

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.
 - (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.
- Minister may carry out regulations by ministerial order or direction. Offence and penalty.

Idem.

(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.

Governor in Council may prescribe compensation payable for death or injury, directly resulting from a flight undertaken in course of duty.

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.

(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.

"Aircraft."

"Air carrier."

"Board."

"Commercial air service."

"Hire or reward."

6. (1) In this Part,

- (a) "aircraft" means any machine used or designed for navigation of the air;
- (b) "air carrier" means any person who operates a commercial air service;
- (c) "Board" means the Air Transport Board;
- (d) "commercial air service" means any use of aircraft in or over Canada for 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;

- (f) "Minister" means the Minister of Transport or the Minister designated by the Governor in Council under section 2. **"Minister."**

(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. **Application.**

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. **Air Transport Board.**

(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. **Term of office.**

(3) Any retiring member is eligible for re-appointment. **Re-appointment.**

(4) Each member shall be paid such sum for his services as the Governor in Council may from time to time determine. **Payment of services.**

(5) The Governor in Council shall designate one of the members to be chairman of the Board. **Chairman.**

(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. **Substitutes.**

(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.**

- Quorum.** (8) Two members of the Board constitute a quorum.
- Vacancies.** (9) No vacancy on the Board impairs the authority of the remaining members to act. 1944-45, c. 28, s. 6; 1945, c. 9, s. 2.
- Jurisdiction.** 8. (1) The Board has full jurisdiction to inquire into, hear and determine any matter
- Inquiries.** (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
- (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.
- Mandatory orders.** (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.
- Powers of a court.** (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 pro-

perty and other matters necessary 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.

(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.

Enforcement
of Board
orders.

(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.

Practice and
procedure.

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.

Witnesses
and
evidence.

(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.

(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.

Commissions
to take
evidence in
foreign
countries.

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.

Investiga-
tion and
surveys.

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.

Recommen-
dations.

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.

Regulations.

13. Subject to the approval of the Governor in Council, the Board may make 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.

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.

Licences.

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.

Not to be issued to persons engaged in other than aircraft transport.

(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.

Only in case of public convenience and necessity.
Exception.

(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.

(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.

(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.

(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.

Suspension,
cancellation
or amend-
ment.

(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.

Appeals
to the
Minister.

(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.

Cancellation
or suspen-
sion of
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.
- Appeal from Board to Supreme Court of Canada.** 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 cir-

cumstances may allow, and upon notice to the parties and the Board, and the costs of such application are in the discretion of the judge.

(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 purpose 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.

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.

Salaries and expenses.

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:

Powers of Minister to make regulations with approval of Governor in Council.

“(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.”

(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.

Amendments. (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.

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)."

FRANCE

PRELIMINARY

The Decree No. 55-1590 of November 30, 1955 provided for Codification of the French aviation laws on the basis of Law No. 53-515 of May 28, 1948 (Journal Officiel, May 29, 1953, p. 4842), which envisaged future codification of the aviation laws. It was, in form, based on the Decree of May 10, 1948 (Journal Officiel, May 13, 1948), creating a commission for the study of codifying laws and regulations.

The noteworthy feature of the French aviation code is that it is the work of the Executive branch of the government without having been passed by the Legislative. Thus, the Code is, as the enabling decree preceding it states, a codification of the legal provisions concerning civil and commercial aviation and not a new law as to substance.

The Code replaces all air laws abrogated in accordance with its Article 198 the first of which was the law of May 31, 1924. The Code has been amended in several respects. The texts of these amendments are set forth below.

CODE OF CIVIL AND COMMERCIAL AVIATION OF NOVEMBER 30, 1955

ENABLING DECREE

(Ministry of public works, transportation and tourism. Decree No. 55-1590 of November 30, 1955 concerning codification of the laws concerning the civil and commercial aviation.¹)

The minister president,

On the report of the keeper of the seals, minister of justice, the minister of public works, transportation and tourism, the minister of overseas France, the minister of the interior, the minister of finance and economic affairs, and the Secretary of State to the minister president,

Considering Law No. 53-515 of May 28, 1953 concerning the procedure of codifying the Laws concerning the civil and commercial aviation;

Considering the opinion of the superior commission charged with the study of a codification of the laws and regulations;

Considering the legal provisions in effect concerning civil and commercial aviation;

The Council of State (section of public works) having been heard,
Decrees:

Article 1. The legal provisions concerning civil and commercial aviation contained in the legal texts enumerated in the final provisions of the code² shall be codified under the title: Code of Civil

¹ Published in Journal officiel de la Republique Francaise, Dec. 6, 1955, p. 11815.

² The comparative table of laws, decrees and ordinances codified in the following which appears on pp. 11835-11838 of the Journal Officiel of Dec. 6, 1955, is omitted.

and Commercial Aviation, in accordance with the legal text attached to this decree.

Article 2. The keeper of the seals, the minister of justice, the minister of public works, transportation and tourism, the minister of overseas France, the minister of the interior, and the minister of finance and economic affairs, shall be charged, so far as it concerns each of them, with the execution of this decree which shall be published in the *Journal Officiel* of the French Republic.

TABLE OF CONTENTS

BOOK I—AIRCRAFT

Title I—Registration, Nationality and Ownership of Aircraft (Articles 1 to 16).

Title II—Navigation of Aircraft:

Chapter I—Right of Navigation (Articles 17 to 22).

Chapter II—Landing (Articles 23 to 25).

Chapter III—Regulation of Navigation of Aircraft (Articles 26 to 33).

Title III—Damages and Liability (Articles 34 to 43).

Title IV—Criminal Provisions (Articles 44 to 58).

BOOK II—AIRPORTS

Title I—Liens in the Interest of Air Flight (Articles 59 to 71). Abrogated by Decree No. 59-92 of January 3, 1959.

Title II—Airports Open to Public Air Navigation:

Chapter I. Establishment (Articles 72 to 82).

Chapter II. Classification (Articles 83 to 85).

Chapter III. Operation (Articles 86 to 90).

Chapter IV. Fees (Articles 91 to 95).

Title III—The Airport of Paris (Articles 96 to 106).

Title IV—The Airport of Basle-Mulhouse (Articles 107 to 108).

Title V—Airports of General Interest Located Outside the Territory of Metropolitan France (Article 109).

Title VI—Criminal Provisions (Articles 110 to 112).

BOOK III—AIR TRANSPORTATION

Title I—Transportation Contracts:

Chapter I. Transportation of Goods (Articles 113 to 120).

Chapter II. Transportation of Persons (Articles 121 to 124).

Chapter III. Charter (Articles 125 and 126).

Title II—Air Carriers (Articles 127 to 136).

Title III—The Compagnie Nationale Air France:

Chapter I. Incorporation (Articles 137 and 138).

Chapter II. Operation (Articles 139 to 145).

BOOK IV—FLIGHT PERSONNEL

Title I—Professional Flight Personnel:

Chapter I. Categories (Articles 146 to 155).

Chapter II. Aircraft Commander and Crew (Articles 156 to 161).

Chapter III. Work Contracts (Articles 162 to 168).

Chapter IV. Temporary and Permanent Disability (Articles 169 to 176).

Chapter V. Discipline (Articles 177 to 185).

Chapter VI. Pensions (Articles 186 to 191).

Chapter VII. Criminal Provisions (Articles 192 and 193).

BOOK V—SPECIAL PROVISIONS FOR LIGHT AND SPORTS AIRCRAFT

Articles 195 to 197.

Final Provisions (Article 198).

CODE OF CIVIL AND COMMERCIAL AVIATION

BOOK I—AIRCRAFT

Article 1. Aircraft in the meaning of this law shall be any contrivance capable of rising and circulating in the air.

Article 2. Military aircraft and aircraft belonging to the State and used only in the public service shall be subject only to the rules concerning liability of the owner or the operator.

Title I—Registration, Nationality, and Ownership of Aircraft

Article 3. All aircraft must be registered in a register kept by the ministry in charge of civil and commercial aviation. It shall bear a name and an order number and the designation of the category to which it belongs.

However, an order shall determine the categories of aircraft which need not be registered.

Article 4. Aircraft registered in the French register shall have French nationality and must bear a visible sign of this nationality as provided by the regulations.

Article 5. Aircraft may be registered in France only if it belongs to French nationals.

A corporation may be registered as owner of an aircraft only if it has French nationality. Furthermore, in the case of an unincorporated association, all the associates or members, and in the case of a corporation, the chairman of the board, the president and at least two-thirds of the managing officers must be French nationals.

Article 6. Aircraft registered in France shall lose French nationality if the conditions set forth in the preceding article are no longer fulfilled or if its owner registers it in a foreign country.

Article 7. Aircraft registered abroad may be registered in France only upon proof that the foreign registration has been cancelled.

Article 8. Legal relations among persons aboard foreign aircraft in flight shall be governed by the law of the home State of such aircraft whenever the law of the country overflown would normally govern.

However, in the case of a crime or delict committed aboard a foreign aircraft, the French courts shall have jurisdiction if the person committing the crime or the victim is a French national or if the aircraft lands in France after the crime or delict.

The courts of jurisdiction shall be those of the place where the aircraft lands in the case an arrest is made at the time of landing, and those of the place of arrest in the case where the person committing the violation is later arrested in France.

Article 9. The register shall indicate the name and domicile of the owner of the aircraft, the category of the contrivance, its name and order number. The registration shall serve as title.

Article 10. Aircraft shall be considered personal property as concerns application of the Civil Code. However, any assignment of ownership must be by written instrument and shall be without effect in regard to third persons unless registration has been made.

Any change in ownership by death and any judgment changing, establishing or declaratory of ownership must be registered at the request of the new owner.

Article 11. The register shall be public and anyone may obtain a certified copy thereof.

Article 12. Aircraft may be mortgaged. Any mortgage shall be registered in the register. The Law of July 5, 1917, as amended by the Law of July 19, 1934, concerning mortgages on water carriers shall apply to mortgages on aircraft, and the official in charge of the register shall be substituted for the marshal of the court of commerce in regard to application of this Law.

Article 13. Seizure and judicial sales of an aircraft shall be made as provided by the Law of July 5, 1917, as amended by the Law of July 19, 1934, concerning the registration of river boats and mortgages on water carriers, but the transcript of the seizure proceedings shall be made in the registry.

Article 14. In the case of a seizure for infringement of a patent, design or model, the owner of a foreign aircraft or his representative may have the seizure lifted upon deposit of a bond the amount of which, failing an amicable agreement, shall be fixed without delay by the justice of the peace at the place of seizure.

Article 15. When the owner of the aircraft is not domiciled in France or the aircraft has a foreign nationality, any creditor shall have the right of impounding with the permission of the justice of the peace of the county where the aircraft has landed.

The judge in charge shall lift the seizure if the owner offers to deposit a bond equal to the amount of the debt claimed and he may order lifting of the seizure by fixing the amount of the bond to be furnished in the case of a dispute about the amount of the debt. Such bond shall be deposited at the office of deposits and consignments (*caisse des dépôts et consignations*).

In the case of damage caused on the surface by the landing of a foreign aircraft or by one whose owner is domiciled abroad, and also in the case of a violation of this Law by a foreigner, all agents charged under Article 55 with the execution of Articles 1 to 58 and 114 to 126 of the present code, and in particular the mayor of the community where the landing takes place, may appeal to the public authorities in order to detain the aircraft for 48 hours so that the justice of the peace may go to the place in question and may decide on the amount of damages, which amount should include not only the damage caused but in the case of a violation, also the fines and costs.

Article 16. The public authorities shall have the right to impound any French or foreign aircraft which does not comply with conditions provided for in this book before engaging in air circulation or the pilot of which has committed any violation.

Title II—Navigation of Aircraft

Chapter I—The Right of Circulation

Article 17. Aircraft may freely engage in air navigation over the French Territory. However, aircraft of foreign nationality may not so circulate over the French Territory, unless this right has been

granted to them by an international convention or they have received authorization to this effect which must be special and temporary.

Article 18. The right of an aircraft to fly over private property shall not be exercised in a manner incompatible with the right of the proprietor.

Article 19. The flight over certain areas of the French Territory may be prohibited by order for reasons of a military kind or of public safety. The location and the extent of such prohibited areas shall be especially indicated in the order.

Any aircraft engaging in flight over such prohibited areas shall, upon observing it, give the prescribed signal and shall land on the nearest airport outside the prohibited area.

When a territory has been declared in a state of siege and the flight over such territory is prohibited, any aircraft violating such prohibition shall be seized on landing at any designated point of the national territory and its occupants taken before the military courts on a charge of espionage, unless the aircraft commander can give valid reasons for his flight over said territory.

When the aircraft is observed in flight, it shall, at the first summons by means of blank shots, land at the nearest airport. Upon the summons to land, the aircraft shall immediately slow down and descend to a low altitude, or it will be forced to do so.

Article 20. Aircraft shall fly over a town or inhabited place only at such altitude that even in case of loss of propulsive power landing outside the inhabited place or on a public airport is possible.

Article 21. Any so-called acrobatic flight which involves stunts that are perilous and useless for the movement of the aircraft is prohibited over any inhabited place or that part of an airport which is open to the public.

Article 22. Stunts by any aircraft which represents a public show may take place only with the authorization of the Prefect after consultation with the mayor.

If the event consists of a flight which involves several successive landings, such authorization shall be given by the Minister of the Interior.

Chapter II—Landing

Article 23. [Abrogated by Decree No. 59-92 of January 3, 1959, see *infra*.]

Article 24. In the case of a landing on private property, the owner of such property may not prevent the departure or the removal of an aircraft which has not been ordered impounded, except in the case provided for in paragraph 3 of Article 15.

Article 25. As provided in Article 78 of the Customs Code:

- 1) Aircraft on an international flight must, in crossing the border, follow the prescribed air route.

- 2) They may land only on customs airports. However, certain categories of aircraft may, because of the nature of their operation, be exempted by administrative authorization from landing on customs airports; in such case, the authorization shall prescribe the airport of arrival and departure, the air route to be followed and the signals to be given on passing the border.

Chapter III—Regulation of Navigation of Aircraft

Article 26. The commander, the pilots and mechanics, and all persons members of the crew of an aircraft shall be in possession of a certificate of qualification in accordance with the conditions determined by a ministerial order.

Certificates of commander or pilot for French aircraft used for international flights may be granted only to French nationals.

Article 27. An aircraft may be used in air circulation only when it is supplied with a certificate of airworthiness to be given after inspection of the aircraft in accordance with the conditions determined by ministerial order.

The order shall further determine the papers which must be carried aboard the aircraft and the sign which must be inscribed on the aircraft.

The costs of the control required by the regulations for delivery or continuation of the certificate of airworthiness of aircraft shall be at the expense of the owners of the controlled aircraft under the conditions fixed by decree issued upon the report of the minister in charge of civil and commercial aviation, and the minister of finance and economic affairs.

Such decree shall fix, in particular, the amounts of cost to be reimbursed to the Treasury where the control is exercised by agents of the State.

Article 28. Except by special authorization, transportation by aircraft of explosives, weapons and ammunition of war, homing pigeons and mail within the postal monopoly, is prohibited.

Transportation and use of photographic equipment may be prohibited by ministerial order.

Article 29. No equipment for radio telegraph or radio telephone may be installed aboard an aircraft without special authorization.

Aircraft used for public service of transportation of passengers must be equipped with radio telegraph under the conditions determined by decree.

In all cases, the members of the crew operating the radio telegraph must possess a special license.

Article 30. Any aircraft landing on an airport shall be subject to the control and supervision of the administrative authorities in the same manner as those landing on private property.

Article 31. Any aircraft in flight, wherever it may be, shall obey the orders of all stations and of aircraft of police and customs authorities in whatever form such order may be given.

Article 32. Aircraft flying only over airports and in areas designated by the administrative authorities as training fields shall not be subject to the provisions of Articles 26 to 33, provided the flights do not constitute a public show. However, they may not transport passengers unless they have been issued certificates of airworthiness.

Article 33. Certificates of airworthiness or of qualification and licenses issued or validated by the State of which the aircraft is a national, shall be recognized as valid for circulation over the French Territory if reciprocity is granted by international convention or by decree.

Title III—Damages and Liability

Article 34. While in flight, pilots shall comply with the regulations concerning flight rules, air routes, lights and signals, and shall take all precautions necessary to avoid damage.

Article 35. In the case of damage caused by an aircraft in flight to another aircraft in flight, liability of the pilot and of the operator of the aircraft shall be governed by the provisions of the civil code.

Article 36. The operator of an aircraft shall be liable as a matter of law for the damages caused by the flight of an aircraft or by objects detached from an aircraft to persons or property on the ground.

Such liability may be mitigated or avoided only by proof of the fault of the injured person.

Article 37. Except in the case of *force majeure*, it shall be prohibited to throw from an aircraft in flight any goods or objects with the exception of regular ballast.

In the case where jettisoning anything because of *force majeure* or of regular ballast causes damage to persons or property on the ground, liability shall be governed by the provisions of the preceding article.

Article 38. In the case of charter of an aircraft, the owner and the operator shall be jointly liable for any damage caused to third persons.

However, if the charter has been registered in the registry, the owner shall be liable only if the third person establishes fault on his part.

Article 39. An action for liability shall be brought at the option of the plaintiff before the court where the damage has occurred or before the court of the domicile of the defendant.

If damage is caused to an aircraft in flight, the court of the place of damage shall be considered that of the place where the damaged aircraft has to land after the damage occurs.

Article 40. The Law of April 29, 1916 concerning maritime assistance and salvage shall be applicable to aircraft endangered over the sea and to pilots of aircraft who can render assistance to the persons in danger.

Article 41. Any person finding a wrecked aircraft shall notify the municipal authorities within forty-eight hours from the finding. Any violation of this provision shall be punished as provided by Article 475, paragraph 12 of the Penal Code.

However, the rules concerning maritime wrecks shall apply to wrecks of aircraft only if they are found at sea or on the sea shore.

Article 42. In the case an aircraft disappears without trace, it shall be considered lost three months after the date when the last contact was received.

After expiration of such time, the death of any persons on board such aircraft may be declared by judgment in application of Articles 87 to 89 of the Civil Code.

The minister in charge of civil and commercial aviation shall have authority, in such case, to declare a presumption of disappearance and to send to the district attorney (procureur general) of the court of appeals which has jurisdiction the requests necessary legally to declare the death of the persons who disappeared.

Interested parties may also obtain a legal declaration of death in accordance with Article 90 of the Civil Code. In such case, the re-

quest shall be forwarded by the public ministry³ to the minister in charge of civil and commercial aviation.

Article 43. The manner of application of the preceding articles shall be fixed by decree.

Title IV—Criminal Provisions

Article 44. Any owner shall be subject to a fine of from 120,00 to 2,400,00 francs and to imprisonment of from six days to one month or to either one or the other of these penalties if he has:

1) put or kept in service any aircraft without obtaining a certificate of registration or of airworthiness.

2) put or kept in service any aircraft without the sign of identification provided for in Article 4.

3) knowingly caused or permitted to fly any aircraft whose certificate of airworthiness has ceased to be valid.

Any refusal to issue a certificate of airworthiness by the authority charged therewith shall be notified in writing to the interested party and such notification shall establish against him a presumption of fault.

Article 45. The same penalties shall apply to a pilot if he has:

1) piloted an aircraft without certificate or license;

2) destroyed a logbook or knowingly entered in such logbook any inaccurate notations;

3) violated Article 23;

4) knowingly piloted an aircraft under the conditions provided for in Article 44.

The same penalties shall apply to anyone who violates the provisions of Article 19, first subsection.

Article 46. The fine provided for in Article 44 may be raised up to 4,800,000 francs and the imprisonment up to two months if the violations set forth under 1 and 3 of said Article and under 1 of Article 45 are committed after refusal or withdrawal of the certificate of registration, or qualification or the license.

Article 47. Any pilot who does not comply with the provisions of Article 19, subsection two, concerning landing after leaving a prohibited area shall be punished by a fine of from 120,000 to 2,400,000 francs and by imprisonment of from two weeks to three months.

Article 48. Any person who possesses or operates an aircraft, or a pilot who affixes or causes to be affixed on the aircraft any mark of registration which is not in conformity with the airworthiness certificate, or who omits or causes to be omitted, or renders or causes to be rendered illegible any correctly affixed mark, shall be punished by a fine of from 240,000 to 4,800,000 francs and with imprisonment of from six months to three years. Any person shall be subject to the same penalties who affixes or causes to be affixed on any private aircraft any distinctive mark reserved to public aircraft or who uses any private aircraft to which such signs have been affixed.

Article 49. Violation of the provisions of Article 28 by any person shall be punished by the penalties provided in Article 44.

³ The public ministry (ministère public) is the equivalent of the public prosecutor in criminal cases.

Any person shall be punished by the penalties provided in Article 46 who:

- 1) uses aboard an aircraft any objects or equipment, the transportation of which is prohibited;
- 2) uses without special authorization photographic equipment over prohibited areas.

Article 50. Any person who, having been convicted of one of the violations set forth in the preceding articles, commits another violation set forth in these articles, or the same violation within five years from the termination of imprisonment or payment of a fine or the expiration of the statute of limitations, shall be punished with the maximum imprisonment or fine and such penalties may be raised up to twice the amount.

Article 51. There shall be punishable by a fine of from 24,000 to 120,000 francs inclusively, and further according to the circumstances by imprisonment of from one to five days:

- 1) The pilot who does not keep any of the logbooks;
- 2) The owner who does not preserve any of the logbooks for three years after the last entry;
- 3) Anyone who violates Article 22 or the decree issued for its application;
- 4) Anyone who violates Articles 20 and 21.

In the case the violation is a repetition, the penalty shall be the imprisonment provided for in Article 482 of the Penal Code. It shall be considered a repetition where during the preceding year a first judgment was issued against the violator for any of the above violations.

Article 52. A prohibition to fly any aircraft may be pronounced by judgment or injunction against a convicted pilot for a duration of from three months to three years, in accordance with Articles 46, 47, and 48.

If a pilot is convicted for the second time for any of these same offenses within the time provided for in Article 50, the prohibition to fly an aircraft shall be pronounced and its duration shall be for the maximum term and may be raised to twice the term.

Any certificates issued to such pilots shall remain for the duration of the prohibition in the custody of the court which has issued the prohibition.

Any convicted person shall make the deposit of such certificates either to the clerk of such court or to the clerk of the court where such person is domiciled, within five days following the date when the conviction becomes final, or he shall be punished by imprisonment of from six days to one month and a fine of from 12,000 to 240,000 francs regardless of any penalties incurred under Article 45 in the case where he flies an aircraft during the term of prohibition. Such fines may not be combined.

Article 53. Any voluntary and unnecessary jettisoning of any object liable to cause damage to persons and to property on the ground shall be prohibited aboard aircraft in flight and shall be punished by a fine of from 120,000 to 720,000 francs and imprisonment of from six days to two months or either one of these penalties, even if such jettisoning has caused no damage, and this shall not prevent more severe penalties which may be incurred in the case of a delict or crime.

Article 54. In the case of an accident caused by an aircraft to persons on the ground, the Law of July 17, 1908 which concerns and prohibits the delict of fleeing from justice shall be applicable, except in the case where it is established that the arrest of an aircraft would jeopardize the safety of the passengers.

Article 55. In addition to the officers of the judicial police, there shall be charged with the determination of violations of this book and the decrees issued for its application, the agents of the Internal Revenue Service, the technical agents of the Water and Forestry Service and of the Customs, the gendarmes, the engineers of the aeronautics, the technical agents and sub-agents hereof, the engineers and agents of the Service of Bridges and Roads in charge of airports, the engineers and controllers of the Service of Mines and Highway Inspectors, the officials of the Technical Service of Civil Aviation, members of the Army and Navy and agents of the Army or Navy commissioned for this purpose.

Article 56. The State's attorney, the investigating judge (*juge d'instruction*), the officers of the auxiliary police of the State's attorney designated in Articles 48 and 50 of the Code of Criminal Investigations, the officials of the technical services of Civil Aviation, members of the Army or Navy and agents of the Army or Navy commissioned for that purpose, the gendarmes, engineers of the aeronautics, technical agents and sub-agents of the aeronautics, agents of the Internal Revenue Service, agents of the Customs, technical agents of the Water and Forestry Service and field guards, shall have the right to seize explosives, weapons and ammunition of war, homing pigeons, photographic equipment, printed matter and mail, as well as radio telegraph and radio telephone equipment which may be found aboard without special authorization provided for in Articles 28 and 29.

These authorities shall also have the right to seize homing pigeons, photographic equipment and printed matter found aboard aircraft authorized to transport such objects whenever such aircraft pass over prohibited areas.

They shall also have the right to seize homing pigeons and any messages they might carry.

Confiscation of such objects and equipment seized in accordance with the regulations shall be pronounced by the court.

Article 57. Any aircraft for which certificates of airworthiness cannot be produced or the registration signs of which do not agree with the certificate of registration or of airworthiness, may be impounded at the expense of the owner by the authorities charged with the application of this book until the identity of the owner is established.

Article 58. A transcript of the proceedings stating the violations provided for in this book and in the decrees issued for its application, shall be forwarded without delay to the State's attorney.

BOOK II—AIRPORTS

Article 59. [Abrogated by Decree No. 59-92, of January 3, 1959. See *infra*.]

Title I—Restriction in the interest of navigation

[Abrogated by Decree No. 59-92, of January 3, 1959. See *infra*.]

