (1) Where any aircraft accident occurs, the pilot-in-command and the operator of the aircraft involved shall, as soon as possible thereafter and by the quickest means of communication available, report to the Minister the date and place of the accident and such other particulars thereof as the Minister may direct.

(2) Where any aircraft is missing on a flight, the owner and the operator of the aircraft shall, by the quickest

means of communication available, notify the Minister of the fact in accordance with any direction of the Minister in that behalf.

(3) Performance by any person under a duty imposed by this section of any duty so imposed to report an aircraft accident or to notify the Minister of any aircraft missing on a flight relieves any other person under the duty so imposed of the obligation to perform such duty.

827. No aircraft involved in any accident causing death or injury to any person shall be removed or otherwise interfered with, without permission from the Minister, but the aircraft or any part thereof may be displaced or removed as may be necessary to extricate any person, to remove any mail, to prevent destruction by fire or other cause, or to avoid danger to any person or property.

828. Where any Canadian aircraft is damaged to such an extent that repairs other than ordinary running repairs or replacements are necessary, the owner or pilot-in-command thereof shall notify the Minister forthwith, giving full particulars of such damage.

829. The Minister may constitute or authorize the constitution of Boards of Inquiry of one or more members for the purpose of investigating the circumstances of any accident or of any alleged breach of these regulations, and any Board of Inquiry so constituted shall have power to take evidence upon oath or otherwise.

830. Every person required to give evidence before a Board of Inquiry shall attend and give evidence upon being so required by writing under the hand of any member of the Board.

831. Any person who attends and gives evidence before any such Board of Inquiry is entitled to receive witness fees and travelling expenses according to the tariff of fees payable to witnesses in the superior court of the province in which such evidence is given.

DIVISION IV

TRANSITIONAL AND OTHER PROVISIONS

832. A reference in these regulations to the Minister includes, in relation to any particular power, duty or function of the Minister under these regulations, a reference to any person authorized by the Minister to exercise or perform such power, duty or function.

833. Any registration effected or, with reference to any document, any act or thing done under the authority of the provisions of The Air Regulations established by Order in Council P.C. 2575 of May 24, 1951, or of any Part, section, paragraph or other portion thereof, shall, for the purposes of these regulations, be deemed to have been effected or done, as the case may be, under the provisions of these regulations or of any Part, Division, section, subsection or other portion thereof corresponding to the provisions so referred to.

CHAPTER 2

An Act to authorize the control of Aeronautics.

SHORT TITLE

1. This Act may be cited as the *Aeronautics Act*. Short title R.S., c. 3, s. 1.

PART I

1944-45, c. 28, s. 1

INTERPRETATION

2. In this Part, "Minister" means the Minister of Transport or such other Minister as the Governor in Council may from time to time designate, except that in any matter relating to defence, "Minister" means the Minister of National Defence. 1950, c. 23, s. 1.

"Minister"
defined.

3. It is the duty of the Minister

Duties of
Minister.

- (a) to supervise all matters connected with aeronautics;
- (b) to undertake, and to co-operate with persons undertaking, such projects, technical research, study or investigation as in his opinion will promote the development of aeronautics in Canada;
- (c) to construct and maintain all Government aerodromes and air stations, including all plant machinery and buildings necessary for their efficient equipment and upkeep;
- (d) to control and manage all aircraft and equipment necessary for the conduct of any of Her Majesty's services;
- (e) to operate such services as the Governor in Council may approve;
- (f) to prescribe aerial routes;
- (g) to co-operate with other officers of Her Majesty, and to assist in the carrying out of any services under their jurisdiction

that may require aerial work of any nature, and to collaborate with the officers employed in existing air services of Her Majesty in such extension of their present work as the development of aeronautics may require;

- (h) to take such action as may be necessary to secure, by international regulation or otherwise, the rights of Her Majesty in respect of Her Government of Canada, in international air traffic;
- (i) to co-operate with the officers of his Department on all questions relating to the air defence of Canada;
- (j) to co-operate with the Air staffs or authorities of other governments or countries for any purposes pertaining to air services;
- (k) to investigate, examine and report on the operation and development of commercial air services within or partly within Canada or the limits of the territorial waters of Canada;
- (l) to consider, draft and prepare for approval by the Governor in Council such regulations as may be considered necessary for the control or operation of aeronautics in Canada or within the limits of the territorial waters of Canada and for the control or operation of aircraft registered in Canada wherever such aircraft may be; and
- (m) to perform such other duties as the Governor in Council may from time to time impose. R.S., c. 3, s. 3; 1950, c. 23, s. 2.

Powers of Minister to make regulations with approval of Governor in Council.

4. (1) Subject to the approval of the Governor in Council, the Minister may make regulations to control and regulate air navigation over Canada and the territorial waters of Canada and the conditions under which aircraft registered in Canada may be operated over the high seas or any territory not within Canada, and, without restricting the