*Title II—Airports open to public airflight**Chapter I—Establishment*

Article 72. [Abrogated by Decree No. 59-92, of January 3, 1959. See *infra*.]

Article 73. The opening of an airport to public air flight shall be pronounced by regulation of the minister in charge of civil and commercial aviation after a technical survey.

The closure to public airflight shall be made in the same manner.

However, where reasons of air safety or public order so require, an airport may be temporarily closed to public air flight. Such decision shall be notified to all persons flying.

Article 74. Airports for public air flight may be established by the States, by public groups (*collectivités publiques*) and public establishments, as well as by private natural or legal persons provided they fulfill the conditions established by a public administrative regulation.

Article 75. The establishment of an airport for public air flight that does not belong to the State shall be subject to the conclusion of an agreement between the minister in charge of civil and commercial aviation and the public or private natural or legal person who establishes the airport; such agreement must be approved by the minister who supervises the public group or establishment concerned. It shall also be subject to the consent of the minister of finances and economic affairs if it involves financial obligations to the State. Such agreement shall establish in particular in regard to the classification of an airport in one of the classes provided for in Chapter II of this title:

- a) the layout and the types of equipment to be used which shall concern primarily the understructure;
- b) the financial arrangements for the execution of the work and the operation;
- c) the proper measures for maintenance of the airport, its annexes and installations in a condition required by safe aerial navigation and for exercise of proper policing;
- d) the proper conditions to assure permanency of operation and adaptation of the airport to the needs of aerial traffic.

Article 76. Any party signatory to such an agreement may, with the consent of the minister in charge of civil and commercial aviation, entrust a third party who is accepted by the minister with compliance with all or part of the obligations incumbent upon him under the agreement. In such case, the signatory party and the third party operator shall be jointly liable to the State.

Article 77. The State shall be responsible for:

- a) the procurement, maintenance, and operation of the installations intended to insure control of air traffic on an airport;
- b) the costs and indemnities which might result from restrictions imposed in the interest of aerial navigation;

However, the agreement may provide that the signatory party will take over all or part of the expenses accruing to the State in the application of this article.

Article 78. The signatory party to the agreement shall be responsible for the procurement and maintenance of the understructures, as well as buildings, installations, and workshops necessary for commercial operation.

However, on advice of the Superior Council of air carriers (*conseil supérieur de l'aviation marchande*), the signatory may be awarded financial aid by the State which covers a part of the expenses incumbent on said signatory in the application of this article.

Article 79. The procurement of equipment on airports which belong to the State may be made subject to financial participation of the local branches of groups of the communities, or of economic regions, of the chambers of commerce, of the autonomous ports, or of the public institutions concerned.

Article 80. The minister in charge of civil and commercial aviation, if necessary, shall give a final completion date to the signatory for the work incumbent on him.

If setting such final date remains without effect within the time given, the minister may order completion of such work at the expense of the signatory to the agreement.

Article 81. When the signatory does not fulfill the obligations incumbent on him under the agreement, the minister in charge of civil and commercial aviation may, if necessary, either appoint a trustee for the operation of the airport at the expense of the signatory to the agreement, or may rescind the agreement.

Where recission has been declared and where, after consultation by the superior council of commercial aviation, it has been recognized that the public interest justifies keeping the airport open to public air traffic, a decree of the Council of State may prescribe the acquisition of the installations of such airport under the conditions provided for in the agreement.

Without prejudice to the rights of title holders of contracts or authorizations accorded previously and not included in the acquisition, the airport shall be operated either directly by the State or by a third party designated by it.

Article 82. For reasons of national defense, a decree by the Council of State may prescribe that the State shall be substituted temporarily or permanently for the operator of an airport. The conditions of such substitution shall be determined by regulation of the public administration.

Chapter II—Classification

Article 83. [Abrogated by Decree No. 59-62, of January 3, 1959. See *infra*.]

Article 84. The technical and administrative conditions of such classification, the categories into which airports are divided, the procedure preceding the classification and the effects of the classification shall be determined by a regulation of the public administration. Such regulation shall be issued on the report of the minister in charge of civil and commercial aviation, the keeper of the Seals, the minister of Justice, the minister of finances and economic affairs, the minister of reconstruction and housing, the minister of the Interior, the minister of national defense and the armed forces, the minister of postal affairs, telegraphs and telephones, the minister of overseas France, and the minister of foreign affairs.

Article 85. The classification of airports shall be declared by decree issued on the report of the minister in charge of civil and commercial aviation, on the advice of the minister of finances and economic affairs, the minister of reconstruction and housing, the minister of the Interior, and other ministers concerned.

Chapter III—Operation

Article 86. Contracts awarded by the State for the construction, maintenance, and operation of airports belonging to it, shall be subject to the following conditions:

The cost accounts (*cahiers de charges types*) of the contracts shall be approved by a decree of the Council of State, issued on the report of the minister in charge of civil and commercial aviation and the minister of finances and economic affairs.

Contracts which do not involve a cost account shall be awarded by interministerial order. Contracts which involve a cost account shall be awarded by decree of the Council of State issued on the report of the minister in charge of civil and commercial aviation and the minister of finances and economic affairs.

Article 87. Without prejudice to the rights of the contractors, authorizations for private workshops, with an obligation of public service, may be granted on an airport belonging to the State with a view to establish and maintain commercial or industrial installations concerning air traffic and operation of the airport. Such authorization shall be granted under the same conditions as those provided for the contracts.

Article 88. Public groups other than the State on the airports which they have established, may be authorized by order of the minister in charge of civil and commercial aviation and the minister charged with supervision of the group concerned, to grant contracts or authorizations for private workshops with an obligation of public service.

Where the cost account is in accordance with one of the types of cost account as provided for in article 86, the contracts or authorizations for private workshops with an obligation of public service shall be granted under the rules applicable to contracts of the public group concerned.

In the case where a cost account is involved, the contracts or authorizations shall be granted by decree of the Council of State, on the report of the minister in charge of civil and commercial aviation and the minister who has supervision.

Article 89. The granting of a contract on an airport open to [public] air traffic may be made subject to the contractor undertaking to pay, under the conditions determined by his cost account, a share of the expenses incumbent on the authority making the grant.

Article 90. The contractors and beneficiaries of authorizations shall be entitled to obtain, in remuneration for the services rendered by them, and under the conditions determined in chapter IV below, those of the fees contemplated in Article 91 which are contained in their cost account.

Chapter IV—Fees

Article 91. On all airports open to public air traffic, the services rendered to users and to the public shall give rise to a remuneration

in the form of fees levied for the benefit of the person rendering the service, and particularly for the following operations:

- Landing of aircraft;
- Use of devices of assistance to aerial navigation;
- Parking and hangar space for aircraft;
- Use of installations equipped for the reception of passengers and goods;
- Use of various installations and workshops;
- Occupation of land and buildings;
- Visit of all or part of the reserved areas of the airport.

The fees must be commensurate with the services rendered.

The fees accruing to the State, to public groups and public establishments shall be collected by a public accountant.

They shall be collected in accordance with the rules of the group or establishment which benefits from them and, as regards the State, in accordance with the rules concerning credits other than taxes and properties by virtue of collection orders issued by the prefects.

Where fees are collected in cash, their payment may be ensured by a cashier.

Article 92. The list of those fees for which the methods of establishment and collection as well as the amounts thereof are determined by interministerial order, on advice of the Superior Council of commercial aviation, shall be determined by a decree of the Council of State, on the basis of a report by the minister in charge of civil and commercial aviation and the minister of finances and economic affairs.

Such list shall include in particular the fees for landing of aircraft, for the use of devices of assistance to aerial navigation, for parking of aircraft, for use of installations equipped for the reception of passengers and goods, and for installations for the distribution of aviation fuel.

The fees other than those specified in the first subparagraph of this article shall be set by the person furnishing the service. The decisions setting these fees shall not become applicable to users and to the public until 10 days after they have been brought to the knowledge of the latter, either by individual modification, or by posting or insertion in a newspaper containing legal announcements.

Such decisions must be communicated to the minister in charge of civil and commercial aviation before being put in effect.

If the amount of the fees thus set is not appropriate to the service rendered, such fees may be modified by a joint order of the minister in charge of civil and commercial aviation, the minister of finances and economic affairs and, if necessary where the person furnishing the service is a public group or establishment, the minister who has the supervision thereof.

Article 93. The fees shall become due on use of the facilities, installations, buildings, and workshops for which they constitute the payment.

In case of non-payment of fees due from the operator of the aircraft the operator of the airport shall be entitled to request the authority responsible for air traffic on the airport that the aircraft be held until deposit has been made of the amount in dispute.

Article 94. On airports belonging to the State, an interministerial order may provide that all or part of the receipts from certain fees which have not already been allocated to a contractor, should be paid

the public groups or establishments enumerated in article 79 to be applied to the financing of their participation.

Article 95. In cases where the revenues from the operation of the airport are insufficient to permit the chambers of commerce, autonomous ports or other public establishment to ensure the financing of the participation to which it is subject under articles 79 and 89, such establishment may, by way of exception, and with the consent of the ministers concerned, pay the expenses not yet covered from any receipts which it is entitled to collect and, particularly, in regard to the chambers of commerce, from additional license fees.

Such public establishments may finance, under the same conditions, the part of expenses for equipment, maintenance and operation incumbent upon them on the airports they have established or of which they are contractors.

Title III—The Airport of Paris

Article 96. The airport of Paris shall be a public establishment endowed with financial autonomy and placed under the authority of the minister in charge of civil and commercial aviation.

Article 97. It shall have the task to manage, operate, and develop all the installations of civil air transportation having their center in the Paris region and whose purpose it is to facilitate the arrival and departure of aircraft, to guide navigation, to ensure the embarkation, debarkation, and transportation on the ground of traveler's goods and mail transported by air, as well as all related installations.

It shall keep in constant contact with the other French and foreign airports from whom it should need to request or to whom it should give the cooperation which the necessities of air traffic require.

Article 98. Decrees issued upon the report of the minister in charge of civil and commercial aviation, the minister of finances and economic affairs, the minister of reconstruction and housing, the minister of the Interior, and the minister of postal affairs, telegraphs and telephones, shall determine the elements which form the airport and which shall comprise specifically the following:

- a) the airports open to civil air traffic located within a radius of 50 km. from the center of Paris;
- b) access routes to the airports used for traffic of worldwide, continent wide and national air lines;
- c) air routes reserved to commercial planes;
- d) devices of protection for these routes;
- e) installations and buildings located on the airport in order to permit its complete operation.

Furthermore, the airport of Paris may be authorized by the minister in charge of civil and commercial aviation and by the minister of finances and economic affairs and, if applicable, by the other ministers concerned, to accept leases and rentals or to let others participate in matters within its purpose and which represent a direct and certain interest in regard to the management and functioning of the airport.

It may rent or lease various workshops and services connected with its operation. Decisions on such contracts are made by decree of the Council of State.

Article 99. Any measures for the establishment and performance of building projects for the Paris region which may by their nature

influence the building and development of the airport may be made by the ministers concerned only with the consent of the minister in charge of civil and commercial aviation.

In particular, the land necessary for the placement of the airport installations and possible expansion must be reserved.

Article 100. Public convenience and necessity of the work of construction, reconstruction, consolidation of the places served, as well as the operations of city planning made necessary by establishment of the airport shall be declared by decree of the Council of State upon a report of the minister in charge of civil and commercial aviation, the minister of finances and economic affairs, the minister of reconstruction and housing, and the minister of the Interior.

The necessary expropriations shall be made by applying the decree of October 30, 1935, concerning expropriation for the purpose of military construction.

The administration may enter upon, and temporarily occupy, private property, under the conditions provided for in the Law of December 29, 1892.

Article 101. The provision contained in the fifth paragraph of Article 5 of the Law No. 342, of March 1, 1942, concerning the prohibition of renewing rental contracts, of rerenting empty buildings and of doing any work therefore without prior authorization, shall be applicable to buildings requisitioned under Articles 1 and 2 of said Law, after publication of the requisitioning order has been made.

It shall be applicable under the same conditions to buildings located in the temporary areas of protection of the airport as designated by the decrees provided for in Article 98.

Regarding buildings located on the perimeter or within the temporary radius of protected areas of the airport, the authorization provided for in the first paragraph of this article shall be given by the minister in charge of civil and commercial aviation.

Article 102. Agreements shall be concluded between the State, on the one part, and the provinces (*départements*) and communities on the other in order to reimburse them for the loss of receipts engendered for these organizations by the application of this chapter.

Article 103. The following shall be part of the budget of the airport of Paris:

Receipts: Receipts from the operation of the airport, contributions by the minister in charge of civil and commercial aviation, by the minister of reconstruction and housing, as well as the other public administrations and organization for whom credits are provided in the budgets of such administrations and organizations, use fees which may be contributed by organizations and private persons, receipts from bonds and treasury advances.

Expenses: Expenses for operation of the airport, expenses for original investments of all kinds.

The annual budget as established by the director general and examined by the council of administration shall be approved by decree upon a report of the minister of finances and economic affairs and the minister in charge of civil and commercial aviation.

Article 104. Within the maximum limits set each year by the Finance Law, bonds may be issued by the airport of Paris in order to meet its expenses of original investment.

These bonds shall be guaranteed by the State. Such issues shall be included among the securities which may be used as a revolving fund within the guarantee of the State.

While awaiting the proceeds from the issue of these bonds, the minister of finances and economic affairs shall be authorized under the conditions set by the Law of March 31, 1932, to make direct cash advances.

Article 105. The airport of Paris shall be managed by a council of administration assisted by a director general who shall be appointed by decree on nomination by the minister in charge of civil and commercial aviation.

The membership of the council of administration, the respective functions of the council of administration and of the director general, the rules for the administrative and financial management of the airport shall be determined by a regulation of the public administration issued upon a report by the minister in charge of civil and commercial aviation and the ministers of finance and economic affairs, of reconstruction and housing, of postal affairs, telegraphs and telephones, and of the Interior.

This regulation shall also determine the rules of financial control to which the airport is subject under the conditions set forth in the decree No. 55-73 of May 26, 1955, and the rules concerning accounting procedures of the airport.

Article 106. The provisions of Articles 91, 92, and 93 shall be applicable to the airport of Paris.

Title IV—The Airport of Basle-Mulhouse

Article 107. The airport of Basle-Mulhouse shall be operated under the conditions determined by an agreement between the government of the French Republic and the Swiss Federal Council.

Article 108. The airport of Basle-Mulhouse shall be entitled to the benefit of the measures provided for in Articles 93 and 95.

Title V—Airports of General Interest Located Outside the Territory of Metropolitan France

Article 109. In order to assure the commercial operation of State-owned airports outside the territory of metropolitan France, one or more public organizations of a commercial character may be established by decrees of the council of State issued upon the report of the ministers of finances and economic affairs, the minister in charge of civil and commercial aviation, and the minister or ministers who have jurisdiction over the territories concerned.

Such decrees shall specify in particular the administrative and financial organization of the establishments.

They shall define the State-owned buildings with whose management they are entrusted.

The accounting of these establishments shall be autonomous and be kept in the usual commercial form.

Title VI—Penal Provisions

Article 110. Whoever remains on or enters into any land prohibited by the general regulations and orders of airports affected with a public service, or whoever permits cattle, carriage, pack or riding animals to remain thereon, shall be subject to the penalties provided for in Article 471, number 15, of the Criminal Code and, in addition, may be deprived of any right to damages in the case of an accident.

The provisions of Articles 55 and 58 shall be applicable to this Article.

Article 111. Violations of the provisions of Articles 60 to 71 shall be prosecuted in the criminal courts and shall be punishable by a fine of from 4,000 to 720,000 francs apart from the penalties provided for in the Criminal Code in the case of an accident resulting from a violation.

Independently of the fine to which he is subject, any violator or person liable in a civil action, shall be enjoined to remove the appurtenances which are the subjects of the restriction or to affix and maintain the markings provided in Article 71.

If he has not done so within the time limit given him by the court for this purpose, the administration shall have the right to do so itself at his expense, risk and peril, and to recover from him the expenses which it has incurred.

Violations of the provisions of Articles 60 to 71 may be stated in a summons by the officers of the judicial police, the gendarmes, the engineers of the air service, the technical agents and subagents of the air service, the officials of the technical corps of the civil aviation, the members of the Army, Navy and agents of the military authority commissioned for that purpose.

For the airports other than those belonging to the State, violations may be stated by summons by agents commissioned for that purpose.

Article 112. [Abrogated by Decree No. 59-92 of January 3, 1959. See *infra*.]

BOOK III—AIR TRANSPORTATION

Article 113. Air transportation means the transportation by aircraft from one point to another of passengers, mail and goods.

Title I—Transportation Contract

Chapter I—Transportation of Goods

Article 114. The rules of the Commercial Code concerning transportation on the ground and by water shall apply to transportation by air, except as provided in the following articles.

Article 115. Contracts for air transportation of goods shall be governed by Article 925 of the General Tax Law.

Article 116. The carrier must file a manifesto specifying the kind and nature of the goods shipped. A duplicate of the manifesto must be carried on board the aircraft and be available for inspection to the agents in charge of traffic police and to the customs agents if they so request.

Article 117.⁴ Liability of the carrier of goods or baggage shall be governed, in the case of transportation by air, solely by the provisions of the Convention of Warsaw of October 12, 1929, or of any convention which modifies it and is applicable in France, even if the transportation is not international in the sense of that convention.

Article 118.⁴ For the application of Article 25 of said convention,

⁴ Articles 117, 118, 119, and 123 have been replaced in accordance with the provisions of the Warsaw Convention of Oct. 12, 1929 by Law No. 57-259 of Mar. 2, 1957, entitled "Liability of the carrier in case of air transportation" (J.O. Mar. 3, 1957, p. 2402). Article 3 of Law No. 57-259 makes the law applicable in Algeria and the territories under the minister of overseas France. It also abrogates all contrary provisions.

the fault considered as equivalent to intent is inexcusable fault. Any deliberate fault is inexcusable which implies knowledge of the probability of damage and its reckless acceptance without valid reason.

The fraud provided for in Article 26, paragraph 4 of said convention, is one by which the carrier hides or tries to hide the loss, shortage or delay, or by any other means prevents or tries to prevent the addressee from presenting his claims within the required time. The injured person shall also be relieved from the running of the statute of limitations as provided for in this law if he has been prevented from presenting his claim by force majeure.

Article 119. An action for liability may be brought, at the close of the plaintiff, either before the court of the domicile of the carrier, at his principal place of operation or at the place where he possesses an establishment by means of which the contract was concluded, or before the court of the place of destination.

An action for liability may be brought, under penalty of losing the right, within two years from the day when the aircraft has arrived or should have arrived at the place of destination.

Article 120. Jettisoning of goods necessary for the welfare of the aircraft shall not create liability on the part of the carrier to the shipper and the receiver on account of such loss of the goods.

Chapter II—Transportation of Persons

Article 121. Contracts for transportation of passengers must be made by delivery of a ticket.

A list containing the names of the passengers embarked shall be filed, of which a duplicate must be carried on board the aircraft and be available for inspection to the authorities of the traffic police if they so request.

However, this provision shall not be applicable to travel which leads to a return to the airport of departure without any other landing.

Article 122. For international transportation, the carrier may not embark any passengers except after having justified that they are regularly authorized to land at the point of arrival and at the scheduled intermediate places of landing.

Article 123. Liability of a carrier of persons shall be governed by the provisions of the Convention of Warsaw as provided for in Articles [117 to 119] above. However, unless there are contrary provisions in the convention, liability of a carrier who undertakes gratuitous transportation, shall not be liable, within the limits provided for in said convention, except where it is established that the damage has been caused by a fault attributable to the carrier or his employees.

Liability of an air carrier may not be imposed except under the conditions and within the limits provided for above, whoever the persons bringing the action, and whatever right they pretend to claim, may be.

Article 124. The aircraft commander shall have the right to disembark any person among the passengers who may present a danger to the safety or good order on board an aircraft.

Chapter III—Rental

Article 125. In the case of rental of an aircraft for several successive trips or for a predetermined time, the commander, the [co]-pilot and the crew shall remain under the authority of the owner of the aircraft, except where there is an agreement to the contrary.

Article 126. The proprietor of an aircraft rented to a third person shall remain subject to his legal obligations and shall be jointly liable with the lessor for any violation thereof.

However, if the rented contract has been registered in the register and if the lessor fulfills the conditions required for the ownership of a French aircraft, such lessor shall be solely liable for such legal obligations as operator and shall be solely responsible in the case of a violation of such obligations.

Title II—Air Carriers

Article 127. No one shall engage in any air transportation on a commercial basis and for payment unless he has been authorized by the minister in charge of civil and commercial aviation.

The conditions under which such authorization may be granted or withdrawn are fixed by a decree of the council of State.

Article 128. The establishment of international routes of air transportation, as well as the establishment and operation of international routes of regular air transportation, shall be subject to prior authorization by the government.

Commercial transportation of persons and goods between two points located within the territory of the French Union and any States for the foreign relations of which France is responsible shall be reserved to French aircraft except for special, temporary exceptions which may be awarded by decree.

Article 129. Transportation of passengers may be undertaken only by carriers authorized to do so by the minister in charge of civil and commercial aviation.

Such carriers must present for his prior approval:

Their general plans for the purchase and rental of flying equipment;

Their plans of operation containing in particular the indication of the types of equipment normally used on each of the passenger services listed in such plans.

The superior council of merchant aviation shall be informed, for advice, of such plans and of any changes that may be made therein.

The rates shall be submitted for approval to the minister in charge of civil and commercial aviation.

Transportation of not more than six passengers made by means of aircraft whose weight is less than a maximum fixed by order of the minister in charge of civil and commercial aviation shall not be subject to the provisions of this Article.

Article 130. In the case where a carrier violates the provisions of Articles 129 and 132, the minister in charge of civil and commercial aviation may suspend or withdraw the authorization or approval for all or some of the routes operated.

In the case of the exercise of an activity of air transportation by a carrier not regularly authorized or approved, as the case may be, the

minister in charge of civil and commercial aviation may, at the expiration of eight days after notice has been given to such carrier, impound the aircraft used.

Article 131. Coordination between air transportation and transportation on the ground or by water shall be assured by the ministers concerned after consultation of any organizations in existence or which may be established.

The membership and operation of such organizations shall be the subject of regulations.

Article 132. Air carriers shall be subject to the technical control exercised by the minister in charge of civil and commercial aviation in order to insure air safety.

Expenses incurred by such control shall be borne by the carriers.

Article 133. Control by the State of air carriers shall be exercised as follows:

a) As regards technical operation and working conditions for the personnel by the minister in charge of civil and commercial aviation;

b) As regards commercial operation and administrative regulation under the rules specified above or, as regards a carrier authorized in an overseas country or licensed by a public organization other than the State, by the ministers concerned.

Article 134. The minister in charge of civil and commercial aviation may delegate certain functions of control to a technical organization set up for this purpose.

Article 135. Authorized carriers must on request by the officials in charge of control open to them for inspection all documents which are necessary for the exercise of their functions.

Article 136. The conditions of application of Articles 129, 130, and 132 shall be fixed by decree of the Council of State.

Title III—The "Compagnie Nationale Air France"

Chapter I—Incorporation

Article 137. The corporation entitled "Compagnie Nationale Air France" shall be subject to the provisions of this Code and, insofar as they are not in conflict with this Code, by the Laws concerning corporations.

Its purpose is to assure the operation of air transportation under the conditions established by the minister in charge of civil and commercial aviation after agreement, if necessary, with the other ministers. No subsidy may be allocated for the routes operated in competition with other French air lines.

It may establish or manage enterprises of a nature that is related to its main purpose or participate in enterprises of such kind, after authorization has been granted by decree of the council of ministers. However, it may not establish or manage any enterprise of manufacture of aeronautical equipment, nor participate in such enterprises.

Article 138. To the amount of 30% of the capital, the State must sell stock in the Compagnie Nationale Air France to:

- 1) Interested public groups and organizations in France and the French Union;
- 2) French nationals or legal persons.

In no case shall the total stock subscribed by the second category exceed 15% of the capital.

Chapter II—Administration

The Compagnie Nationale Air France shall be managed by a council of administration named by decree of the council of ministers and including the following:

- 1) Four administrators, officials designated as follows:

Two by the minister in charge of civil and commercial aviation;

One by the minister of finance and economic affairs;

One by the minister of overseas France.

- 2) Four administrators, not officials, designated by the minister in charge of civil and commercial aviation, two of whom are to be chosen as follows:

One from the members of Chambers of Commerce of metropolitan France or North Africa;

The other from the members of Chambers of Commerce of overseas France or from France abroad.

- 3) Four administrators, designated as follows:

One by the personnel of the technical and administrative staff;

One by the flying personnel;

One by the employed personnel;

One by the labor personnel.

These designations shall be made, for each category by secret vote. The candidates must have belonged to the personnel of the corporation for at least two years.

- 4) Four administrators designated by the stockholders other than the State.

The members of the council shall be nominated for six years and half of them shall be replaced every three years.

They must be replaced when they lose the qualification for which they have been designated or when they cease, during their term of office, to represent the organization on whose presentation they have been nominated.

Article 140. The chairman, the director general and the members of the council of administration must be of French nationality and be entitled to their civic rights. They cannot belong to the Parliament.

The director general may not exercise any function in any private business, whether with or without remuneration, except in branches in which the Compagnie Nationale Air France is a majority stockholder, and with the authorization of the council of administration.

The chairman of the council of administration may be dismissed at any time for serious culpable acts by a decree of the council of ministers upon the report of the minister in charge of civil and commercial aviation.

The director general may be dismissed by decision of the council of administration upon the proposal of the chairman or a majority of two-thirds of the council and approved by the minister in charge of civil and commercial aviation.

The chairman, the administrators, the director general, as well as any officials exercising any managerial function in the corporation, shall be civilly and criminally liable in the same manner as are the administrators, director generals, and officials of corporations.

The legal disabilities affecting the latter shall also apply to them.

Article 141. The Compagnie Nationale Air France shall be subject to the general control of the minister in charge of civil and commercial aviation in the manner fixed by ministerial order.

The Compagnie Nationale Air France shall also be subject to economic and financial control in the manner fixed in decree No. 55-733 of May 26, 1955, without prejudice to the powers of inspection provided for in special laws and the control of accounts provided for in Articles 56 to 58 inclusively of the Law No. 48-24 of January 6, 1948.

Such controls may in no case have the effect of requiring for the corporation prior authorization other than those provided for in Articles 137 to 145.

Article 142. The articles of incorporation of the Compagnie Nationale Air France shall be approved by decree of the council of ministers upon the report of the minister in charge of civil and commercial aviation and the minister of finance and economic affairs.

Article 143. The council of administrations shall submit for the approval of the minister in charge of civil and commercial aviation and the minister of finance and economic affairs:

The general plans for intended expenses arranged over several years;

A yearly account of estimated receipts and expenses of all kinds, as well as additional accounts during the year;

The balance and the account of profits and losses;

The extent of shares held or sale of shares;

The rates;

The status of personnel;

The balance and the account of profits and losses shall be published in the Journal Official before July 31 of each year.

Article 144. The council of administration shall submit for the approval of the minister in charge of civil and commercial aviation the plans for investment, for purchase of equipment and for the routes to be served.

A maximum of two months shall be granted to the minister to give his approval. After the expiration of such time, it shall be deemed granted.

Article 145. The conditions of application of this title shall be determined by decree of the council of State, issued upon the report of the minister in charge of civil and commercial aviation and the other ministers concerned.

BOOK IV—FLIGHT PERSONNEL

Title I—Professional Flight Personnel

Chapter I—Categories

Article 146. The capacity of professional airman of civil aeronautics shall be granted to persons whose habitual and principal occupation either for their own account or for the account of others and for gainful purposes or for a fee, is:

The command and the guidance of aircraft (section A);

The servicing aboard of various engines, machines, and instruments necessary for the running and the flight of the aircraft (section B);

The servicing aboard of other equipment installed in the aircraft, and particularly, photographic and meteorological equipment, or equipment serving agricultural work and equipment serving the operation of parachutes (section C);

Additional services aboard shall include particularly the commercial flight personnel of the air carriers (section D).

Article 148. The professional flight personnel of civil aeronautics shall belong to one of the three following categories:

I. Testing and admissions.

II. Air transportation.

III. Air work.

Article 148. For application of the present Book:

1) Testing and admissions are defined as follows:

a) Testing: Any tests—made in flight, on the ground or in the water, under the direction or control of representatives of industry or of the State—which serve research in regard to the characteristics and the functioning of aircraft. Such tests concern the fuselage, the engines and, generally, all instruments, machines, equipment and installations contributing to the operation and direction of aircraft. They concern also the safety and the comfort of the crew and the passengers. They apply to aircraft which are prototypes or first in a series, or which incorporate a new element of a nature that may affect their flight characteristics or their performance;

b) Admissions: Any tests of examination in flight, provided for in the regulations or conventions, and concerning the aircraft and flight equipment in a series;

2) Air transportation is defined as follows: Any air operation done in view of or during the course of transportation, for a fee or salary, of passenger, mail or goods;

3) Air work is defined as follows: Any air operation for a remuneration which utilizes an aircraft for purposes other than transportation or tests and admissions defined in 1 and 2 above.

It shall include, in particular, flight instruction, demonstration and advertising flights, photography, parachuting, publicity and agricultural air operations.

Article 149. The classification, by section and by category, of the professional flight personnel of civil aeronautics of sections A and B and of the personnel in sections C and D is determined, upon the advice of the council of flight personnel defined in Article 155, by joint order of the minister in charge of civil and commercial aviation and the minister of national defense and the armed forces.

Article 150. No one may be a member of the professional flight personnel of civil aeronautics in section A, B, and C and of the permanent personnel in section D who is not registered in the respective special register for his category and section.

However, the personnel in Section D hired for a period of less than six months shall not be registered in the register.

Article 151. In order to be first registered in any of the registers, the applicant must satisfy the following conditions and he must:

1) Be of French nationality or belong to the oversea countries;

2) Hold certificates (sections A, B, C) or the certificate of

safety and lifesaving (section D) as well as, depending on the case, valid licenses corresponding to the applicable register;

3) Not have been convicted to serve a prison term or a more serious penalty, either for a crime or a delict against decency and good morals.

By decree issued upon the report of the minister in charge of civil and commercial aviation and the minister of national defense and the armed forces, and after advice of the council of flight personnel of the civil aeronautics as provided in Article 155 shall be fixed:

a) the rules applicable to the establishment and the keeping of such registers;

b) the conditions under which changes in registration, refusal of registration, suspension, elimination and re-registration may be made, as well as the conditions under which applicants must justify their registration in the register.

Article 152. Persons who do not have French nationality, or who do not belong to one of the overseas countries and who are admitted to exercise a professional activity in metropolitan France or the overseas countries may be authorized to exercise temporarily the activities reserved by Article 146 to the professional flight personnel of the civil aeronautics.

Such authorization shall be subject in each particular case to a decision made within the framework of the laws and regulations concerning the control of residence and employment by:

The minister of national defense and the armed forces for the category "testing and admissions";

The minister in charge of civil and commercial aviation for the categories "air transportation" and "air work".

In exceptional cases, the registration in the registers of professional flight personnel of the civil aeronautics may, in each particular case, be authorized by an order countersigned as follows:

By the minister of foreign affairs, the minister in charge of civil and commercial aviation and the minister of national defense and the armed forces for the category "testing and admissions".

By the minister of foreign affairs and the minister in charge of civil and commercial aviation for the categories "air transportation" and "air work".

Article 153. The designation "certificates" certifies a combination of general theoretical and practical knowledge. It is awarded after an examination and is permanently acquired by the holders thereof.

The designation, "licenses", certifies the ability and the right of the titleholders of certificates to fulfill the function corresponding thereto, subject to the qualifications set forth in the next article. Licenses are valid only for a limited period; they may be renewed by periodic verification of the various abilities required.

The list of licenses and certificates, the conditions required to obtain them, the rules, the plans and regulations for the pertinent examinations, as well as the rules of exemption from certain theoretical qualifications to obtain certificates in the case of applicants who possess certain French or foreign certifications assuring knowledge at least equal to that required for such qualifications, shall be fixed, after advice of the council of flight personnel by joint order of the

minister in charge of civil and commercial aviation and the minister of national defense and the armed forces.

In no case shall the beneficiaries of the exemptions mentioned above be exempt from the practical examination.

Article 154. The exercise of functions corresponding to the different licenses is subject to the titleholder's possession of special professional qualifications in view of the aircraft, the equipment, and the conditions of the flights contemplated.

The definition of the special professional qualifications, the conditions to obtain and renew them, the plans and regulations for the respective examinations shall be fixed, after advice from the council of flight personnel, by joint decree of the minister in charge of civil and commercial aviation and the minister of national defense and the armed forces.

Article 155. The council of professional flight personnel of civil aeronautics has the task:

- 1) of presenting to the ministers concerned all useful proposals concerning programs of instruction, examination, training and of control over certificates, licenses and qualifications of the personnel mentioned in Articles 153 and 154.

- 2) of keeping track of any informative matter in the development of aeronautical techniques for the better exercise of the profession.

The council of flight personnel shall consist of: one-third of representatives of the administration, one-third of representatives of the operators and one-third of representatives of the flight personnel.

The chairman shall be a representative of the minister in charge of civil and commercial aviation, chosen among the members. In case the votes are equally divided, the vote of the chairman shall be decisive.

The membership and functioning of the council shall be fixed by joint order of the minister in charge of civil and commercial aviation and the minister of national defense and the armed forces.

Chapter II—The Aircraft Commander and Crew

Article 156. The crew shall consist of all the persons aboard for the service of the aircraft in flight. It shall be subject to the orders of the aircraft commander.

Article 157. Membership of the crew shall be determined by the type of aircraft, the kind and duration of the flight to be made and the nature of operations to which the aircraft is subjected.

Such crew shall be classified as follows, in accordance with the regulations in force:

In the category "testing and admissions" by the public service in charge of the operations or the operator in agreement with the aircraft commander;

In the categories "air transportation" and "air work" by the operator.

A list containing the names of the crew shall be made out before each flight, in accordance with the regulations in force.

Article 158. The functions of aircraft commander shall be exercised by a pilot.

The aircraft commander shall be named first on the crew list.

In the case of death or disability of the aircraft commander, the command of the aircraft to the place of landing shall be exercised as a matter of law in the order set by such list.

Article 159. The aircraft commander shall be responsible for the execution of the mission. Within the limits defined by the regulations and by the instructions of the competent authorities and the operator, he shall choose the itinerary, the flight altitude and determine the distribution of the cargo of the aircraft.

He may postpone or cancel the departure and, during the flight, if necessary, change the destination whenever he considers it necessary for safety, and provided that he renders an account thereof, giving the reasons for his decision.

Article 160. The aircraft commander shall have authority over all persons aboard. He shall have the right to remove from the aircraft any person among the crew or the passengers or all [or] part of the cargo that may present a danger for the safety, the welfare or good order aboard the aircraft. If he considers it necessary, he may, during the flight, discharge all or part of the cargo of merchandise or fuel, provided he renders an account thereof to the operator. If any choice is possible, he must jettison goods of low value.

He shall be in command of the aircraft for the whole duration of the flight.

Article 161. The aircraft commander shall be consignee of the aircraft and shall be responsible for the cargo. In the case of difficulties in the execution of his task, he must request instructions from the operator. If it is impossible for him to receive precise instructions, he shall have the right without special orders:

- a) to incur expenses necessary for the accomplishment of the mission undertaken;
- b) to have repairs made that are necessary to permit the aircraft to continue its mission within a reasonable time;
- c) to take all measures and incur all expenses to assure the safety of the persons aboard and the safekeeping of the cargo;
- d) to hire additional personnel for the completion of the mission and to discharge them;
- e) to borrow any amount necessary to permit the performance of the measures mentioned in the preceding paragraphs.

Settlement of any dispute shall, if necessary, be made by the court of commerce.

Chapter III—Work Contracts

Article 162. The hiring of a member of the professional flight personnel shall, in every case, give rise to a written work contract.

Such contract shall specify in particular;

- 1) the guaranteed monthly minimum salary;
- 2) the severance payment which will be allowed, except in the case of gross negligence, to the licensed personnel without pension rights for immediate enjoyment. Such payment shall be calculated for sections A, B and C on the basis of a guarantee of one month's salary per year of service in the organization, and for section D, on the basis of one-half month per year of service, and the operator shall not be held to exceed a total of twelve months for sections A, B and C, and six months for section D;

3) the conditions under which the contract will be terminated in case of illness, invalidity or disappearance;

4) the place of final destination and the time at which the mission is deemed accomplished if the contract is made for a predetermined mission;

5) if the contract provides for foreign duty of the airman: the duration of the stay outside metropolitan France and North Africa not to exceed three consecutive years except by agreement between the two parties;

the payment for such stay;

the leave accorded at the end of the stay and the conditions of repatriation. In the case of severance, the persons concerned shall have the right, except for demand on their part, to be repatriated before the expiration of the notice period and at the expense of the employer.

6) The notice period to be observed in the case of termination of the contract by either party which must be at least three months except in the case of gross negligence. During the notice period, the monthly air work demanded of the airmen must remain equal to that demanded during the same period of the members of the flight personnel of the organization in question.

For the personnel of category D, the notice period shall be equal to at least one and one half month, except in the case of gross negligence.

The employer may, however, refrain from using the airman during the notice period, in which case he must pay him, immediately and in one payment, an amount calculated for the minimum notice period on the basis of the total median monthly salary during the last year of regular employment.

Except where a public service has to be assured, the airmen and the other flight personnel cannot be forced to perform air work in areas of civil or military hostilities except on a voluntary basis. A special contract shall then fix the special working conditions and shall expressly cover, apart from the normal risks, the special risks due to the conditions of employment.

The provisions of the present article shall be applicable only to the relations between an employer and a salaried employee. They shall not oppose the exercise of the right of requisitioning by the public authorities as provided for by the laws in force.

Article 163. A work contract of predetermined duration whose term ends during the course of a mission shall be deemed extended until the accomplishment of the mission.

A work contract of undetermined duration, terminated during the course of a mission, shall end at the expiration of the notice period which shall begin to run on the day the mission is accomplished.

Any member of the flight personnel grounded for any reason whatsoever during a mission shall be repatriated to the place of hiring at the expense of the operator.

Article 164. Interruption of a mission decided upon by the aircraft commander for safety reasons shall not constitute a breach of the work contract. The aircraft commander shall render an account to the operator of the circumstances which led him to decide on interrupting the mission.

All expenses resulting from such interruption shall be borne by the operator including those specified in the preceding article.

Article 165. In the case of internment, arrest or captivity of a member of the crew while in service, and which is not obviously the result of an ordinary crime, the work contract shall be deemed extended until the end of such internment, arrest or captivity.

Without an agreement to the contrary, the operator shall make monthly payments of three-fifths of the total average monthly salary during the twelve preceding months to the persons entitled thereto or, if there is none, to the person designated by the titleholder.

After his release the person concerned shall be asked to present a report concerning the cause and the circumstances of the measures which have been taken against him.

If it appears that these have not been the result of gross negligence on his part, the balance of his salary shall be paid to him without delay, and also the amount of expenses, if any, for housing and living expenses during the period in question.

Otherwise, and upon advice of the disciplinary council or judgment, as the case may be, if it be established that the circumstances of internment, arrest or captivity are such as to show gross negligence of the person concerned, such person shall not be entitled to the payment of the balance of his salary and other penalties may be imposed including repayment of any amounts received in application of this article.

Article 166. No member of the flight personnel of the civil aeronautics shall have to fulfill any functions other than those specified in his work contract, except when in flight on the order of the aircraft commander.

However, where the technical means are insufficient, the crew shall participate in ground operations to repair aircraft and make it airworthy.

In order to improve and perfect their professional knowledge, the members of the flight personnel may be called to take instruction courses on the ground that are considered necessary by the management of the operator or by the administrative authorities.

Article 167. Apart from the property which, under the provisions of the code of civil procedure or of special laws, may not be seized or garnished, the following shall be neither seized nor garnished for any reason whatsoever: the equipment, the instruments and other property of the members of the flight personnel and used in the exercise of their profession.

No amounts due the persons concerned for medical expenses or medications, housing and living expenses, and expenses for repatriation to the place of hiring may be assigned or seized.

Article 168. The elements of compensation of the flight personnel of the civil aeronautics that must be taken into consideration for the determination of the guaranteed monthly minimum salary and the total average salary provided for in this title, shall be fixed by a ministerial order.

Chapter IV—Temporary and Permanent Disability

Article 169. In the case of inability to work resulting from injuries or sicknesses not to be imputed to the duty of a member of the professional flight personnel of civil aeronautics in the course of performance of his contract, the operator shall have to assure him until he returns to his functions as airman or until a decision is made by the

medical board of the civil aeronautics or, if that were the case, until the date of receipt of his retirement pension:

his guaranteed monthly salary for the month during which the disability occurs, and during the following three months;

half of this salary during the three months following this first period.

Article 170. In the case of disability resulting from a working accident or a sickness to be imputed to the duty and recognized as such by the medical board of the civil aeronautics, the person concerned shall have the right to receive until he returns to his functions as airman or until a decision is made by the medical board of the civil aeronautics or, if that were the case, until the date of receipt of his retirement pension:

his guaranteed monthly salary during the six months of disability;

half of such salary during the six months following the disability.

This article shall not abrogate any more favorable agreements which have been or may be concluded between the operators and their employees.

Article 171. In the case of disability provided for in Article 170, the ordinary medical expenses and those for medications and hospitalization shall be borne by the operator insofar as they are not taken care of by social security.

Article 172. Cash payments and compensation paid under the laws concerning social security, excluding family allowances, shall be deducted from the compensation payable by the operator by virtue of Articles 169 and 170 of this Code.

Article 173. No payment by virtue of Articles 169 and 170 shall be allowable for sicknesses, injuries or infirmities resulting from willful negligence of the person concerned.

Article 174. Where an air accident is suffered while on duty, or where an illness imputable to the duty and recognized as such by the medical board of the civil aeronautics has led to death or permanent total disability in the sense of the Laws on Workmen's Accident Compensation, a cash indemnity shall be paid by the pension fund (*caisse de retraites*) established under Article 186 to the person concerned or his legal successors.

The minimum and maximum limits between which the council of administration of the fund establishes the measure of the amounts payable in application of the preceding paragraph, shall be fixed by a regulation of the public administration which shall also establish any family allowances which may be added thereto.

Apprentice airmen of the civil aeronautics, mentioned in Articles 12 of the ministerial order of April 7, 1952 and of the ministerial order of January 2, 1953, concerning certificates, licenses and qualifications of airmen of the civil aeronautics, shall also benefit from the provisions of this article.

Article 175. If the disability resulting from the causes mentioned in the preceding article merely leads to permanent inability to follow the profession of airman, the pension fund shall pay to the person concerned a cash amount calculated by applying to the indemnity which would be due in the case of permanent total disability a percentage

equal to that of his disability; however, such sum shall not be less than 50 percent of that which would be granted to him in the case of total disability.

Apprentice airman of the civil aeronautics mentioned in the last paragraph of the preceding article shall also benefit from the provisions of this article.

Article 176. The operators shall have to take all measures which permit, considering the required qualifications, to reserve certain positions to members of the flight personnel who are afflicted, prior to the age fixed for retirement, with a disability resulting from their services and which renders them incapable of air flight duty.

Chapter V—Discipline

Article 177. The aircraft commander shall have to make a detailed report within forty-eight hours following any accident or incident that may have serious consequences and occurring either on the ground or in flight, or any violation of the rules of air traffic.

Such report, made out in three copies, shall be directed:

to the competent representatives of the civil aeronautics or of the minister of national defense and the armed forces (air) depending on whether the aircraft commander belongs to the categories "air transportation" or "air work" or to the category "testing and admissions";

to the management of the operator concerned;

to the council of flight personnel.

Article 178. The minister in charge of civil and commercial aviation or, if "testing and admissions" is involved, the minister of national defense and the armed forces (air) shall proceed to all investigations and inquiries in order to seek and state the causes of accidents or incidents.

Article 179. The minister in charge of civil and commercial aviation or the minister of national defense and the armed forces (air) may set up a commission of investigation whose membership shall be fixed by an order and which must include a flight controller.

Such commission of investigation must hear the representatives of the operators concerned, as well as the flight personnel in question, or its representatives.

Investigation reports shall be addressed to the courts upon their request, and on the decision of the minister in charge of civil and commercial aviation and the minister of defense and the armed forces (air), to the foreign States which have participated in the investigation, to the departments of the ministries, to the operating companies, to aviation clubs, to the owners of the aircraft concerned in the accident and to the Journal Officiel for publication.

Article 180. A disciplinary board of the professional flight personnel of the civil aeronautics shall have the task of proposing to the competent minister the application of the penalties provided for in Article 184 in regard to members of the flight personnel of the civil aeronautics who have been found guilty of negligence in the exercise of their profession.

Article 181. The disciplinary board of the civil aeronautics shall be divided into three sections: testing and admissions, air transportation, and air work.

The chairman shall be a representative of the minister in charge of civil and commercial aviation or a representative of the minister of national defense and the armed forces (air) in the case of testing and admissions.

It shall consist of one-third of representatives of the administration, one-third of representatives of the operators, and one-third of representatives of the flight personnel of the category concerned. In the case of a tie, the vote of the chairman shall be decisive.

The membership and the functioning of the disciplinary board of the civil aeronautics shall be fixed by decree as a regulation of the public administration upon the report of the minister of national defense and the armed forces (air) and countersigned by the minister in charge of civil and commercial aviation for air transportation and air work.

Article 182. When the commission of investigation provided for in Article 179 concludes that there was professional negligence, a duplicate file shall be sent directly to the disciplinary board of the civil aeronautics.

Article 183. The person concerned may challenge the members of the board under the conditions provided for in Articles 378 *et seq.* of the Code of Civil Procedure.

Article 184. Disciplinary penalties within the jurisdiction of the disciplinary board shall be the following:

- temporary revocation with or without suspension of one or several certificates or licenses;

- permanent revocation of one or several certificates or licenses; removal from the register provided for in Article 151.

Article 185. In case there is a serious presumption concerning the responsibility of the aircraft commander or a member of the crew and while awaiting the conclusions of the disciplinary board, the competent minister may relieve the person concerned of his functions for a period not to exceed in any case two months.

The person concerned shall receive his minimum guaranteed salary during the period of suspension.

(Supplement)

Chapter VI—Pensions

Article 186. The professional civil flight personnel, registered in the registers provided for in Article 150 of this title, who habitually exercise the profession of airman as a main occupation, shall benefit from a system of pensions in addition to that to which salaried employees must belong.

To such system of pensions shall also be subject apprentice airmen of the civil aeronautics mentioned in Articles 12 of the ministerial order of April 7, 1952 and of the interministerial order of January 2, 1953 concerning patents, licenses and qualifications of airmen of the civil aeronautics.

Persons concerned shall be entitled to such pension after they have reached fifty years of age, subject to special provisions fixed by regulation of the public administration as provided for hereinafter, in favor of such airmen who, before reaching the age of fifty years, have to cease any activity as airmen as the result of an accident suffered or an illness contracted because of the exercise of their profession.

The contributions to support the system of pensions shall be borne as follows:

Two-thirds by the employer and one-third by the employee in regard to salaried personnel.

The methods of application of this article and particularly the rules of organization and financing of the system, as well as the conditions for the assurance of its financial stability, shall be fixed by a regulation of the public administration, including the conditions of age and service giving a right to the pension, the payments to be granted to the person entitled thereto or their legal successor, and the benefits which may accrue to professional airmen who have ceased their activities before April 28, 1951 and to their legal successors.

Article 187. Members of the Air Force and the Naval Air Arm, holders of a patent as military airmen who leave the Army before having completed fifteen years of actual military service in order to follow a career as a member of the professional flight personnel of the civil aeronautics may include their military service in calculating their pension under the supplementary system provided for in Article 186, provided they otherwise fulfill the necessary conditions to give them a right to the pension under such system. Their legal successors, if any, shall be entitled to this benefit under the same conditions.

Military services counted for the liquidation of military pensions awarded under Article 11 of the code of civil and military retirement pensions shall in no case be counted for the supplementary retirement system of the professional flight personnel of the civil aeronautics.

Article 188. The right to draw the proportionate military pension acquired in application of Article 1 of the Code of civil and military retirement pensions shall be deferred for members of the armed forces registered in the register of the civil aeronautics after April 3, 1953, until they are entitled to the pension which they may acquire in application of the provisions of Article 186 or until permanent removal from the register for whatever cause such removal may be made.

Article 189. Members of the flight personnel of the civil aeronautics who, before having reached the age fixed in Article 186, cease their activity after their forty-fifth birthday and after at least twenty-five years of service that counts toward the retirement pension provided for in the preceding articles, may obtain a liquidated amount as anticipated pension.

Article 190. A regulation of the public administration shall fix the methods of application of Articles 187, 188, and 189 above, and the conditions under which the members of the professional flight personnel of the civil aeronautics on active duty on April 5, 1953, may count their military service done beyond the legal duration for the liquidation of their pension paid in application of Article 186.

Article 191. The contribution which must be made by the professional flight personnel to the pension fund created in application of Article 186 shall be deducted from the amount of each paycheck received by the persons concerned. They may not oppose such deduction.

The amount of contributions deducted and the contributions to be made by the operator shall be paid by the latter to the pension fund within the time fixed by the council of administration of the fund.

Payments that are not made within the time provided for above may be made with an increase for delay, the amount of which shall be the same as that in force in the general system of social security.

Payment of the contributions shall be guaranteed for one year from the date of their eligibility:

(a) by a chattel mortgage which shall have equal priority with that established by Article 2101-4 of the civil code;

(b) by a mortgage on real property which shall have priority from the date when it is registered in the office of mortgages.⁵

Chapter VII—Criminal Provisions

Article 192. Any person who, in violation of the provisions of this title, works in any position requiring patents, licenses and qualifications of a professional airman of the civil aeronautics, shall be punishable by a fine of from 40,000 to 240,000 francs and imprisonment of from ten days to one month, or either one of these penalties.

Anyone in charge of any enterprise who entrusts such position to a person who does not fulfill the conditions required by this title shall be subject to the same penalties.

Furthermore, and notwithstanding the provisions of Article 165 of Book II of the Labor Code, any employer who, in regard to flight personnel, violates the provisions of Article 6 of said Book and those of the decree issued in application thereof, shall be punishable by a fine of from 24,000 to 100,000 francs.

Any violation of the regulation concerning working hours of flight personnel shall cause the revocation of the license of the violator which shall be made by the minister in charge of civil and commercial aviation in regard to persons of the categories "air transportation" and "air work", and by the minister of national defense and the armed forces in regard to personnel of the category "testing and admissions" for a period which may not be less than fifteen days, nor more than two months.

Article 193. An operator who unduly retains the workmen's contribution which he holds and which has been deducted from the salary, in application of Article 191, shall be subject to the penalties provided for in Articles 406 and 408 of the Criminal Code.

(Supplement End)

Title II—Temporary Flight Personnel

Article 194. Temporary French flight personnel shall have the benefit of the allowances provided for by the Law of March 30, 1928 and the amendments thereto in favor of the flight personnel of the military air arm.

The conditions of application of this provision shall be fixed by regulation of the public administration.

Two-thirds of the necessary premiums shall be paid by the operators and one-third by the personnel.

⁵ This paragraph was substituted for the previous wording by the ordinance No. 59-71 of Jan. 7, 1959.

BOOK V—SPECIAL PROVISIONS FOR LIGHT AND SPORTS AIRCRAFT

Article 195. Any person admitted to undergo a probationary period or an initiation flight at a State station for light and sports aircraft, and any corporation who benefits from the cooperation of State instructors at meetings organized by them shall be subject to the payment of a fee under the conditions fixed by order of the minister in charge of civil and commercial aviation and the minister of finance and economic affairs.

The amounts thus received shall be paid into the budget of the minister in charge of civil and commercial aviation according to the procedure established in matters of competition funds for expenses in the public interest.

Article 196. A subsidy, the amount of which shall be fixed every year by the finance law shall be set aside for the benefit of young people of less than twenty-one years of age who practice power flight in aviation clubs.

Such subsidy shall be applied to effect a reduction in the hourly fees for flying.

The aviation clubs shall be responsible for the strictly just application of the reductions on said hourly flying fees.

The methods of application of the preceding provisions and the conditions of control exercised by the minister in charge of civil and commercial aviation shall be fixed by a decree issued upon the report of the minister in charge of civil and commercial aviation and the minister of finance and economic affairs.

Article 197. An insurance fund for aerial sports shall be set aside to cover the risks incurred by persons who practice glider flight, power flight, or parachuting in sport associations on air sport stations and who are not entitled to one of the insurance funds created by Articles 3 and 5 of the Law of March 30, 1928 or of those set up by the provisions of Book IV of this Code.

Indemnification shall be granted to the persons having suffered an accident or to their legal successors by decision of the minister in charge of civil and commercial aviation and the minister of finance and economic affairs, after advice of a commission.

The organization of insurance funds, the management of which shall be entrusted to the deposit and consignment fund, the conditions of any grants and the amounts of indemnification as well as the membership of the commission provided for in the preceding paragraph shall be fixed by regulation of the public administration issued upon the report of the minister of national education, the minister in charge of civil and commercial aviation and the minister of finance and economic affairs.

FINAL PROVISIONS

Article 198. This Code is substituted for the following provisions of law in accordance with the conditions provided for by the law No. 53-515 of May 28, 1953:

The finance law of June 30, 1923 setting up the budget for the fiscal year 1923 (Art. 59);

Law of May 31, 1924, amended by the law of May 16, 1930, concerning aerial navigation;

Law of March 30, 1928, concerning the status of flight personnel of the aeronautics, amended by the laws of October 4, 1943 and January, 24, 1949. Insurance funds (Art. 5) ;

Law of July 4, 1935 as amended establishing special liens in the interest of aerial navigation ;

Law of September 19, 1941, fixing the rules for commercial aviation ;

Law of December 17, 1941 (Art. 1 and 2), concerning establishment of an insurance fund for air sports ;

Ordinance No. 45-1403 of June 26, 1945 for the nationalization of air carriers ;

Ordinance No. 45-2488 of October 24, 1945, establishing the airport of Paris ;

Law No. 46-2122 of October 2, 1946, concerning classification of airports ;

Finance law No. 46-2154, of October 7, 1946, concerning opening and closing of credits for the fiscal year 1946 (Art. 58) ;

Law No. 48-976 of June 16, 1948, establishing the Compagnie Nationale Air France (Art. 1, 2, 3, 4, 5, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19 and 21) ;

Law No. 50-889 of August 1, 1950, authorizing the President of the Republic to ratify the Franco-Swiss agreement concerning the airport of Basle-Mulhouse ;

Law No. 50-1389 of November 5, 1950, establishing a national subsidy of 20 millions francs to support the establishment of a reduction on the hourly fee for power flights in aviation clubs by young people of less than twenty-one years of age ;

Law No. 51-842 of April 27, 1951, concerning development of credits for operating expenses of the civil services for the fiscal year 1951 (Public works, transportation, and tourism. II—Civil and commercial aviation. Art. 4) ;

Law No. 51-1501 of December 31, 1951, concerning development of credits for operating expenses of the civil services for the fiscal year 1952 (public works, transportation, and tourism II.—Civil and commercial aviation, Art. 2)

Law No. 53-51 of February 3, 1953, concerning development of credits for operating expenses of the civil services for the fiscal year 1953 (Public works, transportation and tourism II—Civil and commercial aviation, Art. 2)

Law No. 53-885 of April 4, 1953, concerning the rules for professional flight personnel of the civil aeronautics ;

Decree No. 53-893 of September 24, 1953, concerning the judicial, administrative and financial regulations of airports open to public air flight ;

Decree No. 53-916 of September 26, 1953, concerning the coordination of air transportation ;

Decree No. 53-957 of September 30, 1953 concerning the creation of public establishments for the commercial operation of airports of general interest located outside the territory of metropolitan France ;

Law No. 53-1328 of December 31, 1953, concerning the development of credits for expenses of the ministry of public works, transportation and tourism (Art. 3 and 4).

DECREE NO. 59-92 OF JANUARY 3, 1959 CONCERNING REGULATION OF AIRPORTS AND AERONAUTICAL RESTRICTIONS⁶

[Omissions.]

Title I—Regulations of airports

Article 1. Any land or water surface specially equipped for the landing, taking off, or maneuvering of aircraft, including any installations connected therewith for the needs of traffic and service of aircraft shall be considered an airport.

Article 2. An airport shall be deemed "open to public air traffic" which may be used by all aircraft having appropriate technical characteristics, subject only to the provisions of Article 5.

Article 3. An airport shall be pronounced open to public air traffic by an order of the minister in charge of civil aviation after a technical investigation.

The closing of an airport to public air traffic shall be made in the same manner.

Article 4. Except in the case of *force majeure* and the cases provided for in the following sub-paragraph, aircraft may not land on, or depart from any except regularly established airports.

A decree issued upon the report of the minister in charge of civil aviation and the minister of the Interior, shall fix the conditions under which aircraft of certain types may land or take off in a place other than an airport, provided there is consent by the person who has the use of the land or the water surface used.

Such consent shall, however, not be necessary in the case of operations of assistance or salvage for which aircraft are used.

Article 5. The use of an airport open to public air traffic may at any time be made subject to certain restrictions or temporarily closed if the conditions of air traffic at the airport or in the adjoining airspace, or reasons of public order require it. Such decisions shall be notified to all pilots.

Furthermore, if several airports open to public air traffic serve the same area, the minister in charge of civil aviation may regulate their use in the public interest and, particularly, specially assign to each of them certain types of aircraft or certain kinds of air activity or commercial operations.

Article 6. All airports may be made subject to technical and administrative control of the State.

The conditions for the establishment, the putting into service and the use of an airport, and the exercise of control by the State, shall be defined by decree.

Article 7. Airports intended for public air traffic shall be classified according to the kind and importance of the traffic they serve.

Such classification may be extended to airports not intended for public air traffic when the conditions of use of such airports justify it.

Title II—Aeronautical restrictions

Article 8. In order to ensure the safety of navigation of aircraft, special restrictions called "aeronautical restrictions" (*servitudes aéronautiques*) are imposed.

⁶ Journal officiel, Jan. 8, 1959, p. 585. (See Art. 20, *infra*, for abrogated articles of the Code.)

Such restrictions shall include:

1. Aeronautical restrictions for the purpose of clearance including the prohibition to create, or the obligation to remove, any obstacles that may constitute a danger to air traffic or impair the functioning of safety devices established in the interest of air traffic;

2. Aeronautical restrictions of marking carrying an obligation to provide visible or radio-electric devices on certain obstacles and locations in order to notify their presence to aerial navigators or to permit their identification, or to permit the installation of such devices.

Article 9. The provisions of this title shall be applicable:

a) to airports intended for public air traffic or airports created by the State;

b) under certain conditions to be fixed by decree, to airports not intended for public air traffic and established by a natural or legal person other than the State, and to airports located on foreign territory for which clearance areas must be provided on French territory;

c) to installations of aid to aerial navigation, or aeronautical telecommunications, and to meteorological installations established for the safety of aerial navigation, but the provisions of Articles L. 97 to L. 123 of the code of postal matters, telegraphs and telephones concerning restrictions in the interest of radio-electric transmission and reception shall apply;

d) to certain locations which constitute preferred reference points for aerial navigation.

Article 10. The restrictions provided for in article 8 shall ensure to aerial navigation conditions safety at least equivalent to those resulting from the standards and recommendations of the International Civil Aviation Organization, in accordance with annex 14 of the Convention on International Civil Aviation of December 7, 1944, and with the international civil and military conventions.

Article 11. For each airport and installation provided for in Article 9, a plan of clearance shall be established by decree after a public investigation and advice of a central commission set up for this purpose in order to ensure the conditions of safety specified in Article 10.

The cost of such restrictions defined in the plan shall be chargeable to the respective funds beginning on the day of publication of the decree.

The clearance plan shall be modified in the same manner. However, no public investigation shall be necessary when the purpose of the modification is to remove or alleviate restrictions provided for in the plan.

Article 12. In urgent cases, temporary safeguarding measures may be taken by ministerial order after a public investigation and advice of the commission mentioned in the preceding article.

These temporary measures shall cease to be applicable if they are not included in a regularly approved clearance plan within two years from the issue of the decree.

Article 13. The provisions of Articles L. 103 and L. 104 of the code of postal matters, telegraphs and telephones, shall be applicable to

aeronautical clearance restrictions and the taking by eminent domain provided for in Article L. 103 shall proceed in accordance with the provisions of Ordinance No. 58-997 of October 23, 1958.

The costs and indemnities due under the application of these provisions are incumbent upon the State except for the provisions of Article 77 of the Code of civil and commercial aviation and the special provisions concerning airports of paragraph b, of Article 9 of this decree.

Article 14. The minister in charge of civil and commercial aviation or, in regard to those airports or air routes concerning him, the minister in charge of national defense, may prescribe day and night markings or markings for day or for night time for all obstacles which he considers dangerous to aerial navigation.

He may further order the installation of visual or radio-electric devices of aid to air navigation.

He may also order the removal or modification of any visual device other than a device of maritime marking or railroad or road signs which is such as to create confusion with visual aids to air navigation.

Article 15. Except for the provisions of Article 77 of the Code of civil and commercial aviation and the special provisions concerning the airports mentioned in paragraph b, of Article 9 of this decree, the costs of installation, maintenance and functioning of air markings shall be paid for by the State except when the markings concern electric lines of a voltage of, or exceeding 90,000 volts or to the installations mentioned in the first paragraph of Article 17 herein-after, in which case the costs shall be at the expense of the operator of the lines or the owner of the installations.

Article 16. In order to install the markings mentioned in Article 14, the administration shall have the right to build supports, to pass, to cut or to trim trees, as well as the right to install devices on outside walls and roofs.

These rights may be exercised by the private persons who may be in charge of the markings.

Article 17. Outside of the areas subject to clearance restrictions in application of this title, the establishments of certain installations which, due to their height, may constitute obstacles to air navigation shall be subject to special authorization by the minister in charge of civil and commercial aviation or insofar as it concerns him, the minister in charge of national defense. Ministerial orders shall determine the installations subject to each authorization.

The authorization may depend on observation of certain conditions of construction, of height or of marking, according to the requirements of air navigation in the region concerned.

When such installations or the installations considered in the Law of June 15, 1906 concerning distribution of energy which exist at the time of publication of this decree constitute obstacles to air navigation, their removal or modification may be ordered by decree issued on advice of the commission mentioned in Article 11.

The provisions of Article 13 above shall be applicable in such case.

Article 18. When for reasons of the requirements of air traffic the competent authority decides on the expansion or creation of airports or installations intended to ensure the safety of air navigation, the necessary land, if not already reserved for that purpose in a building

plan of one or more communities, under consideration or approved, may be declared reserved by decree of the council of State after a public investigation in the form prescribed by the ordinance of October 23, 1958 concerning expropriation.

The provisions of Articles 31 and 31-1 of the Code on city planning and housing shall be applicable in such case.

The reservation of land may be executed by imposing aeronautical restrictions according to a clearance plan established under the provisions of Article 11 above.

Article 19. Decrees shall further define the methods of application of this title.

Article 20. Articles 23, 59, 72, 83, 112 and Title I of Book II of the Code of civil and commercial aviation are abrogated.

Article 21. The minister of public works, transportation and tourism, the keeper of the seal, the minister of justice, the minister of the armies, the minister of finance and economic affairs, the minister of the Interior, the minister of construction, the minister of agriculture and the minister of industry and commerce shall be in charge of executing this decree to the extent that it concerns each of them and the decree shall be published in the *Journal officiel* of the French Republic.

DECREE NO. 59-62 OF JANUARY 3, 1959, RESTRAINING VIOLATIONS OF THE RULES ON AERONAUTICAL RESTRICTIONS⁷

[Omissions.]

Article 1. Violations of the regulatory provisions concerning aeronautical restrictions of clearance and marking imposed in the interest of aerial navigation shall be punished by a fine of from 50,000 to 1,500,000 francs.

In the case of repetition such violations shall be punished by a fine of from 100,000 to 3 million francs and imprisonment of from six days to three months or by one of these penalties only.

Article 2. At the request of the public ministry, acting at the demand of the minister concerned, the court that has jurisdiction over the matter shall give to the persons who commit the violation of these provisions a time limit to remove or modify the things affected by the restrictions or to attend to their marking under penalty of a fine of from 1,000 to 10,000 francs for each day of delay.

In case such time limit is not observed, the restraint imposed by the court shall begin to run from the expiration of said time limit until the day when the situation is effectively remedied.

If such remedial action is not taken within the year when the time limit expires, the court, on the request of the public ministry acting under the same conditions, may one or more times raise the amount of the fine, even above the maximum provided for hereinbefore.

The court may authorize remittance of a part of the fines where remedial action has been taken and where the liable party establishes that he has been prevented from observing the time limit imposed on him by circumstances beyond his control.

Furthermore, when the situation has not been remedied at the expiration of the time limit set by the judgment, the administration may

⁷ *Journal officiel de la Republique Française*, January 8, 1959, p. 547.

have the work done at the expense and risk of the persons civilly liable therefor.

The fines shall be recovered by the collectors of the Treasury on the request of the minister concerned or his delegate.

Article 3. Violations mentioned in Article 1 may be stated by summons of the officers of the judicial police, the gendarmes and the officials of the administration concerned commissioned for this purpose and sworn under the conditions determined by decree.

Such summons shall be *prima facie* evidence until the contrary is proved.

Article 4. This ordinance shall be published in the *Journal officiel* of the French republic and be executed as law.

OTHER AIR LAWS IN FORCE IN FRANCE

The following other air laws are in force in France:

1) Ordinance No. 45-2401 of October 18, 1945, concerning the functioning of the civil aeronautics in the overseas territories.

2) Ordinance No. 45-2665 of November 2, 1945, concerning consolidation of the meteorological services.

3) Decree No. 53-958 of September 30, 1953, concerning housing of personnel of the civil aeronautics on duty outside metropolitan France.

INTERNATIONAL CONVENTIONS RATIFIED BY FRANCE AND IN FORCE

1) The Convention on Unification of certain Rules relating to international Carriage by Air, signed in Warsaw on October 12, 1929. Date of ratification: December 12, 1932.

2) Convention on International Civil Aviation, signed in Chicago on December 7, 1944. Date of ratification: Decree No. 47-974 of May 31, 1947.

3) Agreement on Transit of International Air Services, signed in Chicago on December 7, 1944. Date of ratification: Decree No. 48-1231 of July 19, 1948.

GERMANY

PRELIMINARY

The prewar air laws of Germany had not been repealed after the war, although Germany was not permitted any activity in the air. Only on May 5, 1955, was the Federal Republic of Germany given "full responsibility in the field of civil aviation in the Federal territory" (Convention on the Settlement of Matters arising out of the War and the Occupation, as amended by Schedule IV to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed in Paris, October 23, 1954, Chapter 12, Art. 1, German Official Gazette, BGBl. 1955, II, p. 405, 456).

The government of the Federal Republic of Germany first submitted a draft aviation law to the Federal Congress on June 28, 1957. Due to lack of time the bill did not pass, and was resubmitted on November 7, 1957 without changes. The lower house passed the bill on October 2, 1958 and the upper house on October 24, 1958. Article 4 of this law, entitled "Law for the Amendment of the Law on Air Navigation" (Gesetz zur Änderung des Luftverkehrsgesetzes) and dated December 5, 1958, provides that the federal minister of transportation may publish a new aviation law, which under Article 7 was to take effect one month from its publication.

The new aviation law is an amended version of the aviation law of August 1, 1922 (BGBl. I, p. 681) as published on August 21, 1936 (BGBl. I, p. 653), the law of September 27, 1938 (BGBl. I, p. 1246), the law of January 26, 1943 (BGBl. I, p. 69), the fourth amendment to the Criminal Code of June 11, 1957 (BGBl. I, p. 597) and the law concerning measures in the field of the law of transportation and of liability in transportation of July 16, 1957 (BGBl. I, p. 710). It was promulgated on December 10, 1958, and took effect January 10, 1959.

For a compilation of air laws and regulations, see Wegerdt-Reuss "Deutsche Luftfahrtgesetzgebung" 3d rev. ed. (Südwest-Deutsche Verlagsanstalt, Mannheim 1959).

LAW CONCERNING AIR NAVIGATION (LUFT VG) OF JANUARY 10, 1959¹

TABLE OF CONTENTS

PART I—AIR NAVIGATION

	Articles
Section 1. Aircraft and Flight Personnel-----	1 to 5
Section 2. Airports-----	6 to 19
Section 3. Flight Enterprises and Events-----	20 to 24
Section 4. Traffic Regulations-----	25 to 27
Section 5. Expropriation-----	28
Section 6. General Provisions-----	29 to 32

¹ Published in Bundesgesetzblatt (BGBl.) 1959, I, p. 9.

PART II—LIABILITY

Section 1. Liability for Persons and Goods Not Transported in the Aircraft.....	Article 33 to 43
Section 2. Liability Under the Carriage Contract.....	44 to 52
Section 3. Liability of Military Aircraft.....	53 to 54
Section 4. General Liability Provisions.....	55 to 57

PART III—CRIMINAL PROVISIONS.....	58 to 62
-----------------------------------	----------

PART I—AIR TRAFFIC

*Section 1—Aircraft and Flight Personnel**Article 1*

(1) Use of the airspace by aircraft shall be free except as limited by this law, by the law concerning the Federal Institute of Flight Safety (Flugsicherung) of March 23, 1953 (BGBI. I, p. 70) and by the regulations issued for the application of these laws.

(2) Aircraft shall be deemed airplanes, helicopters, dirigibles, glider planes, free and captive balloons, kites, flight models and other instrumentalities intended for the use of the airspace.

Article 2

(1) German aircraft may navigate only when they are licensed for air traffic (Verkehrszulassung) and, insofar as provided for by regulation, registered in the register of German aircraft (Luftfahrzeugrolle). An aircraft shall be licensed for navigation only when:

1) the prototype of the aircraft is licensed (Musterzulassung),
2) airworthiness is shown in accordance with the testing regulations (Prüfordnung) for flight instrumentalities,

3) the operator of the aircraft is insured in accordance with the provisions of this law or has deposited a bond in the form of money or securities and

4) the technical equipment of the aircraft is such that the noise caused by its operation does not exceed a level which cannot be reduced in view of technological developments at the time.

(2) Other flight instrumentalities must also obtain a prototype license in accordance with paragraph (1) no. 1.

(3) The provisions of paragraph (1) concerning licensing for air navigation shall apply accordingly to parachutes and starting devices.

(4) The license shall be revoked when the conditions of paragraph (1) no longer exist.

(5) German aircraft shall bear a nationality mark and a special sign.

(6) German aircraft may leave the territory in which this law applies only with the permission of the federal minister for transportation.

(7) Aircraft which are not regularly registered and licensed in the territory in which this law applies, may enter into and navigate within the territory in which this law applies only with the permission of the federal minister of transportation, unless there is a general permission under an agreement between the state whose nationality they have and the Federal German Republic.

Article 3

(1) Aircraft shall be registered in the aircraft register only when they are the exclusive property of German nationals. Legal persons and commercial corporations that have their place of business in this country shall be deemed German nationals when the preponderant part of their assets or capital and the effective control thereof belongs to German nationals and when the majority of the officers or the persons who are personally liable, are German nationals. The authority in charge of licensing for air circulation may make exceptions in individual cases when special circumstances justify it.

(2) The registration shall be cancelled when the conditions provided for in paragraph (1) no longer exist.

Article 4

(1) Any persons who conduct or operate an aircraft (Luftfahrer) must be licensed. Such license shall be granted only as follows:

- 1) when the applicant has the prescribed minimum age,
 - 2) when the applicant has proved his qualifications,
 - 3) when there are no facts which make the applicant appear unreliable in conducting or operating an aircraft,
 - 4) when the applicant has passed an examination under the regulations for examination (Prüfordnung) of flight personnel.
- (2) The provisions of paragraph (1) shall be applicable, accordingly to other flight personnel insofar as their activity is subject to a license in accordance with an ordinance issued under Article 32, paragraph (1), no. 4.

(3) The license shall be revoked when the conditions provided for in paragraph (1) no longer exist.

(4) In the case of practice and examination flights accompanied by flight instructors (Article 5, paragraph (3)) the flight instructor shall be deemed the person who conducts or operates the aircraft. In the case of practice or examination flights not accompanied by flight instructors, the pilot shall require no license if the flight has been ordered and is supervised by a flight instructor.

Article 5

(1) Any person who undertakes to train pilots or parachutists needs a license notwithstanding the provisions of paragraph (3). The license may be subject to conditions and may be limited in duration.

(2) The license shall be denied where the facts justify the assumption that public safety or order may be endangered or that the applicant or his instructors are personally unfit. If such facts appear at a later time, the license shall be revoked. The license may also be revoked if it has not been used for more than one year.

(3) Practical instruction may be given only by persons who are licensed to instruct under the regulation for examination of flight personnel (flight instructors).

*Section 2—Airports**Article 6*

(1) Airports (aerodromes, landing areas, glider landing areas) may be established or operated only if authorized. Such authorization may be subject to conditions and may be limited in duration.

(2) Before such authorization is granted, it shall be ascertained whether the planned establishment complies with requirements of the area (*Raumordnung*), regional planning (*Landesplanung*) and urban development. If the land under consideration is unsuitable or if facts justify the assumption that public safety or order may be endangered, the authorization shall be denied. If such facts appear at a later time, such authorization may be revoked.

(3) Authorization for an airdrome serving for general traffic shall also be denied when the establishment and operation of the airdrome for which authorization is requested would be unduly detrimental to the public interest.

(4) The authorization shall be amended or modified when this becomes necessary in view of the results of the planning proceedings (*Planfeststellungsverfahren*) (Articles 8 to 10). Modification of the authorization shall also be required when a substantial enlargement or modification of establishment or operation of the airport is considered.

Article 7

(1) The authorizing authority may permit the applicant to undertake preliminary work necessary for the preparation of his application (Article 6) when an examination shows presumptively that the conditions for granting the authorization are fulfilled.

(2) The duration of such permission should not exceed two years. Such permission conveys no right to a granting of the authorization as provided for in Article 6.

(3) The officials of the authorizing authority may enter upon property affected by the authorization even without the consent of the titleholder, or survey such property and undertake other preparatory work necessary for a final decision concerning suitability of the land. They shall not be entitled to enter inhabited buildings.

(4) The authorizing authority may impose conditions on the preparatory work. If from such preparatory work considerable damage may be expected, the authorizing authority shall order deposit of a bond by the applicant.

(5) When the preparatory work causes damages the applicant shall immediately upon the occurrence of such damage, pay full compensation in money therefor or, if the injured person so requests, restore the former condition. Cases of litigation concerning the kind and amount of compensation shall be decided by the regular courts.

Article 8

(1) Airdromes and landing areas with limited clearance restrictions according to Article 17 may be established, and established ones may be modified, only when the plan has been approved according to Article 10.

(2) In the case of a modification or an enlargement of inconsiderable extent approval of the plan (*Planfeststellung*) may be omitted. Cases of inconsiderable extent shall be deemed to exist in particular when the rights of other persons are not affected or when the persons concerned are known or may become known without formal proceedings and agreements have been reached with the persons concerned.

Article 9

(1) Approval of the plan shall replace all other authorizations, grants, permissions, and consents by the public authority, necessary in accordance with other legal provisions. Such approval shall regulate all relations of the public law between the contractor and the persons affected by the plan. The jurisdiction of the Federal minister of transportation under Article 9, paragraph 4 of the law concerning the federal authority of flight safety (Bundesanstalt für Flugsicherung) and the jurisdiction of the authorities in charge of granting building permits shall not be affected.

(2) The decision of approval of the plan shall impose upon the contractor the establishment and maintenance of installations that are necessary for the public welfare or the protection of use of adjoining property against dangers or detriments.

(3) When approval of the plan has become final, claims for removal or modification of approved installations shall be excluded.

(4) When the plan is not executed within five years from the date of its final approval, the owners of the properties affected by the plan may demand that the contractors acquire their properties and rights to the extent to which expropriation is permissible under Article 28. If no agreement is reached, they may request expropriation proceedings by the government agency charged with expropriation. Otherwise, Article 28 shall apply.

Article 10

(1) The agency designated by the State government (Landesregierung) shall be the agency charged with approval of the plan. It shall approve the plan and make the decision according to Article 8, paragraph 2.

(2) Plans must be submitted to the agency designated by the State government for its opinion. This agency shall hear all departments concerned of the federal government, the State governments, the communities and other persons concerned and transmit their views to the agency charged with approval of the plan.

(3) The plans with appendices shall be exhibited for inspection for two weeks in the communities affected by the building project; time and place of such exhibition shall be made public in the usual manner in order to give an opportunity to express his views to everyone whose interests are affected by the establishment and operation of the airport.

(4) Objections to the plan shall be made in writing within two weeks from the determination of public inspection at the agency designated by the State government or at any place designated by such agency.

(5) After the time mentioned in paragraph (4) has expired, objections to the plan shall be discussed with all persons concerned by the agency designated by the State government. If no agreement is reached, a decision concerning the objections shall be made in the approval of the plan.

(6) If the public interest is affected involving the jurisdiction of federal agencies or of agencies which operate on behalf of the federal government, and no agreement between the agency charged with approval of the plan and said agency is reached, the agency charged

with approval of the plan shall decide the matter after consultation with the federal minister of transportation.

(7) Approval of the plan and decisions concerning objections shall be substantiated by an opinion which shall be transmitted with information regarding further recourse to the participants of the proceedings.

Article 11

The provisions of Article 26 of the Trade Code (Gewerbeordnung) shall, as far as possible, be applicable to airdromes. This shall apply even when the airdrome does not serve commercial but public purposes.

Article 12

(1) In granting authorization for an airdrome a building plan shall be established. This plan shall determine the extent to which the building restrictions mentioned in paragraphs (2) and (3) shall apply (Bauschutzbereich). Plans shall contain:

1) the takeoff and landing runways including adjoining protective areas (takeoff and landing areas),

2) the safety areas which should be no longer than 1,000 meters at the ends of the takeoff and landing areas, and 350 meters wide each at the sides of the takeoff and landing areas extending to the beginning of the approach sectors,

3) the reference point of the airdrome which shall be located in the center of the system of the takeoff and landing areas,

4) the reference points for the takeoff lane which should be located in the center of the takeoff and landing areas,

5) the approach sectors which, on both sides of the outer edges of the safety areas, adjoin them at their ends with an opening angle of 15 degrees; they end, in the case of main takeoff and landing areas at a distance of 15 kilometers, in the case of secondary takeoff and landing areas at a distance of 8.5 kilometers from the reference point for the takeoff lane.

(2) After an airdrome has been authorized, the government agency that has jurisdiction for the granting of building permits may not authorize the erection of buildings in a radius of 1.5 kilometers from the reference point of the airdrome and on the takeoff, landing, and safety areas except with the consent of the aviation authorities.

(3) In the farther vicinity of an airdrome the consent of the aviation authorities shall be required when the buildings are intended to exceed the following limits:

1) outside the approach sectors:

a) in a radius of 4 kilometers from the reference point of the airdrome a height of 25 meters; for airdromes which fall into classes A to D of annex 14 of the convention on international civil aviation, the height is 15 meters (height in reference to the reference point of the airdrome);

b) in a radius of from 4 to 6 kilometers from the reference point of the airdrome, the connecting line which rises from a height of 45 meters to a height of 100 meters (height in reference to the reference point of the airdrome);

2) within the approach sectors:

a) from the end of the safety areas to an area of a radius of 10 kilometers from the reference point for the take off line

in the case of main take off and landing areas and of 8.5 kilometers in the case of secondary take off and landing areas the connecting line which rises from a height of 0 meters at this end to a height of 100 meters (height in reference to the reference point for the starting lane of the respective take off and landing area),

b) in a radius of from 10 to 15 kilometers from the reference point for the take off lane in the case of main take off and landing areas a height of 100 meters (height in reference to the reference point for the take off lane of the respective take off and landing area.)

(4) In order to safeguard safety of aviation and to protect the general public the aviation authorities may make their consent under paragraphs 2 and 3 contingent on the imposition of conditions on the building permit.

Article 13

If building restrictions within the area subject to such restrictions are not necessary for the safety of aviation to the extent specified in Article 12 because of special local conditions or the purpose of the airdrome, the aviation authorities may specify building maximum heights for such parts of the area to which buildings may be erected without their consent.

Article 14

(1) Outside the area subject to building restrictions the agency that has jurisdiction over the granting of building permits may permit the erection of buildings which exceed a height of 100 meters above the ground only with the consent of the aviation authorities; Article 12, paragraph (4) shall be applicable accordingly.

(2) The same shall apply to installations of a height exceeding 30 meters above natural or artificial elevations insofar as such elevations rise more than 100 meters above the surrounding area; within a radius of 10 kilometers of the reference point of the airdrome, the height of the reference point of the airdrome shall be deemed to be the height of the surrounding area.

Article 15

(1) Articles 12 to 14 shall apply accordingly to trees, power lines, masts, dams, and other installations and devices. Article 12, paragraph (2) shall apply accordingly to pits, installations of canalization and similar depression in the ground.

(2) The erection of obstacles to aviation mentioned in paragraph (1) shall be subject to authorization. If the authorization is granted by an authority other than the agency granting building permits, the consent of the aviation authorities shall be required. If no other authorizing authority is provided for, the authorization of the aviation authorities shall be required.

Article 16

(1) The owner and other titleholders shall permit upon request of the aviation authorities that buildings and other obstacles to aviation (Article 15) which exceed the height permitted by Articles 12 to 15, be reduced to the prescribed height. In the case of Article 15, para-

graph (1), second sentence, this obligation shall extend to permission for removal of depressions. If, in a particular case, the reduction or removal of obstacles to aviation is not feasible, the taking of measures necessary for the safety of aviation must be permitted.

(2) The right of the owner or other titleholder and any obligation existing under other legal provisions to take such measures at their own expense, shall not be affected.

Article 17

In the case of authorization of landing areas and glider landing areas the aviation authorities may provide that the agency having jurisdiction to grant building permits permit the erection of buildings within a radius of 1.5 kilometers of the point corresponding to the reference point of the airdrome only with the consent of the aviation authorities (area subject to limited building restrictions). Article 12, paragraph (4), 13, 15, and 16 shall be applicable accordingly to the area subject to limited building restrictions.

Article 18

The extent of the area subject to building restrictions shall be made known or made public in the usual manner to the owners of property within the areas subject to building restrictions and to others entitled to the use or usufruct of such property and to the mortgages thereof insofar as they are known to the authority having jurisdiction or may be found in the land register.

Article 19

(1) If the owner or other person entitled thereto suffers any financial detriment caused by measures taken under Articles 12 and 14 to 17, an adequate compensation in money shall be paid therefor. Thereby the loss of use, damage to, or destruction of the property shall be taken into consideration and the interests of the public and the persons concerned shall be equitably balanced. For financial detriment which are not directly connected with the restriction, compensation shall be paid to the persons mentioned in the first sentence if and to the extent that this appears equitable to avoid or compensate for undue hardship.

(2) If the person entitled thereto omits a modification of the usufruct which is imputable to him, the compensation shall be diminished by the value of the income that would have accrued to him if he had exercised the modified usufruct.

(3) If buildings or other obstacles to aviation (Article 15) whose removal or modification without compensation may be ordered under the law in force are removed or modified in whole or in part by the measures under Article 16, a compensation shall be paid only if it is deemed advisable for reasons of equity. If they are permitted for a limited time and the term has not expired, a compensation shall be paid according to the relative length of the remaining time to the whole term.

(4) Mortgagees who are not entitled to the use or usufruct of the property shall have redress from the compensation of the owner in accordance with Articles 52 and 53 of the introductory law (Einführungsgesetz) to the Civil Code.

(5) The compensation shall be paid by the contractor of the airdrome in the cases of Article 12 and by the operator of the airport in

the cases of Article 17. Insofar as the measures mentioned concern property or other things outside the areas subject to building restrictions provided for in Articles 12 and 17, the compensation shall be paid by the federal government if they were measures for the safety of aviation, and by the States in other cases.

(6) Otherwise the provisions of Articles 13, paragraph (2), 14, 15, 17 to 25, 31 and 32 of the law on restricted areas (*Schutzbereichgesetz*) of December 7, 1956 (Official Gazette, BGBI. I, p. 899) shall apply accordingly.

Section 3—Air Carriers and Aviation Events

Article 20

(1) Enterprises which commercially transport persons or goods in aircraft (air carriers) must have authorization therefor. Commercial use of aircraft for other purposes shall also be subject to authorization. The authorization may be made dependent on conditions and may be for a limited time. Further, subject to authorization shall be the transportation of persons and goods by aircraft when the agreed compensation consists of payment of the cost of the flight; the transportation of persons in aircraft which are licensed for a maximum of four persons shall be excepted therefrom.

(2) The authorization shall be denied when facts justify the assumption that public safety or order may be endangered and particularly when the applicant or the persons responsible for the management of the enterprise are not reliable; if such facts appear at a later time, the authorization shall be revoked. The authorization may also be denied when aircraft are to be used which are not registered in the German aircraft register.

Article 21

(1) Air carriers which publicly and regularly transport persons or goods by aircraft on regular air routes (scheduled air line traffic) must have a special authorization for each air route in addition to the authorization required under Article 20. It extends to flight plans, flight rates, and conditions of transportation. Article 20 shall apply accordingly to its granting and its revocation. Such authorization may also be denied when the public interest is adversely affected by the air line traffic for which application is made.

(2) Air carriers engaged in air line traffic shall be obligated to establish, begin and maintain for the time of authorization such activity. The authorizing authority may relieve the enterprises from this obligation upon their request when the continuation of such activity may no longer be expected from them. The authorization shall terminate when the enterprises are permanently relieved of the whole obligation to maintain such activity.

(3) Air carriers engaged in air line traffic, upon demand by the federal German postal authorities, shall be obliged to transport postal matter on each scheduled flight for an adequate compensation which shall not exceed the maximum rates fixed by the world postal convention.

Article 22

For commercial air traffic which is not air line traffic (nonscheduled traffic) (*Gelegenheitsverkehr*) the authorizing authority may impose

conditions and limitations or prohibit transportation insofar as the public transportation interests may be adversely affected by such air traffic.

Article 23

The commercial transportation of persons or goods by aircraft between domestic points may be reserved to German air carriers.

Article 24

(1) Public competition or exhibition events in which aircraft or parachutists participate (aviation events) (Luftfahrtveranstaltungen) must be authorized. The authorization may be subject to conditions and may be for a limited time.

(2) The authorization shall be denied when facts justify the assumption that public safety or order may be endangered by the event.

Section 4—Traffic Regulations

Article 25

(1) Aircraft may take off and land outside the airports licensed for them only when the owner of the property or other titleholder has consented and the aviation authorities granted permission. This shall not apply to the landing of free balloons. The permission may be granted permanently as for a single instance, and may be given subject to conditions or for a limited time.

(2) The consent and permission specified in paragraph (1) shall not be necessary when the landing is required for reasons of safety. In such case and in the case of landing of free balloons the crew of the aircraft shall be obliged to give information concerning the name and domicile of the operator, the aircraft commander, and the insurer to the person entitled thereto. After such information has been given, the titleholder may not prevent the takeoff or removal of the aircraft.

(3) The titleholder may demand compensation for the damage caused him by the takeoff or the landing in accordance with Articles 33 to 43 which shall apply accordingly.

(4) Paragraph (1) first and third sentences, and paragraphs (2) and (3) shall apply accordingly.

Article 26

(1) Certain areas of the airspace may be temporarily or permanently closed to air traffic (prohibited airspace areas) (Luftsperrgebiete).

(2) The crossing of certain areas of the airspace by aircraft may be made subject to special limitations (areas with flight limitations) (Gebiete mit Luftbeschränkungen).

Article 27

(1) Weapons, ammunition, explosives, poison gases, nuclear fuels or other radioactive materials and other articles that have been declared dangerous by a legal provision as well as radio equipment may be transported only with the permission of the authorities. The provision concerning transportation of nuclear fuels or other radioactive materials shall not be hereby affected.

(2) Outside the airline routes photographs may be taken from an aircraft only with the permission of the authorities. Photographs

made outside the airline routes from an aircraft, and drawings or representations made therefrom shall be made public only with the permission of the authorities.

(3) The permission mentioned in paragraphs (1) and (2) may be granted generally or for a single case; it may be subject to conditions and may be for a limited time.

Section 5—Expropriation

Article 28

(1) Expropriation shall be permissible for purposes of civil aviation.

(2) Until a federal expropriation law is passed, the proceedings of expropriation shall be governed accordingly by the provisions of Article 2 and the second and third part, and Articles 67, 68, 71, 73 and 74 of the law on procurement of land (*Landbeschaffungsgesetz*) of February 23, 1957 (Official Gazette, BGBl. I, p. 134) subject to the following provisions:

1) In direct connection with expropriation for purposes of aviation, an expropriation for granting a compensation in the form of land shall be permitted.

2) As an exception from Article 11, paragraph (1) of said law, the request for proceedings of expropriation shall be made by the person who desires expropriation in his favor.

3) If the request for proceedings of expropriation is made by anyone other than the federal government, the provisions of said law which mention the federal government shall apply to the person making the request in lieu of the federal government.

4) The plan approved in accordance with Articles 8 to 10 shall be the basis of the expropriation proceedings and shall be binding on the authorities making the expropriation.

Section 6—General Provisions

Article 29

(1) The prevention of dangers to the safety of air traffic and to public safety or order by air traffic (supervision of air traffic) (*Luftaufsicht*) shall be incumbent upon the aviation authorities. They may make regulations in exercise of such supervision of air traffic.

(2) The aviation authorities may delegate these tasks to other agencies or use other suitable persons as auxiliary agency for certain tasks in the exercise of supervision of air traffic.

(3) The responsible aircraft commander shall take the measures suitable to maintain safety and order aboard during the flight or for taking off and landing. All persons on board shall obey the order necessary therefor.

Article 30

(1) The federal armed forces, the federal border guards and the police, with due consideration of public safety or order, may disregard the provision of the first part of this law except for Articles 12, 13, and 15 to 19, and the regulations made for its application to the extent that it is necessary for the accomplishment of their particular tasks. The proceedings for approval of a plan specified in Article 8 shall be omitted when military airports are to be established or modified. Ex-

ceptions from the provisions concerning acts in the airspace shall be permitted only to the extent that there is a compelling necessity for the exercise of sovereign functions. Articles 6 to 10 also shall not be affected by the exceptional powers of the police.

(2) The federal minister of defense shall make the administrative decisions necessary for the application of this law and the provisions made for its application insofar as the federal armed forces are concerned. The same shall apply to administrative decisions which are necessary for the authorization and the operation of airports of the armed forces [of other powers] stationed [in the federal Republic] (Stationierungsstreitkräfte). In the case of military airports the authorities of the administration of the armed forces shall take the place of the aviation authorities mentioned in Articles 12, 13, and 15 to 19.

(3) In the establishment and substantial modification of military airports on land which need not be procured by measures taken in accordance with the law on procurement of land, the requirements of area planning, especially those of civil air traffic, shall be duly considered after the governments of the States which are concerned with the establishment or modification have been heard. The federal minister of defense may overrule the position of these States only with the concurrence of the federal minister of transportation; he shall inform the government of the States concerned of his decision. If land for the establishment and substantial modification of military airports is procured in accordance with the provisions of the law on procurement of land, the hearing procedure according to Article 1, paragraph 2 of the law on procurement of land shall apply; in particular, the requirements of civil air traffic shall duly be considered in connection therewith.

Article 31

The jurisdiction in regard to the accomplishment of the tasks resulting from this law shall be regulated by a special law to the extent to which such regulation is not made in this or in other laws.

Article 32

(1) The federal minister of transportation, with the consent of the federal council (Bundesrat) shall make the regulations necessary for the application of this law concerning

1) acts in the airspace and on the ground, particularly preparations for flight, acts in taking off and landing, use of airdromes and avoidance of excessive noise caused by aircraft in the air and on the ground,

2) the requirements for the construction, equipment and operation of aircraft and other flight instrumentalities, and further, the registration and marking of aircraft,

3) the classification, size, location, characteristics, equipment and operation of airports and further the prevention of disruption of the devices for air safety,

4) the persons who must have a permission in accordance with this law, including instructors and the requirements for qualification and suitability of such persons and further the procedure for obtaining such permissions and licenses and their revocation or limitation,

5) the training of airmen and parachutists and the operation of schools for airmen,

6) the reporting of air accidents and disruption of air traffic, the technical examination thereof and further the search and rescue service for aircraft,

7) the definition of the term "dangerous articles" and the transportation of dangerous articles aboard aircraft,

8) the measures necessary within the framework of air supervision and application thereof,

9) the conditions and the procedure for closure of, and restrictions on, areas of the air space, for the granting of the authorizations, licenses and permission provided for in this law, and for exemptions therefrom,

10) the obligation to carry documents (board papers) in aircraft and the contents thereof,

11) the conditions and the procedure for obtaining permission to take photographs commercially or in a single instance, the conditions and the procedure for the release of photographs and further the special safety measures for aerial photography,

12) the measures necessary in connection with the obligations of insurance or of deposit in accordance with this law,

13) the cost (fees and expenses) of administrative acts and examinations within the scope of the air administration and of the recognized authorities for examination.

Regulations concerning numbers 3, 5 and 13 shall be made with the concurrence of the federal minister of finances, regulations concerning number 11 shall be made with the concurrence of the federal minister of defense. Regulations concerning number 9, insofar as they concern authorization of flight rates, and concerning number 13 shall be made with the concurrence of the federal minister of economic affairs; the provisions of the general law on price regulation shall not be affected.

(2) The federal minister of the interior and the federal minister of transportation with the consent of the federal council shall make the regulations concerning the prevention of transmission of contagious diseases by air traffic, that are necessary for the application of this law.

(3) Regulations shall not be subject to the consent of the federal council when they serve for the application of rules and recommendations of the International Civil Aviation Organization (ICAO). The same shall apply to the making of rules for the construction, examination and operation of flight instrumentalities which are proposed to the federal minister of transportation by the committee contemplated in Article 5, paragraph (2) of the law on the federal aviation authority (Luftfahrt-Bundesamt) of November 30, 1954 (BGB1, I, p. 354). The federal minister of transportation may transfer to subordinate agencies the right of regulating technical details necessary for the application of the rules for construction, examination and operation.

(4) The federal minister for postal affairs, telephones and telegraph, with the concurrence of the federal minister of transportation, may make regulations concerning the acquisition of aerial radio operators licenses. Such regulations may be made without the consent of the federal council.

(5) The federal minister of transportation, with the consent of the federal council, shall make the general administrative rules necessary for the application of this law and the regulations made thereunder.

PART II—LIABILITY

Section 1—Liability for persons and goods not transported in the aircraft

Article 33

(1) When a person is killed, or his body or his health is injured or property is damaged due to an accident occurring in the operation of an aircraft, the operator of the aircraft shall be liable for the damage. Liability arising from a carriage contract and liability of the operator of military aircraft shall be governed by the special provisions of Articles 44 to 54. Any one who trains other persons as airmen shall be liable to such persons in accordance with the general legal provisions.

(2) Anyone who uses an aircraft without the knowledge and consent of the operator shall be liable for any damage in the place of the operator. The operator shall be severally liable for the damage when the use of the aircraft has been made possible through his fault. However, when the user is employed by the operator for the operation of the aircraft or when he has otherwise been entrusted with the aircraft by the operator, the operator shall be liable for the damage; the liability of the user in accordance with the general legal provisions shall not be affected.

Article 34

When the damage has been partly caused by the fault of the injured person, Article 254 of the Civil Code shall apply; in the case of damage to property the fault of the person who is in possession thereof shall be deemed the fault of the injured person.

Article 35

(1) When someone is killed the damages shall include the costs of attempted healing and further of such financial detriment that the person killed has suffered by the fact that during the illness his earning capacity has been lost or diminished or his advancement been impeded or his needs been increased. Furthermore, the funeral expenses shall be repaid to the person who is liable for them.

(2) When the person killed at the time of the accident was in a relationship to a third person by which he was liable or could have become liable for the support of such third person by operation of law, and when such third person has lost the right to support because of such death the person liable for the damage shall compensate him to the extent to which the person killed would have owed him support for the probable duration of his lifetime. Such liability shall also exist when the third person has been conceived but has not been born at the time of the accident.

Article 36

In the case of injury to body or health the damages shall include the costs of healing and further of such financial detriment that the injured person has suffered by the fact that due to the injury his

earning capacity has been temporarily or permanently lost or diminished or his advancement been impeded or his needs been increased.

Article 37

(1) The person liable for damages shall be liable for each accident—

(a) for aircraft of less than one thousand kilograms gross weight (Fluggewicht) up to one hundred thousand German marks,

(b) for aircraft of more than one thousand but less than two thousand five hundred kilograms gross weight up to one hundred and seventy five thousand German marks,

(c) for larger aircraft up to seventy German marks for each kilogram of gross weight, to a maximum of five hundred and fifty thousand German marks.

Gross weight shall be deemed the maximum flight weight permissible for the licensing of the aircraft.

(2) A third of the amount calculated in accordance with paragraph (1) shall be applied to pay damages for injury to property, two-thirds shall be applied to pay damages for injuries to persons. Amounts hereunder provided for the payment of damages for injury to property which are not used therefor, may be used for injuries to persons. The maximum amount of damages for each person injured shall be five hundred and fifty thousand German marks.

(3) When an annuity is paid in lieu of a cash amount, the cash value of such annuity shall not exceed the maximum amounts specified in paragraphs (1) and (2).

(4) When the payment for damages due several persons because of the same event exceed the maximum amounts specified in paragraphs (1) and (2) the payment to each person shall diminish in the same ratio as that of the total amount to the maximum amount.

Article 38

(1) Damages for loss or diminution of earning capacity, impeding of advancement or increase in the needs of the injured person and the damages due a third person in accordance with Article 35, par. (2) shall be paid for the future in form of an annuity.

(2) Article 843, par. 2 to 4 of the Civil Code and Article 708 no. 6 of the Code of Civil Procedure shall apply accordingly. For the annuity payable to the injured person, Article 850b, par. 1, no. 1 and for the annuity payable to the third person, Article 850b, par. 1, no. 2 of the Code of Civil Procedure shall apply accordingly.

(3) In the case of judicial award of an annuity the person entitled thereto may at a later date demand the deposit of, or the increase in, a bond when the financial situation of the person who is liable has substantially deteriorated. This provision shall apply accordingly to debentures provided for in Article 794 no. 1 and 5 of the Code of Civil Procedure.

Article 39

(1) Damage claims under Articles 33 to 38 may not be maintained more than two years after the person entitled to the damages has received knowledge of the damage and of the person liable for the damage and regardless of such knowledge thirty years from the date of the accident.

(2) When negotiations concerning damages are in progress between the person liable for the damages and the person entitled thereto, the statute of limitations shall not begin to run until one of the parties refuses to continue such negotiations.

(3) Otherwise the statute of limitations shall be governed by the provisions of the Civil Code.

Article 40

The person entitled to damages shall lose the rights to which he is entitled under this law when he does not notify the person liable therefor within three months from the time when he has received knowledge of the damage and of the person liable therefor. Such loss of rights shall not occur when notification is omitted by reason of circumstances not imputable to the person entitled to damages, or when within such time limit the person liable for damages has received knowledge of the accident in some other manner.

Article 41

(1) When damage is caused by several aircraft and when the operators of the aircraft are liable by law for damages to a third person, the relationship of the operators to each other as to liability for damages and the extent thereof shall depend on the circumstances and in particular on whether the damage has been preponderantly caused by one or the other. The same shall apply to damage caused to one of the operators in regard to the liability of any of the other operators.

(2) Paragraph (1) shall apply accordingly when in addition to the operator another person is liable for the damage.

Article 42

The provisions of the federal law shall not be affected under which the operator or user (Art. 33, par. 2) is liable for damage caused in the operation of an aircraft to a greater extent or under which the commander or another person is liable.

Article 43

(1) In order to secure the damage claims mentioned in this section the operator of the aircraft shall be under a duty to take out liability insurance in an amount to be determined by regulation or to give a guarantee by deposit of money or securities. This shall not apply when the federal government is the operator.

(2) When the security is diminished or exhausted by the satisfaction of damage claims it shall be replenished to the original amount within one month from the time of demand.

(3) Return of the guarantee may not be requested until the enterprise has been given up and four months have passed since then. The claim therefor shall be limited to the amount remaining after satisfaction of the damage claims. Return may be requested before expiration of the time when it is substantiated that no damage claims exist.

Section 2—Liability arising from the carriage contract

Article 44

(1) When a passenger is killed, bodily injured or otherwise damaged in his health aboard an aircraft or when entering or leaving an aircraft, the aircarrier shall be liable for the damage. The same shall

apply to any damage caused to property which the passenger either wears or has with him.

(2) The air carrier shall also be liable for any damage caused during the air carriage to goods transported or to hold baggage. Air carriage should include the time during which the goods or the baggage are at an airport, aboard an aircraft or, if a landing is made outside an airport, are otherwise in the custody of the air carrier.

Article 45

There shall be no liability of the air carrier under Article 44 if he proves that he and his employees have taken all measures necessary to prevent the damage or that they could not take such measures.

Article 46

(1) In the case of death of, or injury to, a person transported the air carrier shall be liable up to an amount of thirty-five thousand German marks for each person. This shall also apply to the cash value of an annuity that has been granted as compensation.

(2) In the case of loss of, or damage to, property transported the air carrier shall be liable up to an amount of seventy German marks per kilogram. This limitation shall not apply when the sender has declared the actual value of the piece when sending it and has paid the supplement agreed upon. In such case the air carrier shall pay damages up to the amount of the actual value declared unless he proves that the value declared is higher than the damage which actually accrued.

(3) The liability of the air carrier for things which the passenger wears or has with him shall be limited to a maximum amount of one thousand four hundred German marks for each passenger.

Article 47

Otherwise Articles 34 to 36, and 38 to 40 shall apply to the liability of the air carrier for damages to persons or property transported.

Article 48

(1) A claim for damages against the air carrier must be made according to the provisions of this section. However, when the damage has been caused intentionally or by the gross negligence of the air carrier or one of his employees in the exercise of their functions, their liability under the provisions of general law shall not be affected; in such case the limitation on liability provided for in this law shall not apply.

(2) Furthermore, the legal provisions according to which the aircraft commander or other persons are liable for the damages shall not be affected.

Article 49

(1) Air carriers may not by contract in advance exclude or limit the liability according to Articles 44 to 48. This shall also apply to other operators of aircraft who transport in an aircraft passengers for pay or in connection with their profession or trade.

(2) An agreement which is contrary to the provision of paragraph (1) shall be voided; this shall not void any other provisions of the contract.

Article 50

Air carriers shall be under a duty to insure passengers against accidents (Article 44). The minimum amount of such insurance shall be thirty-five thousand German marks for death or permanent total disability. Any claim for damages shall be considered satisfied to the extent that it is paid by such accident insurance.

Article 51

When the damage is caused during an international air carriage in the sense of the First Agreement for the Unification of Private Air Law of October 12, 1929 (Reichsgesetzbl. 1933, II, p. 1039) that agreement and the law of December 15, 1933 (Reichsgesetzbl. I, p. 1079) passed for its application, shall apply.

Article 52

When shipments that are mailed at federal post offices are transported by aircraft the liability shall be governed exclusively by the provisions of the postal law.

*Section 3—Liability for military aircraft**Article 53*

(1) For damages of the kind mentioned in Article 33 caused by military aircraft, the operator shall be liable in accordance with the provisions of the first section of this part except that Article 37 shall not apply.

(2) When the person killed or injured was liable by law to render services to a third person in the house or business of such person, the operator of the military aircraft shall pay damages in form of an annuity to the third person for services lost.

(3) In the case of injury to body or health the injured person may also demand an equitable compensation in money for damage other than monetary damage. Such claim may not be transferred and shall not pass to the heirs except when it has been recognized by contract or an action is pending for it.

Article 54

When a person or property suffers damage of the kind specified in Article 44 while being transported in a military aircraft the operator of the aircraft shall be liable for damages. Such liability may not in advance be excluded or limited by contract. Articles 46 to 48 shall apply.

*Section 4—General provisions for liability**Article 55*

The provisions of the federal insurance law (Reichsversicherungsordnung) concerning accident insurance of persons employed in the business of the operator of the aircraft shall not be affected. This shall also apply to other provisions concerning damage by accidents according to the civil service laws of the federal government and the governments of the States and the pension laws of the federal armed forces.

Article 56

(1) The court of the district in which the accident has occurred shall have jurisdiction in actions brought in accordance with this part.

(2) The court of the place of destination shall have concurrent jurisdiction in actions brought in accordance with Article 44.

Article 57

The provisions of the first and third sections of this part shall apply accordingly to the operation of parachutes that are used for purposes of training and exhibit or for the dropping of goods.

PART III—CRIMINAL PROVISIONS

Article 58

(1) Any person shall be deemed to commit an unlawful act who with intent or negligently—

1) violates the regulations passed within the framework of aerial supervision (Article 29),

2) undertakes to train airmen or parachutists without the license specified in Article 51 par. (1),

3) establishes, substantially enlarges, modifies or operates an airdrome without the authorization required by Article 6, par. (1) and (4),

4) erects, without authorization, obstacles to aviation which require authorization in accordance with Article 15, par. (2),

5) operates air carriers or uses aircraft without the authorization required by Article 20, par. (1)

6) operates air lines without the authorization required by Article 21,

7) undertakes occasional air carriage in violation of the conditions and limitations provided for in Article 22, or of express prohibitions,

8) organizes air events without the authorization required in Article 24, par. (1),

9) does not comply with the duty to give information in accordance with Article 25, par. (2),

10) violates a legal provision passed in accordance with Article 32 when such regulation specifically refers to this criminal provision,

11) violates the written limitations on a permission granted in accordance with Article 5, par. (1) or an authorization granted in accordance with Article 6, par. (1), Article 20, par. (1), Articles 21, 22, 24, par. (1), or Article 27, par. (3), when specific reference was made therein to this criminal provision,

12) flies into or out of the territory in which this law applies without a permission granted in accordance with Article 2, par. (6) and (7)

13) violates any legal provision passed before the coming into force of this law for the safeguarding of public safety or order in the flight and operation of aircraft.

(2) Such unlawful act (*Ordnungswidrigkeit*) may be punished by a fine. In the case the violation was committed with intent, the maximum amount shall be in the cases of paragraph (1), no. 1, 3, 4, and 9 to

13, five thousand German marks, in the cases of paragraph (1), no. 2, and 5 to 8, ten thousand German marks.

(3) In the case of a negligent violation the maximum amount of the fine shall be one half of the maximum amount applicable to a violation committed with intent.

Article 59

(1) Any person who endangers the safety of air traffic by violating, in a manner that is grossly negligent or reckless, any regulation passed within the framework of aerial supervision (Article 29) or violates any legal provision passed in accordance with Article 32 and thereby creates a danger to the public (Article 315, paragraph 13, of the Criminal Code) shall be punished by imprisonment.

(2) Any person who negligently commits the acts specified in paragraph (1) shall be punished by imprisonment up to two years or by a fine.

Article 60

(1) Any person who with intent—

1) conducts an aircraft which is not licensed for air navigation or as operator permits a third person to conduct such an aircraft,

2) conducts or operates an aircraft without the license granted in accordance with Article 4, paragraph (1) or as operator of an aircraft authorizes to conduct or operate such aircraft any third person who has not been granted such license,

3) gives practical flight instruction without an instructor's license granted in accordance with Article 5, paragraph (3),

4) as commander of an aircraft takes off or lands without authorization outside of airports (Article 25, paragraph (1)),

5) without permission transports goods aboard an aircraft when their transportation is subject to permission in accordance with Article 27, paragraph (1)

shall be punished by imprisonment up to two years and by a fine, or by one of these penalties.

(2) Any person who negligently commits any of the acts mentioned in paragraph (1) shall be punished by imprisonment up to three months or by a fine.

Article 61

Any person shall be deemed to commit an unlawful act who without permission of the competent authority—

1) takes a photograph from an aircraft outside a regular air route, or

2) makes public a photograph which has been made from an aircraft outside a regular air route or a drawing or representation made therefrom.

(2) Such unlawful act and the attempt to commit such unlawful act may be punished by a fine up to five thousand German marks.

(3) Impounding of the photographic equipment and of photographs, drawings and representations shall be permissible in accordance with Articles 17 to 26 of the law concerning unlawful acts. When the objects do not belong to the person committing, or participating in, the unlawful act, they may also be impounded, other than

in cases of Article 19 of the law concerning unlawful acts, when the public interest requires it. Article 23 of the law concerning unlawful acts shall apply accordingly to a proprietor.

Article 62

(1) Any person who as pilot of an aircraft violates the regulations concerning prohibited areas of the airspace and areas subject to flight restrictions shall be punished by imprisonment up to two years and by a fine, or by one of these penalties, provided, however, that the act is not subject to a more severe penalty under other provisions.

(2) Any person who negligently commits any act specified in paragraph (1) shall be punished by imprisonment up to three months or by a fine.

OTHER AIR LAWS AND REGULATIONS IN FORCE IN GERMANY

(Jan. 1, 1961)

A. Laws

1. Law concerning prohibition of attachment of aircraft of March 17, 1935 (BGBl. I, p. 385).

2. Law concerning rights in aircraft, of February 26, 1959 (BGBl. I, p. 57). Correction of Law concerning rights in aircraft, of March 25, 1959 (BGBl. I, p. 223).

3. Law concerning the Federal Institute for Flight Safety, of March 23, 1953 (BGBl. I, p. 70).

4. Law concerning the Federal Aviation Agency, of November 30, 1954 (BGBl. I, p. 354).

B. Regulations

1. Regulations concerning air traffic (Luft VO) as published on August 21, 1936 (BGBl. I, p. 633), amendments thereto:

First amendment, of March 31, 1937 (RGBl. I, p. 432)

Second amendment, of July 12, 1937 (RGBl. I, p. 815)

Third amendment, of Dec. 15, 1937 (RGBl. I, p. 1387)

Fourth amendment, of Sept. 30, 1938 (RGBl. I, p. 1327)

Fifth amendment, of Aug. 21, 1959 (BGBl. I, p. 749)

Sixth amendment, of Nov. 5, 1954 (BGBl. I, p. 302)

Seventh amendment, of June 21, 1955 (BGBl. I, p. 321)

Eighth amendment, of Sept. 15, 1957 (BGBl. I, p. 1371)

Regulations concerning testing of flight instrumentalities, of Aug. 21, 1936 (Air News [Nachrichten für Luftfahrer] p. 639). Regulations concerning foreign flight instrumentalities, of Aug. 19, 1953 (BGBl. I, p. 1133). Regulations concerning examination of flight personnel, of June 21, 1955 (BGBl. I, p. 324)

2. Regulations concerning rules of air navigation, of June 4, 1953 (Federal Register [Bundesanzeiger] No. 104/1953). Amendments thereto:

Amendment of Nov. 18, 1954 (Federal Register No. 222/1954)

Amendment of Jan. 22, 1959 (Federal Register No. 17/1959)

3. Air Customs Regulations, of May 5, 1941 (Reichsministerialblatt 1941, p. 111).

Regulations concerning favorable customs treatment (Zollbegünstigung) for the promotion of air navigation, of May 11, 1953 (Fed. Reg. No. 95/1953). Amendments thereto:

Amendment of April 9, 1954 (Fed. Reg. No. 85/1954)

Amendment of Feb. 14, 1956 (BGBl. I, p. 81)

4. Regulations for the prevention of transmission of contagious diseases by air traffic, of June 2, 1937 (RGBl. I, p. 611).

5. Regulation concerning establishment of air traffic statistics of March 12, 1959 (Fed. Reg. No. 52/1959).

C. Other Regulations

General administrative regulations concerning technical investigation of accidents occurring in the operation of aircraft (Fed. Reg. No. 48/1958). *Id.* of Aug. 16, 1960 (Fed. Reg. No. 163/1960).

D. Laws and Regulations Concerning the Effect of International Agreements

1. Law for the application of the First Convention for the Unification of Private Air Law (Warsaw Convention), of Dec. 15, 1933 (RGBl. I, p. 1079). Amendment thereto: Law amending air traffic liability of July 16, 1957 (BGBl. I, p. 710).

2. First regulations for the exchange rate of French francs in the application of the First Convention for the Unification of Private Air Law, of Nov. 4, 1957 (BGBl. I, p. 1784).

3. Law for the application of the Second Convention for the Unification of Private Air Law (Rome Convention for the Attachment of Aircraft), of March 17, 1935 (RGBl. I, p. 385). Regulations concerning the effect of the Law concerning prohibition of attachment of aircraft of Jan. 8, 1937 (BGBl. I, p. 7).

4. Law concerning the application of amendments to the International Civil Aviation Convention of September 1, 1959 (BGBl. II, p. 987).

5. Law concerning the application of the Convention in the International Recognition of Rights in Aircraft (Mortgage Convention) of April 22, 1960 (BGBl. II, p. 1506).

GREAT BRITAIN

PRELIMINARY

At present, two basic air laws are in force in Great Britain: the Civil Aviation Act, 1949 (12, 13 and 14 Geo. 6, c. 67), and the Air Corporations Act, 1949 (12, 13 and 14 Geo. 6, c. 91), as amended by the Air Corporations Act, 1953 (2 and 3 Eliz. 2, c. 7) and the Air Corporations Act, 1956 (5 Eliz. 2, c. 3). The Civil Aviation Act, 1949 came into effect on November 24, 1949, and the Air Corporations Act, 1949, on December 16, 1949.

The Civil Aviation Act, 1949 repeals and replaces prior Acts on civil aviation with the exception of the Carriage by Air Act, 1932 and the laws relating to Air Corporations. The latter is replaced by the Air Corporations Acts, 1949 to 1956.

The main acts replaced by the Civil Aviation Act, 1949, are: the Air Navigation Act, 1920; the Air Navigation Act, 1936 (except sections 24, 26 and Fourth Schedule); the Air Navigation Act, 1938; the Ministry of Civil Aviation Act, 1945 and the Civil Aviation Act, 1946 (except as these two acts refer to Airways Corporations); the Air Navigation Act, 1947.

The Air Corporations Acts, 1949 to 1956 replaced the following acts: the British Overseas Airways Act, 1939; the Ministry of Civil Aviation Act, 1945 (except as not repealed); the Civil Aviation Act, 1946 (except as not repealed); the Finance Act, 1947; the Airways Corporations Act, 1949. See also notes in Halsbury's Statutes of England, second ed., vol. 28 (1948-1949), pp. 192-311, and *id.* cumulative supplement (1957) pp. 102-120.

In view of the British system, modifications in the Acts are indicated in footnotes. The texts of the Air Corporations Act, 1953 (2 and 3 Eliz. 2, c. 3), *id.*, vol. 36, p. 52.

For application of the Acts to parts of the British Isles and possessions, see Halsbury's Statutes of England, second ed., cumulative supplement (1957), pp. 102 to 120.

CHAPTER 36.

An Act to give effect to a Convention for the unification of certain rules relating to international carriage by air, to make provision for applying the rules contained in the said Convention, subject to exceptions, adaptations and modifications, to carriage by air which is not international carriage within the meaning of the Convention, and for purposes connected with the purposes aforesaid. A.D. 1932.
[12th July 1932.]

WHEREAS a Convention for the unification of certain rules relating to international carriage by air was on the twelfth day of October, nineteen hundred and twenty-nine, signed at Warsaw on behalf of His Majesty :

And whereas it is expedient that provision should be made for giving effect to the said Convention :

And whereas it is also expedient to make provision for applying the rules contained in the said Convention, subject to exceptions, adaptations and modifications, to carriage by air which is not international carriage within the meaning of the Convention :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1.—(1) As from such day as His Majesty may by Order in Council certify to be the day on which the Provisions of Convention to have force of law.

A.D. 1932. Convention comes into force as regards the United Kingdom, the provisions thereof as set out in the First Schedule to this Act shall, so far as they relate to the rights and liabilities of carriers, passengers, consignors, consignees and other persons and subject to the provisions of this section, have the force of law in the United Kingdom in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

(2) His Majesty may by Order in Council from time to time certify who are the High Contracting Parties to the Convention, in respect of what territories they are respectively parties and to what extent they have availed themselves of the provisions of the Additional Protocol to the Convention, and any such Order shall, except in so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.¹

(3) Any reference in the said First Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to the territories subject to his sovereignty, suzerainty, mandate or authority, in respect of which he is a party.

(4) Any liability imposed by Article seventeen of the said First Schedule on a carrier in respect of the death of a passenger shall be in substitution for any liability of the carrier in respect of the death of that passenger either under any statute or at common law, and the provisions set out in the Second Schedule to this Act shall have effect with respect to the persons by and for whose benefit the liability so imposed is enforceable and with respect to the manner in which it may be enforced.

(5) Any sum in francs mentioned in Article twenty-two of the said First Schedule shall, for the purposes of any action against a carrier, be converted into sterling at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court.

¹ For Orders under Subsection (2) see the Carriage by Air (Parties to Convention) Order, 1951, S. I. 1951, No. 1386, the Carriage by Air (Parties to Convention) (No. 2) Order, 1952, S. I. 1952, No. 1344, the Carriage by Air (Parties to Convention) (No. 3) Order, 1952, S. I. 1952, No. 2105, the Carriage by Air (Parties to Convention) (No. 4) Order, 1953, S. I. 1953, No. 1675, the Carriage by Air (Parties to Convention) (No. 5) Order, 1955, S. I. 1955, No. 697, the Carriage by Air (Parties to Convention) (No. 6) Order, 1956, S. I. 1956, No. 83.

2. Every High Contracting Party to the Convention who has not availed himself of the provisions of the additional Protocol thereto shall, for the purposes of any action brought in a court in the United Kingdom in accordance with the provisions of Article twenty-eight of the said First Schedule to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which any such action is to be commenced and carried on; but nothing in this section shall authorise the issue of execution against the property of any High Contracting Party.

A.D. 1932.

Provisions as to actions against High Contracting Parties who undertake carriage by air.

3. His Majesty may by Order in Council direct that the foregoing provisions of this Act shall extend, subject however to such exceptions, adaptations and modifications, if any, as may be specified in the Order, to all or any of the following territories, that is to say, the Isle of Man, any of the Channel Islands, any colony and any territory which is under His Majesty's protection, or in respect of which a mandate from the League of Nations is being exercised by His Majesty's Government in the United Kingdom.²

Application of this Act to colonies, protectorates, &c.

4. His Majesty may by Order in Council apply the provisions of the First Schedule to this Act and any provision of section one of this Act to such carriage by air, not being international carriage by air as defined in the said First Schedule, as may be specified in the Order, subject however to such exceptions, adaptations and modifications, if any, as may be so specified.

Provision for applying Act to carriage by air which is not international.

Any such order may extend to the United Kingdom, and to all or any of the territories mentioned in the last preceding section.

5.—(1) An Order in Council made under either of the two last preceding sections may contain such consequential provisions as His Majesty in Council thinks fit, and may be varied or revoked by a subsequent Order in Council.

Provisions as to Orders in Council.

(2) Every such Order in Council shall be laid before Parliament so soon as may be after it is made.

6. This Act may be cited as the Carriage by Air Act, 1932.

Short title.

² For Orders under this and other sections of this Act see Halsbury's Statutes, Cumulative Supplement, 1957, pp. 103, 104.

A.D. 1932.

SCHEDULES.

FIRST SCHEDULE.

CONVENTION

FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR.

CHAPTER I.

SCOPE.—DEFINITIONS.

Article 1.

(1) This Convention applies to all international carriage of persons, luggage or goods performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

(2) For the purposes of this Convention the expression "international carriage" means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

(3) A carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract

or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

A.D. 1932.
—
1ST SCH.
—cont.

Article 2.

(1) This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

(2) This Convention does not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II.

DOCUMENTS OF CARRIAGE.

SECTION 1.—PASSENGER TICKET.

Article 3.

(1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars :—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

(2) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

SECTION 2.—LUGGAGE TICKET.

Article 4.

(1) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(2) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

A.D. 1932.

1st SCH.
—cont.

(3) The luggage ticket shall contain the following particulars :—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with Article 22 (2);
- (h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

(4) The absence, irregularity or loss of the luggage ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d) (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

SECTION 3.—AIR CONSIGNMENT NOTE.

Article 5.

(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air consignment note"; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6.

(1) The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked "for the carrier," and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign on acceptance of the goods.

A.D. 1932.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

1ST SCH.
—cont.

(5) If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7.

The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

Article 8.

The air consignment note shall contain the following particulars :—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the goods;
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them;
- (i) the weight, the quantity and the volume or dimensions of the goods;
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with Article 22 (2);
- (n) the number of parts of the air consignment note;
- (o) the documents handed to the carrier to accompany the air consignment note;

A.D. 1932.

1st SCH.

—cont.

- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
- (q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9.

If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in Article 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

Article 10.

(1) The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11.

(1) The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12.

(1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith. A.D. 1932.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

1ST SCH.
—cont.

Article 13.

(1) Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 14.

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15.

(1) Articles 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air consignment note.

Article 16.

(1) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the

A.D. 1932.

1st SCH.

—cont.

carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III.

LIABILITY OF THE CARRIER.

Article 17.

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18.

(1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or trans-shipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Article 19.

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

Article 20.

(1) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 21.

A.D. 1932.

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

1st SCH.
—cont.

Article 22.

(1) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

Article 23.

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 24.

(1) In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

(2) In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

A.D. 1932.

Article 25.

1st SCH.
—cont.

(1) The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

Article 26.

(1) Receipt by the person entitled to delivery of luggage or goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27.

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28.

(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

(2) Questions of procedure shall be governed by the law of the Court seised of the case.

Article 29.

A.D. 1932.

(1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

1ST SCH.
—cont.

(2) The method of calculating the period of limitation shall be determined by the law of the Court seised of the case.

Article 30.

(1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV.

PROVISIONS RELATING TO COMBINED CARRIAGE.

Article 31.

(1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

(2) Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

A.D. 1932.

1ST SCH.
—cont.

CHAPTER V.

GENERAL AND FINAL PROVISIONS.

Article 32.

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33.

Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34.

This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35.

The expression "days" when used in this Convention means current days not working days.

Article 36.

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37.

(1) This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

(2) As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth

ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

A.D. 1932.

—
1st Sch.
—cont.

(3) It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

Article 38.

(1) This Convention shall, after it has come into force, remain open for accession by any State.

(2) The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.

(3) The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39.

(1) Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40.

(1) Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

(2) Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which has been thus excluded by his original declaration.

(3) Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

A.D. 1932.

Article 41.

1st SCH.
—cont.

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

[Here follow the signatures on behalf of the following countries :—

Germany, Austria, Belgium, Brazil, Denmark, Spain, France, Great Britain and Northern Ireland, the Commonwealth of Australia, the Union of South Africa, Greece, Italy, Japan, Latvia, Luxembourg, Norway, the Netherlands, Poland, Roumania, Switzerland, Czecho-Slovakia, the Union of Soviet Socialist Republics, and Yugoslavia.]

ADDITIONAL PROTOCOL.

(With reference to Article 2.)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

[This additional Protocol was signed on behalf of the same countries as those above mentioned.]

SECOND SCHEDULE.

A.D. 1932.

PROVISIONS AS TO LIABILITY OF CARRIER IN THE
EVENT OF THE DEATH OF A PASSENGER.

1. The liability shall be enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

In this paragraph the expression "member of a family" means wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grandchild :

Provided that, in deducing any such relationship as aforesaid, any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

2. An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under the last preceding paragraph enforceable, but only one action shall be brought in the United Kingdom in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in the United Kingdom or, not being domiciled there, express a desire to take the benefit of the action.

3. Subject to the provisions of the next succeeding paragraph, the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportions as the Court (or, where the action is tried with a jury, the jury) direct.

4. The Court before which any such action is brought may at any stage of the proceedings make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule to this Act limiting the liability of a carrier and of any proceedings which have been, or are likely to be, commenced outside the United Kingdom in respect of the death of the passenger in question.

Civil Aviation Act, 1949

12 & 13 GEO. 6. CH. 67

ARRANGEMENT OF SECTIONS

PART I

CENTRAL ADMINISTRATION

Section

1. Appointment and functions of Minister of Civil Aviation.
2. Oath of allegiance and official oath.
3. Appointment of officers, remuneration and expenses.
4. Capacity to sit in House of Commons.
5. Seal, style and acts of Minister.
6. Transfer to Minister of property, rights and liabilities relating to civil aviation.
7. Delegation of certain functions of Minister.

PART II

REGULATION OF CIVIL AVIATION

General

8. Power to give effect to Chicago Convention and regulate air navigation.
9. Control of aviation in time of war or emergency.
10. Investigation of accidents.
11. Dangerous flying.

Air Transport

12. Air Transport Advisory Council.
13. Licensing of air transport and commercial flying.
14. Information as to air transport undertakings and use of customs aerodromes.
15. Terms and conditions of employment of persons employed by air transport undertakings.

PART III

AERODROMES AND OTHER LAND

Minister's Aerodromes

16. Minister's power to provide aerodromes.
17. Consultation with local bodies.
18. Sanitary control on Minister's aerodromes.

Local Authorities' Aerodromes

Section

19. Power of local authorities to provide aerodromes.
20. Power to carry on ancillary businesses.
21. Provisions as to London.
22. Other statutory bodies in Northern Ireland.

Ministers' power over land in connection with civil aviation

23. Power to acquire and manage land.
24. Power to obtain rights over land.
25. Power to prohibit or restrict use of civil aerodromes.
26. Power to exercise control over land in the interests of civil aviation.
27. Indication of presence of obstructions near licensed aerodromes.
28. Power of Minister of Transport to stop up and divert highways, etc., in the interests of civil aviation.
29. Power of entry for purposes of survey.
30. Special provisions relating to statutory undertakers.
31. Displacements from land.
32. Consecrated land and burial grounds.
33. Registration of certain orders in the register of local land charges.
34. Notices.
35. Exemptions from stamp duty.
36. Compensation of officers.

Supplemental

37. Power to appoint special constables.
38. Trespassing on licensed aerodromes.
39. Expenses of Part III.

PART IV

LIABILITY FOR DAMAGE, ETC., CAUSED BY AIRCRAFT

40. Liability of aircraft in respect of trespass, nuisance and surface damage.
41. Nuisance caused by aircraft on aerodromes.
42. Limitation of liability.
43. Compulsory third-party insurance.
44. Certificates of insurance or security.
45. Rights under policies, etc.
46. Offences in connection with policies, etc.

Section

47. Survival of causes of action in Northern Ireland.
48. Power to give effect to Rome Convention.
49. Supplemental provisions for Part IV.
50. Commencement of certain provisions in Part IV.

PART V

MISCELLANEOUS

51. Application of law of wreck and salvage to aircraft.
52. Application to seaplanes of regulations as to ships.
53. Exemption of aircraft and parts thereof from seizure on patent claims.
54. Explanation of Carriage by Air Act, 1932.
55. Recording and registration of births and deaths, etc.
56. Custody and disposal of lost property.

PART VI

SUPPLEMENTAL

57. Orders in Council.
58. Detention of aircraft.
59. Extra-territorial effect.
60. Offences.
61. Savings.

PART VII

GENERAL

62. Jurisdiction.
63. Interpretation.
64. General application to Scotland.
65. General application to Northern Ireland.
66. Application to H.M. dominions.
67. Application to Channel Islands and Isle of Man.
68. Transitory provisions.
69. Amendments of other enactments.
70. Repeal and savings.
71. Short title.

SCHEDULES:

First Schedule—Provisions relating to certain orders under Part III.

Second Schedule—Provisions relating to orders under s. 25.

Third Schedule—Provisions relating to directions under s. 26.

Fourth Schedule—Adjustments of the functions of statutory undertakers.

Fifth Schedule—Limits of liability.

Sixth Schedule—Provisions as to policies of insurance, securities and deposits.

Seventh Schedule—Survival of causes of action in Northern Ireland after death.

Eighth Schedule—Patent claims against aircraft not protected under Chicago Convention.

Ninth Schedule:

Part I—Provisions which may be adapted for Northern Ireland.

Part II—Provisions which may be extended to the Colonies, etc.

Tenth Schedule—Orders for the Compulsory purchase of land in Northern Ireland under s. 19 (2).

Eleventh Schedule—Amendments of other enactments.

Twelfth Schedule.—Repeals.

CHAPTER 67

An Act to consolidate the enactments relating to civil aviation, other than the Carriage by Air Act, 1932, and other than the enactments relating to the constitution and functions of the Airways Corporations. [24th November 1949.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CENTRAL ADMINISTRATION

1.—(1) It shall be lawful for His Majesty to appoint a ^{Appointment} Minister of Civil Aviation (in this Act referred to as "the ^{and functions} Minister") who shall be charged with the general duty of ^{of Minister of} organising, carrying out and encouraging measures for the ^{Civil Aviation.} development of civil aviation, for the designing, development and production of civil aircraft, for the promotion of safety and efficiency in the use thereof, and for research into questions relating to air navigation:

Provided that this subsection shall not authorise the production of civil aircraft by the Minister.

(2) The acquisition and disposal of aircraft, aero-engines and aviation equipment in discharge of the Minister's said duty shall be subject to the approval of the Treasury.

2. The Minister shall take the oath of allegiance and the Oath of official oath, and the Promissory Oaths Act, 1868, shall have ^{allegiance and} effect as if the name of the Minister were included in the first ^{official oath.} official oath. Part of the Schedule to that Act.²

¹ Now: Minister of Transport and Civil Aviation; section is repealed so far as it relates to the appointment of a Minister of Civil Aviation. See the Transfer of Functions (Ministry of Civil Aviation) Order, 1953, S. I. 1953, No. 1204.

² Sections 2-4. Repealed by the Transfer of Functions (Ministry of Civil Aviation) Order, 1953, S. I. 1953, No. 1204.

PART I

—cont.

Appointment
of officers,
remuneration
and expenses.

3.—(1) The Minister may appoint a Parliamentary Secretary, and such other secretaries, officers and servants as he may with the consent of the Treasury determine.

(2) There shall be paid—

(a) to the Minister, an annual salary not exceeding five thousand pounds;

(b) to any Parliamentary Secretary appointed by the Minister, and to any other secretaries, officers and servants appointed by the Minister, such salaries or remuneration as the Treasury may determine,

and for the purposes of section six of the Ministers of the Crown Act, 1937 (which makes provision against duplicate salaries) any salary payable under this subsection to the Minister or to any Parliamentary Secretary appointed by him shall be deemed to be a salary payable under that Act.

(3) The salary of the Minister and his expenses (including any salaries or remuneration payable under paragraph (b) of the last foregoing subsection) shall be defrayed out of moneys provided by Parliament.^{2a}

Capacity to
sit in House of
Commons.

4. A person holding office as Minister of Civil Aviation, or as Parliamentary Secretary to the Ministry, shall not thereby be rendered incapable of being elected as a member of the Commons House of Parliament, or of sitting or voting as such a member.^{2b}

Seal, style and
acts of
Minister.

5.—(1) The Minister shall for all purposes be a corporation sole, and shall have an official seal, which shall be authenticated by the signature of the Minister or of a secretary to the Ministry or of any person authorised by the Minister to act in that behalf.

(2) The seal of the Minister shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Minister and to be sealed with the seal of the Minister authenticated in the manner provided by this section, or to be signed by a secretary to the Ministry or any person authorised as aforesaid, shall be received in evidence and be deemed to be so made or issued without further proof, unless the contrary is shown.

(3) A certificate signed by the Minister that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of that fact.

(4) The Documentary Evidence Act, 1868, shall apply to the Minister as if his name were included in the first column of the Schedule to that Act, and as if he or a secretary to the Ministry

^{2a} See note 2 *supra*.

^{2b} See note 2 *supra*.

or any person authorised by him to act on his behalf were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Minister.³

PART I
—cont.

6.—(1) Any property vested in, right enjoyed by, or liability incumbent on the Secretary of State for the purposes of civil aviation immediately before the time of vesting shall without more vest in or devolve on the Minister.

Transfer to
Minister of
property,
rights and
liabilities
relating to
civil aviation.

(2) Any regulation, order, direction, appointment, determination, agreement, requirement or representation made or other thing done or proceeding taken by, to or before the Secretary of State for the purposes of civil aviation before the time of vesting, and in force or having effect at that time shall be treated as if it had been made, done or taken by, to or before the Minister and shall continue in force or have effect accordingly.

(3) A certificate by the Secretary of State and the Minister that any property, right or liability vested, enjoyed or incurred in or by the Secretary of State was or was not vested, enjoyed or incurred for the purposes of civil aviation, or that anything made, done or taken by, to or before the Secretary of State, was or was not made, done or taken for those purposes shall, in determining any question as to the effect of either of the two foregoing subsections, be conclusive of the matters certified.

(4) In this section the expression "time of vesting" means the passing of the Ministry of Civil Aviation Act, 1945.

7.—(1) The Minister may by order provide for delegating to a body appearing to him to be so constituted as to consist of—

Delegation of
certain
functions of
Minister.

(a) persons substantially representative of the interests concerned with civil aviation (and in particular of operators, constructors and insurers of aircraft), and

(b) two persons appointed by the Minister, one as being an independent person and the other as being a person who has had not less than five years' professional experience as a pilot of civil aircraft,

such of the administrative functions of the Minister with respect to the matters to which this subsection applies as may be specified in the order, and for entrusting to that body such advisory functions in connection with any of the said matters as may be so specified; and an order under this section may direct that any fees for the time being prescribed by an Order in Council under section eight of this Act in relation to matters with respect to which functions are delegated under this section to such a body as aforesaid, shall be paid to, and may be retained by, that body.

³ Section 5. Repealed by the Transfer of Functions (Ministry of Civil Aviation) Order, 1953, S. I. 1953 No. 1204, except in relation to instruments made before the coming into operation of that order.

PART I
—cont.

The matters to which this subsection applies are the design, construction and maintenance of aircraft, and matters connected therewith.

(2) An order under this section may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the order.

(3) An order under this section shall be made by statutory instrument and if the order delegates or entrusts any functions to such a body as aforesaid a draft of the statutory instrument shall be laid before Parliament.

(4) The Minister may contribute such sums as he may, with the approval of the Treasury, determine to the payment of any expenses which may be incurred by such a body as aforesaid for the purposes of an order under this section; and any sums required by the Minister for making contributions under this subsection shall be paid out of moneys provided by Parliament.

(5) Part VI of this Act applies to this section.

PART II

REGULATION OF CIVIL AVIATION

General

Power to
give effect to
Chicago
Convention
and regulate
air navigation.

8.—(1) Whereas on the seventh day of December, nineteen hundred and forty-four at the International Civil Aviation Conference held at Chicago, there was signed on behalf of the Government of the United Kingdom a Convention on International Civil Aviation (hereinafter referred to as “the Chicago Convention”):

And whereas a copy of the final Act of the said Conference including (amongst other things) the text of the Chicago Convention was, on the fourth day of April, nineteen hundred and forty-five, presented to Parliament by command of His Majesty:

And whereas it is expedient to provide for giving effect to the Chicago Convention and to make further provision for the regulation of air navigation:

Now, therefore, His Majesty may by Order in Council make such provision as appears to Him to be requisite or expedient—

(a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or

- (b) generally for regulating air navigation.
- (2) His Majesty may by Order in Council make provision—
- (a) as to the registration of aircraft in the United Kingdom ;
 - (b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Order are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in the Order ;
 - (c) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes ;
 - (d) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified in the Order except in accordance with provisions in that behalf contained in the Order, and for the licensing of those employed at aerodromes licensed under the Order in the inspection or supervision of aircraft ;
 - (e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the United Kingdom may fly, and as to the conditions under which aircraft may fly from one part of the United Kingdom to another ;
 - (f) as to the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified in the Order ;
 - (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft ;
 - (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph ;

PART II
—cont.

- (i) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation ;
- (j) for regulating the making of signals and other communications by or to aircraft and persons carried therein ;
- (k) for regulating the use of the civil air ensign and any other ensign established by His Majesty in Council for purposes connected with air navigation ;
- (l) for prohibiting aircraft from flying over such areas in the United Kingdom as may be specified in the Order ;
- (m) for applying, adapting or modifying the enactments relating to customs in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting in connection with air navigation, subject to such conditions as appear to His Majesty in Council to be requisite or expedient for the protection of the revenue, the importation of goods into the United Kingdom without payment of duty ;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Order (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document ;
- (o) for regulating the charges that may be made for the use of aerodromes licensed under the Order and for services provided at such aerodromes ;
- (p) for prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by the Order and in respect of any other matters in respect of which it appears to His Majesty in Council to be expedient for the purpose of the Order to charge fees ;
- (q) for exempting from the provisions of the Order or any of them any aircraft or persons or classes of aircraft or persons.

(3) An Order in Council under this section may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of the United Kingdom but shall, so far as practicable, be so framed as not to discriminate

in like circumstances between aircraft registered in the United Kingdom operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.

PART II
—cont.

(4) An Order in Council under this section may, for the purpose of securing compliance with the provisions thereof, provide for the imposition of penalties not exceeding a fine of two hundred pounds and imprisonment for a term of six months, and, in the case of any provision having effect by virtue of paragraph (1) of subsection (2) of this section, may also for that purpose provide for the taking of such steps (including firing on aircraft) as may be specified in the Order.

(5) There shall be paid out of moneys provided by Parliament—

- (a) any sums payable by His Majesty's Government in the United Kingdom by way of contribution to the expenses of the International Civil Aviation Organisation under the Chicago Convention ;
 - (b) such expenses of any delegate, representative or nominee of His Majesty's Government in the United Kingdom appointed for any purposes connected with the Chicago Convention as may be approved by the Treasury ;
 - (c) any expenses incurred by His Majesty's Government in the United Kingdom for the purposes of Chapter XV of the Chicago Convention (which relates to the provision of airports and other air navigation facilities) ; and
 - (d) any other expenses incurred by a Government Department by reason of this section.
- (6) There shall be paid into the Exchequer—
- (a) all sums received by His Majesty's Government in the United Kingdom by way of repayment of expenses incurred for the purposes of the said Chapter XV ; and
 - (b) all sums received by way of fees paid under an Order in Council under this section other than fees which, under an order made under section seven of this Act are paid to any of the bodies to which functions of the Minister are delegated under that section.
- (7) Part VI of this Act applies to this section.

9.—(1) In time of war, whether actual or imminent, or of great national emergency, the Secretary of State may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order and notwithstanding Control of aviation in time of war or emergency.

PART II
—cont.

the provisions of this Act or any Order in Council or regulation made thereunder, the navigation of all or any descriptions of aircraft over the United Kingdom or any portion thereof; and may by order provide for taking possession of and using for the purposes of His Majesty's naval, military or air forces any aerodrome, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, or flying school, or any class or description thereof.

(2) An order under this section may make, for the purpose of the order, such provision as an Order in Council under section eight of this Act may by virtue of subsection (4) of that section make for the purpose of securing compliance with provisions thereof having effect by virtue of paragraph (1) of sub-section (2) of that section.

(3) Any person who suffers direct injury or loss, owing to the operation of an order of the Secretary of State under this section, shall be entitled to receive compensation from the Secretary of State, the amount thereof to be fixed, in default of agreement, by the Lands Tribunal; and the principles of the Acquisition of Land (Assessment of Compensation) Act, 1919 shall, with the necessary modifications, apply where possession is taken of any land:

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in the United Kingdom or any part thereof.

(4) The power to make an order under this section shall be exercisable by statutory instrument.

(5) Any expenses incurred by a Secretary of State in the exercise of his powers under this section shall be paid out of moneys provided by Parliament.

(6) Part VI of this Act applies to this section.

Investigation
of accidents.

10.—(1) The Minister may make regulations providing for the investigation of any accident arising out of or in the course of air navigation, and either occurring in or over the United Kingdom or occurring elsewhere to British aircraft registered in the United Kingdom:

Provided that regulations not relating only to civil aviation shall be made by the Secretary of State and the Minister acting jointly.

(2) Regulations under this section may contain provisions—

(a) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified in the order;

- (b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of section three of the Notice of Accidents Act, 1894;
- (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft;
- (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under this Part of this Act or any Order in Council or order made under this Part of this Act, where it appears on an investigation that the licence ought to be cancelled, suspended, endorsed or surrendered, and requiring the production of any such licence for the purpose of being so dealt with:

Provided that nothing in this section shall limit the powers of any authority under sections five hundred and thirty to five hundred and thirty-seven of the Merchant Shipping Act, 1894, or any enactment amending those sections.

(3) If any person contravenes or fails to comply with any regulations under this section, he shall be liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

(4) Any expenses incurred by a Secretary of State or the Minister in the exercise of his powers under this section, including the expenses of any investigation under this section, shall be paid out of moneys provided by Parliament.

(5) Part VI of this Act applies to this section.

11.—(1) Where an aircraft is flown in such a manner as to be Dangerous the cause of unnecessary danger to any person or property on land flying. or water, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both.

In this section the expression "owner" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

(2) The provisions of this section shall be in addition to and not in derogation of the powers conferred on His Majesty in Council by section eight of this Act.

(3) Part VI of this Act applies to this section.

PART II

—cont.

Air Transport
Advisory
Council.*Air Transport .*

12.—(1) His Majesty may by Order in Council provide for the constitution of an Air Transport Advisory Council consisting of a chairman, who shall be appointed by the Lord Chancellor and who shall be a barrister, advocate or solicitor of not less than seven years' standing, and such number of members appointed by the Minister (not being less than two nor more than four) as may be determined in accordance with the Order.

Of the members of the Council appointed by the Minister, at least one shall be a person of experience in the operation of air transport services, and at least one shall be a person of experience in the operation of other transport services.

No member of any of the Airways Corporations, and no person employed by any of the Airways Corporations, shall be qualified to be a member of the Council.

(2) It shall be the duty of the Air Transport Advisory Council to consider any representation from any person with respect to the adequacy of the facilities provided by any of the Airways Corporations, or with respect to the charges for any such facilities:

Provided that the Council shall not be required, by this subsection to consider any such representation if, in their opinion, it is frivolous or vexatious or if, in their opinion, the matters to which the representation relates have been already sufficiently considered by the Council, or if, in their opinion, it is inexpedient that they should consider the representation on the ground that the matters to which it relates are for the time being regulated by any international agreement to which His Majesty's government in the United Kingdom is a party.

(3) It shall be the duty of the Air Transport Advisory Council to consider any question which may be referred to the Council by the Minister, being:—

(a) a question relating to facilities for transport by air in any part of the world, or relating to the charges for such facilities; or

(b) a question which in the opinion of the Minister requires consideration with a view to the improvement of air transport services.

(4) When the Council have considered any such representation or question as aforesaid, they shall report to the Minister upon their conclusions, and shall make such recommendations to the Minister in connection with those conclusions as they think expedient.

(5) The Council may with the approval of the Minister appoint such assessors as they think expedient for the purpose of securing that they are properly advised with respect to matters affecting the interests of persons who use air transport services, or of any

ass of such persons, and the interests of technical, professional, industrial and commercial bodies (including those of organised labour) directly concerned with the provision of air transport services.

(6) Any Order made under this section may contain such incidental and consequential provisions, including provisions for the payment of remuneration to members of the Council out of moneys provided by Parliament, provisions for the payment out of such moneys of expenses incurred in connection with the appointment of assessors by the Council, and provisions for terminating the procedure of the Council, as His Majesty thinks expedient.

The procedure of the Council shall be such as to secure that no member of the Council shall sit to consider any representation or question which it is the duty of the Council to consider, if, in respect of the matters to which the representation or question relates, he has any special interest such as may tend to interfere with his impartial consideration of the representation or question.

(7) The Council shall be furnished by the Minister with such accommodation as appears to him to be requisite for the proper discharge of their functions, and with such clerks, officers and staff as appear to him, with the concurrence of the Treasury as to numbers, to be requisite for that purpose, and the Minister shall pay to the clerks, officers and staff of the Council such remuneration as he may with the approval of the Treasury determine.

(8) The Minister shall provide the Council with such information and other assistance as he thinks expedient for the purpose of assisting the Council to discharge their functions; and each of the Airways Corporations shall keep the Council informed of all services which are provided by them or which they intend to provide, and of the charges which the Corporation make or propose to make for any such services.

(9) The Council shall make an annual report to the Minister of their proceedings, and the Minister shall lay the report before each House of Parliament together with a statement of any action which has been taken by him in consequence of any recommendations submitted to him by the Council during the period to which the report relates.

(10) A draft of any Order proposed to be made under this section shall be laid before Parliament.

13.—(1) His Majesty may by Order in Council make provision—

(a) for securing that aircraft shall not be used in the United Kingdom by any person—

(i) for plying, while carrying passengers or goods for hire or reward, on such journeys or classes of

Licensing of
air transport
and commercial
flying.

PART II
—cont.

journeys (whether beginning and ending at the same point or at different points) as may be specified in the Order, or

- (ii) for such flying undertaken for the purpose of any trade or business as may be so specified, except under the authority of, and in accordance with a licence granted to the said person by the licensing authority specified in the Order ;
- (b) as to the circumstances in which a licence under the Order may or shall be granted, refused, revoked or suspended, and in particular as to the matters to which the licensing authority specified in the Order is to have regard in deciding whether to grant or refuse such a licence ;
- (c) as to appeals from the licensing authority by persons interested in the grant, refusal, revocation or suspension of any licence under the Order ;
- (d) as to the conditions which may be attached to such a licence (including conditions as to the fares, freight or other charges to be charged by the holder of the licence), and for securing compliance with any conditions so attached ;
- (e) as to the information to be furnished by an applicant for, or the holder of, such a licence to such authorities as may be specified in the Order ;
- (f) for prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the grant of any licence under the Order ;

and such an Order may make different provision as respects different classes of aircraft and different classes of licences.

(2) An Order in Council under this section may, for the purpose of securing compliance with the Order, provide for the imposition of penalties not exceeding, in the case of a first offence against the Order, a fine of twenty pounds or, in the case of a second or subsequent such offence, a fine of fifty pounds or imprisonment for a term of three months.

(3) The Minister shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty in Council to make under this section, and no further proceedings shall be taken in relation thereto except in pursuance of an Address presented to His Majesty by both Houses of Parliament praying that the Order may be made in the terms of the draft.

(4) The Minister may pay out of moneys provided by Parliament—

- (a) to the members of any licensing authority which may be constituted by an Order in Council under this section such remuneration (if any) as the Minister, with the approval of the Treasury, may determine ; and

- (b) the amounts necessary to defray such expenses of the said licensing authority as the Minister and the Treasury may approve.

PART II
—cont.

The amount of any fee received under such an Order in Council by any such licensing authority shall be paid by that authority to the Minister, and, when received by him, shall be paid into the Exchequer.

(5) Part VI of this Act applies to this section so, however, that an Order in Council under this section shall not be laid before Parliament nor be subject to annulment in pursuance of a resolution of either House of Parliament.

14.—(1) His Majesty may by Order in Council make provision—

- (a) for requiring any person—

Information
as to air
transport
undertakings
and use of
customs
aerodromes.

(i) who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the Order, or

(ii) who is the holder of a licence in respect of a customs aerodrome,

to furnish to such authorities as may be specified in the Order such information relating to the use of aircraft for the purpose of his said business and to the persons employed in connection with that use, or, as the case may be, relating to the use of the aerodrome and to the persons employed in aircraft arriving thereat or departing therefrom, as may be prescribed by the Order;

- (b) for requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any customs aerodrome to furnish to the holder of the licence in respect of that aerodrome such information as may be necessary to enable the holder of the said licence to comply with such of the provisions of the Order as relate to him;
- (c) for prescribing the times at which, and the form and manner in which, any information required under the Order is to be furnished:

Provided that a person carrying on such a business as is mentioned in sub-paragraph (i) of paragraph (a) of this subsection shall not be required to furnish information relating to the use of aircraft on journeys wholly outside the United Kingdom, or

PART II
—cont.

relating to persons exclusively employed outside the United Kingdom, unless the person carrying on the business is either British subject resident in the United Kingdom or a citizen of the Republic of Ireland resident in the United Kingdom or body corporate incorporated under the law of some part of the United Kingdom.

(2) An Order in Council under this section may provide for imposing on any person who contravenes or fails to comply with any provision of the Order such penalties (not exceeding a fine of twenty pounds and a further fine of five pounds for every day on which the contravention or non-compliance continues after conviction therefor) as may be specified in the Order.

(3) No information with respect to any particular undertaking which has been obtained by virtue of an Order in Council under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of such an Order, and if any person discloses any such information in contravention of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both.

Nothing in this subsection shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of this subsection or of an Order in Council made under this section, or for the purpose of any report of any such proceedings, but, save as aforesaid, the restriction imposed by this subsection shall, in relation to any legal proceedings (including arbitrations), extend so as to prohibit and prevent any person who is in possession of any such information so obtained from disclosing, and from being required by a court or arbitrator to disclose, that information (whether as witness or otherwise) except with the consent of the person carrying on the undertaking to which the information relates.

(4) In this section the expression "customs aerodrome" means an aerodrome for the time being appointed in pursuance of an Order in Council in force under section eight of this Act as a place of landing and departure of aircraft for the purpose of the enactments relating to customs.

(5) Part VI of this Act applies to this section.

Terms and
conditions of
employment of
persons
employed by
air transport
undertakings.

15.—(1) The provisions of this section shall have effect for the purpose of securing that the terms and conditions of employment of persons employed by any independent undertaking constituted for the purpose of providing air transport services

of carrying out other forms of aerial work shall, except in so far as those terms and conditions—

PART II
—cont.

- (a) are regulated by or under any enactment other than this section ; or
- (b) are in accordance with an agreement for the time being in force between the undertaking and organisations representative of the persons employed ; or
- (c) are in accordance with any decision for the time being in force of a joint industrial council representing the undertaking and organisations representative of the persons employed ;

omply with the following requirement, that is to say, that they shall not be less favourable than the terms and conditions observed by the Airways Corporations in the case of persons engaged in comparable work, or, where the Airways Corporations do not observe the same terms and conditions for persons engaged in comparable work, are not less favourable than the terms and conditions observed for such persons by at least one of those Corporations.

(2) If any dispute arises as to whether the terms and conditions of any person's employment ought to comply with the requirement aforesaid, or as to what terms and conditions ought to be observed for the purpose of complying therewith, the dispute shall, if not otherwise disposed of, be referred by the Minister to the Industrial Court for settlement.

(3) Where any award has been made by the Industrial Court upon a dispute referred to that Court under this section, then, from the date of the award or from such other date as the Court may direct, and subject to any subsequent variation or revocation of the award, it shall be an implied term of the contract between the employer and workers to whom the award applies that the terms and conditions of employment to be observed under the contract shall be in accordance with the award, except in so far as they are regulated by or under any enactment other than this section or are in accordance with any such agreement or decision as is mentioned in subsection (1) of this section.

No direction given by the Court for the purposes of the foregoing provisions of this subsection shall have the effect of making any award retrospective to a date earlier than the date on which the dispute to which the award relates first arose.

(4) In this section the expression " independent undertaking " means any undertaking other than the Airways Corporations.

PART III

AERODROMES AND OTHER LAND

Minister's Aerodromes

Minister's
power to
provide
aerodromes.

16.—(1) The Minister may for the purposes of civil aviation establish and maintain aerodromes and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation:

Provided that nothing in this subsection shall authorise the execution of any works on, over or under tidal lands below high-water mark of ordinary spring tides, except in accordance with plans and sections previously approved in writing by the Minister of Transport and subject to such conditions as he may impose.

(2) The Minister shall appoint for each aerodrome vested in him an officer who shall be responsible to the Minister for all services provided on the aerodrome on behalf of the Minister including signalling services, flying control services, and service connected with the execution of works.

(3) The Minister shall not provide any of the Airways Corporations with aerodrome facilities in connection with the operation of any charter service unless he is satisfied that comparable facilities are available, or can be made available if required, to persons other than the Airways Corporations in connection with the operation of a similar service, and are so available, or can be made so available if required, upon terms and conditions not less favourable than those upon which the facilities in question are provided by him for the Corporation concerned.

In this subsection the expression "aerodrome facilities" means any facilities connected with the use of an aerodrome, and the expression "charter service" means any service provided on charter terms.

Consultation
with local
bodies.

17. In the management and administration of any aerodrome vested in him the Minister shall make such provision as he thinks necessary to ensure that adequate facilities for consultation are provided for the local authorities in whose areas the aerodrome or any part thereof is situated, and for other local authorities whose areas are in the neighbourhood of the aerodrome, and for other organisations representing the interests of persons concerned with the locality in which the aerodrome is situated.

Sanitary
control on
Minister's
aerodromes.

18.—(1) Without prejudice to their general duties under any Act of Parliament or otherwise, it shall be the duty of the Minister of Health and the Minister of Civil Aviation to make such arrangements as they think necessary—

(a) for preventing danger to public health from aircraft arriving at any aerodrome vested in or under the control of the Minister of Civil Aviation; and

(b) for preventing the spread of infection by means of any aircraft leaving any such aerodrome, so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country.

(2) A local authority may, and shall if the Minister of Health so requires, undertake duties in connection with the execution of any such arrangements as aforesaid; and the Minister of Health shall pay to a local authority such charges as the authority may reasonably require to be paid in respect of expenses incurred and services provided by the authority in the performance of such duties.

(3) Any reference in this section to a local authority shall be construed—

(a) in relation to England, as a reference to any local authority for the purposes of the Public Health Act, 1936, any county council and any port health authority, and also any joint board of which all the constituent authorities are local authorities within the meaning of the preceding provisions of this paragraph;

(b) in relation to Scotland, as a reference to a local authority for the purposes of the Public Health (Scotland) Act, 1945, and also a port local authority as defined in section one hundred and seventy-two of the Public Health (Scotland) Act, 1897;

(c) in relation to Northern Ireland, as a reference to such authority as the Ministry of Health and Local Government for Northern Ireland may designate as the appropriate authority for the purposes of this section.

(4) The references in this section to the Minister of Health shall be construed in relation to Scotland as references to the Secretary of State, and in relation to Northern Ireland, as references to the Ministry of Health and Local Government for Northern Ireland.

Local authorities' aerodromes

19.—(1) Any local authority may, with the consent of the Minister and subject to such conditions as he may impose, establish and maintain aerodromes, and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation: Power of local authorities to provide aerodromes.

Provided that nothing in this section shall authorise the execution of any works on, over or under tidal lands below high-water mark of ordinary spring tides, except in accordance with plans and sections previously approved in writing by the Minister of Transport and subject to such conditions as he may impose,

PART III
—cont.

(2) A local authority may, for the purpose of exercising all of the powers conferred on the authority by the foregoing subsection, acquire land by agreement or be authorised by the Minister to purchase land compulsorily.

(3) For the avoidance of doubts it is hereby declared that one of the purposes for which a local authority may acquire land under this section is the purpose of securing that the land adjacent to the site of an aerodrome which the local authority has established, or is about to establish, shall not be used in such manner as to cause interference with, or danger or damage to, aircraft at, approaching or leaving the aerodrome.

(4) The powers conferred on a local authority by the foregoing provisions of this section shall be exercisable by the authority outside, as well as within, its area.

(5) For the purpose of the purchase of land by agreement under this section, the Lands Clauses Acts, except the provision of those Acts with respect to the purchase and taking of land otherwise than by agreement, shall be incorporated with this Act.

(6) Where any land is held by a local authority for any purpose for which land may be acquired under this section, the local authority shall not, without the consent of the Minister appropriate that land for any other purpose or dispose of the land in any way.

In relation to land in Scotland this subsection shall have effect as if for the words "shall not, without the consent of the Minister" there were substituted the words "shall have power with the consent of the Minister, but not otherwise, to".

(7) Without prejudice to the provisions of the last foregoing subsection where a local authority to which section one hundred and sixty-five of the Local Government Act, 1933, applies holds any land solely for the purpose of securing that it shall not be used in such manner as to cause interference with, or danger or damage to, aircraft at, approaching or leaving an aerodrome of the local authority, that section shall, notwithstanding that it is still requisite that the land should not be so used, have effect in relation to that land as if it authorised the local authority, with the consent of the Minister of Health, to sell the land subject to such conditions as the local authority thinks necessary to secure that the land will not be so used.

(8) A local authority may borrow for the purposes of this section.

(9) In this section the expression "local authority" does not include the council of a rural district in England or Wales, and the expression "land" includes any right in or over land.

20. If the Minister is satisfied, with respect to any aerodrome provided by a local authority under the last foregoing section, that it is necessary or expedient that the local authority should be empowered to carry on in connection with the aerodrome any particular business, being a business which appears to him to be ancillary to the carrying on of an aerodrome but which the authority would not otherwise have power to carry on, he may make an order authorising that local authority, subject to such conditions (if any) as may be specified in the order, to carry on that business in connection with the aerodrome.

PART III

—cont.

Power to carry on ancillary businesses.

21.—(1) For the purposes of section nineteen of this Act—
 (a) the London County Council may borrow under and in accordance with the London County Council (Finance Consolidation) Act, 1912;

Provisions as to London.

(b) the Common Council of the City of London may borrow under the City of London Sewers Acts, 1848 to 1897.

(2) Section ninety-seven of the Local Government Act, 1933 which applies the provisions of Part III of that Act relating to joint committees to the London County Council and to councils of metropolitan boroughs) shall in relation to the powers conferred on local authorities by or under the last two foregoing sections, have effect as if any reference in the said section ninety-seven to the council of a metropolitan borough included a reference to the Common Council of the City of London.

(3) The expenses of the Common Council of the City of London under the said section nineteen shall be defrayed out of the general rate.

22.—(1) His Majesty may by Order in Council direct that in Northern Ireland the powers conferred by or under the three last foregoing sections on a local authority shall, subject to any restrictions imposed by the Order in Council, be, and be deemed always to have been exercisable also by any statutory body specified in the Order in Council and that any of the said provisions shall, in relation to that body, have effect subject to such adaptations as may be so specified.

Other statutory bodies in Northern Ireland.

(2) Part VI of this Act applies to this section.

Ministers' power over land in connection with civil aviation

23.—(1) The Minister shall for purposes of civil aviation and any purpose connected with the discharge of his functions have the like power to acquire land or any right in or over land by agreement under the Military Lands Acts, 1892 to 1903, as has a Secretary of State, and those Acts shall have effect accordingly with the necessary modifications, and in particular as though references to a military purpose included references to any such purposes as aforesaid.

Power to acquire and manage land.

PART III
—cont.

(2) The Minister may also acquire by agreement otherwise than under the said Acts any land, any estate or other interest in land, or any right in or in relation to land.

(3) The Minister may be authorised to acquire land compulsorily for any purpose connected with the discharge of his functions, and the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect with respect to the compulsory purchase of land in England or Wales by the Minister under this section as if in subsection (1) of section one of that Act, after paragraph (b) thereof, there were inserted the following paragraph:—

“(c) by the Minister of Civil Aviation under section twenty-three of the Civil Aviation Act, 1949”:

Provided that section three of that Act shall not have effect in relation to land acquired or proposed to be acquired by the Minister.

In this subsection the expression “land” includes any estate or other interest in land and any easement.

(4) For the purpose of the compulsory purchase by the Minister, under the last foregoing subsection, of land in Northern Ireland, His Majesty may by Order in Council provide for extending the Acquisition of Land (Authorisation Procedure) Act, 1946, to Northern Ireland, subject to any adaptations, modifications and exceptions which may be provided for by the Order.

(5) The Minister shall have power to manage, sell, let or exchange any land vested in him and to pay or receive money in respect of equality of exchange:

Provided that nothing in this subsection shall be taken to affect the operation of section five of the Defence of the Realm (Acquisition of Land) Act, 1916 (which confers on a person from whom land was acquired under that Act a right of pre-emption in the case of the subsequent sale of that land) as respects any land acquired under that Act.

(6) The Minister shall have power to manage and (subject to the terms of the lease) to sublet any land taken on lease by him or assign the lease.

(7) Where any person having an interest in land (hereinafter referred to as “the grantor”) grants or agrees to grant to the Minister any right (whether in perpetuity or for any other period and whether capable of subsisting as a legal estate or not) in or in relation to that land (including a right to enter upon that land, a right to carry out and maintain works on that land, a right to instal or maintain structures or apparatus on, under, over or across that land, and a right restrictive of the user of that land), the grant or agreement shall be binding upon any person deriving title or otherwise claiming under the grantor

the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon that person part from the provisions of this subsection.

This subsection shall, in its application to Scotland, have effect as if after the words "the grant or agreement shall" there were inserted the words "on being recorded in the appropriate register of sasines".

(8) His Majesty may by Order in Council apply in relation to the Minister, with any necessary modifications or adaptations, the enactments specified in subsection (9) of this section so as to confer on the Minister all such powers, rights and privileges—

- (a) in relation to the acquisition and holding of land for the purpose of discharging any of his functions, and
- (b) in relation to the management, use and disposal in any manner of land acquired for that purpose,

as under the said enactments are, by virtue of any Order in Council made under section thirteen of the Air Force (Constitution) Act, 1917, for the time being vested in the Secretary of State for Air in relation to the acquisition and holding of land for the use of the Air Force or for air force services or purposes and, in relation to the management, use and disposal of land acquired for use of the Air Force or for air force services or purposes.

(9) The said enactments are—

- (a) section six of the Defence Act, 1842 ;
- (b) sections two and five of the Ordnance Board Transfer Act, 1855 ;
- (c) the Defence Acts Amendment Act, 1873 ;
- (d) section two hundred and fifty-four of the Municipal Corporations Act, 1882 ;
- (e) Part II of the Military Lands Act, 1892.

(10) An Order in Council made under subsection (8) of this section may provide that any enactment applied by the Order shall be deemed always to have been so applied.

(11) Part VI of this Act applies to this section.

24.—(1) The Minister may, if he is satisfied that it is expedient so to do in order to secure the safe and efficient use for civil aviation purposes of any land which is vested in him or which he proposes to acquire, or in order to secure the provision of any services required in relation to any such land, or in order to secure that civil aircraft may be navigated with safety and efficiency, by order provide for the creation in his favour of easements over land, or of other rights in or in relation to land, including rights to carry out and maintain works on any land and to instal and maintain structures and apparatus on, under, over or across any land. Power to obtain rights over land.

PART III
—cont.

(2) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order, including in particular, provisions for authorising persons to enter upon land for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.

(3) No person shall, in the exercise of a power conferred by any such order, enter upon land which is occupied, unless, not less than seven days before the day upon which the entry is made, there has been served upon the occupier of the land notice stating that an entry will be made upon the land upon that day in the exercise of powers conferred by the order, and specifying the purposes for which the entry will be made:

Provided that nothing in this subsection shall restrict the right of any person to enter upon land in a case of emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works, structures or apparatus.

(4) Where any land is damaged in the exercise of any power of entry conferred by any such order, the Minister shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.

(5) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed to, any land in pursuance of any such order; and, so long as any such order is in force, no person shall, except with the consent of the Minister, wilfully interfere with any works carried out on any land in pursuance of the order, or with anything installed on, under or over or across any land in pursuance of the order.

(6) Subject to the special provisions of this Part of this Act relating to statutory undertakers, the provisions of the First Schedule to this Act shall have effect with respect to orders under this section.

(7) Where an order under this section provides for the creation of an easement over land held by a statutory undertaker for the purposes of the carrying on of his undertaking, or of any other right in or in relation to such land, then, if on a representation made to the appropriate Minister before the expiration of the time within which objections to the order may be made the appropriate Minister is satisfied that the easement or right could not be enjoyed without serious detriment to the carrying on of the undertaking, and certifies accordingly, the order shall be subject to special parliamentary procedure.

This subsection shall not extend to Northern Ireland.

(8) If any person contravenes the provisions of subsection (5) this section he shall be liable on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding five hundred pounds or to both; and every person who wilfully obstructs any person in the exercise of any power or entry conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding one hundred pounds.

(9) Proceedings under this section for an offence shall not, in England or Wales, be instituted except by or with the consent of the Minister or by or with the consent of the Director of Public Prosecutions, and shall not, in Northern Ireland, be instituted except by or with the consent of the Minister, or by the Attorney-General for Northern Ireland.

(10) Where such an offence as aforesaid has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression "director" includes any person occupying the position of director, by whatever name called.

25.—(1) The Minister may by order impose such prohibitions or restrictions on the use of any area of land or water as a place of or the arrival and departure of civil aircraft as he thinks expedient for the purpose of securing that aircraft may arrive and depart with safety at any aerodrome vested in him or under his control: Power to prohibit or restrict use of civil aerodromes.

Provided that nothing in this subsection shall authorise the imposition of any such prohibition or restriction in relation to tidal waters beyond those of the territorial waters of His Majesty's dominions which are adjacent to the United Kingdom.

(2) The provisions of Part I of the First Schedule to this Act shall have effect in relation to any order made under this section other than an order for the imposition of prohibitions or restrictions on the use of water; and in the case of an order for the imposition of prohibitions or restrictions on the use of water—

(a) the Minister shall, before making the order, publish notice of his intention to make the order in such

PART III
—cont.

manner as he thinks best calculated to bring his intention to the notice of persons who will be affected thereby; and

- (b) the Minister shall, immediately after the order has been made, publish in one or more newspapers circulating in the district to which the order relates a notice stating that the order has been made and naming a place where a copy of the order may be seen at all reasonable hours, and shall serve a like notice upon any person who in his opinion will be affected thereby.

(3) The provisions of Part II of the First Schedule to this Act and the provisions of the Second Schedule to this Act shall have effect with respect to orders under this section:

Provided that where any aerodrome was first established as such after the passing of the Civil Aviation Act, 1946 (that is to say, the first day of August, nineteen hundred and forty-six), no compensation shall be payable by reason of the imposition under this section of prohibitions or restrictions upon the use of that aerodrome unless it was so established with the consent of the Minister.

(4) Any person who contravenes the provisions of any order under this section shall be liable in respect of each offence—

- (a) on summary conviction thereof to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both; and

- (b) on conviction thereof on indictment, to a fine not exceeding one thousand pounds or to imprisonment for a period not exceeding two years or to both.

(5) Any offence against any order under this section committed on tidal waters outside the ordinary jurisdiction of a court of summary jurisdiction may be tried and punished by such a court as if it had been committed in the nearest part of the United Kingdom which is within the ordinary jurisdiction of such a court:

Provided that nothing in this subsection shall in its application to Scotland be construed as conferring jurisdiction on any court of summary jurisdiction other than the sheriff court.

(6) Proceedings for an offence against any order under this section shall not, in England or Wales be instituted except by or with the consent of the Minister or by or with the consent of the Director of Public Prosecutions, and shall not, in Northern Ireland be instituted except by or with the consent of the Minister, or by the Attorney-General for Northern Ireland.

(7) Where such an offence as aforesaid has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression "director" includes any person occupying the position of director, by whatever name called.

(8) In this section the expression "aerodrome" includes part of an aerodrome.

26.—(1) The Minister may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for civil aviation purposes of any land, structures, works or apparatus vested in him, or which he proposes to acquire or instal, by order declare that any area of land specified in the order shall be subject to control by directions given in accordance with the provisions of this section. Power to exercise control over land in the interests of civil aviation.

(2) Where any such order is in force, the Minister may, in pursuance of any general or special authority given by the order, give directions—

- (a) for requiring the total or partial demolition of any building or structure within the area to which the order relates ;
- (b) for restricting the height of trees upon any land within the area, or for requiring any tree upon any such land to be cut down or reduced in height ;
- (c) for extinguishing any private right of way over land within the area ;
- (d) for restricting the installation of cables, mains, pipes, wires or other apparatus upon, across, under or over any land within the area ;
- (e) for extinguishing, at the expiration of such period as may be determined by the directions, any subsisting right of installing or maintaining any such apparatus as aforesaid upon, across, under or over any land within the area ;
- (f) for requiring that, before the expiration of such period as may be determined by the directions, any such apparatus shall be removed from any land within the area.

PART III
—cont.

(3) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order, including in particular, provisions for empowering any person authorised in that behalf by the Minister, to remove, pull down, cut down or alter so as to bring into conformity with the requirements of any directions given under the order, any building, structure, tree or apparatus which contravenes those requirements.

(4) Any such order, other than an order relating to land in Northern Ireland, shall be subject to special parliamentary procedure.

(5) Before making any order under this section, the Minister shall consult every local authority within the area of which the whole or any part of the area of land to which the proposed order will relate is situated.

Notwithstanding anything in subsection (1) of section two of the Statutory Orders (Special Procedure) Act, 1945, the duty of the Minister to comply with the requirements of this subsection in relation to England or Wales shall not excuse him from the duty of complying with the requirements of the First Schedule to that Act.

(6) Subject to the special provisions of this Part of this Act relating to statutory undertakers, the provisions of the Third Schedule to this Act shall have effect with respect to directions given under an order made under this section.

(7) The powers of the Minister under this section shall not prejudice his power to acquire land for the purpose of securing the observance of any requirement or restriction which might have been imposed in relation to the land under this section.

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

(a) to execute, instal, maintain, operate, and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order, and

Indication of presence of obstructions near licensed aerodromes.

- (b) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over (with or without vehicles) any such land as may be specified in the order:

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

(2) The Minister shall, before making any such order as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order; and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Minister thinks proper.

(3) Every such order as aforesaid shall provide—

(a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the order relates has served in the manner prescribed by the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the order; and

(b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Minister;

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be deter-

PART III
—cont.

mined from time to time by a single arbitrator appointed by the Lord Chief Justice ; and, for the purposes of this subsection any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

(4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such an order as aforesaid ; and (subject to the provisions of the next following subsection) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.

If any person contravenes the foregoing provisions of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both ; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

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

Provided that—

- (a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome ; and
- (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.

(6) The following provisions shall have effect for the protection of statutory undertakers :—

- (a) any order made under this section affecting any property held by such undertakers for the purposes of their undertaking shall be so framed as to avoid interference with the proper carrying on of the undertaking ;
- (b) no person shall, except in a case of emergency, enter, in pursuance of such an order, upon any land held by

PART III
—cont.

such undertakers for the purposes of their undertaking, unless he has given to the undertakers at least three clear days' notice of his intention so to do, and any person so entering on any such land shall comply with any reasonable directions given to him by or on behalf of the undertakers for preventing interference with the proper carrying on of the undertaking ;

- (c) if any such undertakers show that, by reason of the operation of such an order, they have been obliged to take special measures for the purpose of ensuring the safety of persons so entering on any such land or otherwise acting under the order in relation to any property of the undertakers, the amount of any expenses reasonably incurred by the undertakers in taking such measures shall be paid to them by the proprietor of the aerodrome to which the order relates, and any dispute as to whether any sum is payable under this paragraph, or as to the amount of any sum so payable, shall, unless the parties otherwise agree, be referred for determination to a single arbitrator appointed by the Lord Chief Justice.

Nothing in this subsection shall be taken to affect the general application of subsection (3) of this section.

(7) In this section—

(a) the expression "aerodrome to which this section applies" means any premises which, by virtue of an Order in Council made under section eight of this Act, are for the time being licensed as an aerodrome for public use, but does not include any premises belonging to the Secretary of State or the Minister ; and

(b) the expression "proprietor of the aerodrome" means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises.

(8) Part VI of this Act applies to this section.

28.—(1) The Minister of Transport may, if he is satisfied that it is necessary so to do in order to secure the safe and efficient use for civil aviation purposes, including the testing of aircraft designed for civil aviation, of any land vested in the Minister of Civil Aviation or the Minister of Supply,¹ or of any land which the Minister of Civil Aviation or the Minister of Supply proposes to acquire, by order authorise the stopping up or diversion of any highway.

Power of
Minister of
Transport to
stop up and
divert
highways, etc.,
in the interests
of civil
aviation.

¹ See note 1 *Supra* as to "Minister of Transport and Civil Aviation."

PART III
—cont.

(2) An order under subsection (1) of this section may provide for all or any of the following matters, that is to say—

- (a) for securing the provision or improvement of any highway so far as the Minister of Transport thinks such provision or improvement necessary or desirable in consequence of any such stopping up or diversion as aforesaid ;
- (b) for directing that any highway to be provided or improved in pursuance of the order shall be repairable by the inhabitants at large, and for specifying the authority which is to be the highway authority therefor ;
- (c) for directing that any highway to be provided or improved in consequence of the stopping up or diversion of a trunk road under the order shall itself be a trunk road for all or any of the purposes of the enactments relating to trunk roads ;
- (d) for the retention or removal of any cables, mains, pipes, wires or similar apparatus placed along, across, over or under any highway stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus ;
- (e) if any highway is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, in lieu of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided ;
- (f) for requiring the Minister of Transport or any other specified authority or person—
 - (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work ; or
 - (ii) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section one or section two of the Restriction of Ribbon Development Act, 1935, as respects any highway stopped up or diverted under the order.

(3) An order under subsection (1) of this section may contain such consequential, incidental and supplemental provisions as appear to the Minister of Transport to be necessary or expedient for the purposes of the order.

(4) Any such order shall be subject to special parliamentary procedure.

The First Schedule to the Statutory Orders (Special Procedure) Act, 1945 (which sets out the notices to be given and the other requirements to be complied with before an order is made) shall apply in relation to orders made under this section, but shall, as it applies in relation to those orders, have effect as if paragraph 1 of the said Schedule included provisions:—

- (a) requiring notice of the order as proposed to be made to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order ;
- (b) requiring notice of the order as proposed to be made to be sent to every local authority in whose area any highway to be stopped up or diverted under the order, or any highway to be provided or improved under the order, is or will be situated ; and
- (c) requiring notice of the order as proposed to be made to be served upon any water, gas or electricity undertakers having any cables, mains, pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.

In this subsection the expression “ local authority ” includes a parish council and the parish meeting of a rural parish not having a separate parish council.

(5) The powers of the Minister of Transport under subsection (1) of this section shall include power to make an order authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment ; and the provisions of this section shall not prejudice any power conferred upon the Minister of Transport by any other enactment to authorise the stopping up or diversion of a highway.

(6) The Minister of Transport may be authorised to purchase land compulsorily for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under subsection (1) of this section, or for any other purpose for which land is required in connection with such an order ; and, in relation to land in England or Wales, the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, except section two thereof, shall have effect as if, at the end of paragraph (b) of subsection (1) of section one thereof, there were inserted the words “ or under section twenty-eight of the Civil Aviation Act, 1949 ”.

(7) In the application of this section to Scotland—

- (a) for paragraph (b) of subsection (2) there shall be substituted the following paragraph—

“ (b) for directing that any highway to be provided or improved in pursuance of the order shall

PART III
—cont.

be maintained and managed by a county or town council and for specifying the council which is to be responsible for such maintenance and management ;

- (b) in subsection (4) for the references to the First Schedule to the Statutory Orders (Special Procedure) Act, 1948, and paragraph 1 thereof there shall be substituted respectively references to section two of that Act as it applies to Scotland and to subsection (1) of that section and the words from " In this subsection " to the end of the subsection shall be omitted.

(8) The powers exercisable by the Minister of Transport under this section shall, as regards land in Northern Ireland, be exercisable by the Ministry of Commerce for Northern Ireland ; and accordingly the references to the Minister of Transport in this section, shall, in relation to land in Northern Ireland, be construed as references to the Ministry of Commerce for Northern Ireland :

Provided that this section shall, in its application to Northern Ireland as aforesaid, have effect as if—

- (a) for the words " repairable by the inhabitants at large " in paragraph (b) of subsection (2) there were substituted the words " maintainable at the cost of a county or county district as the case may be " ;
- (b) sub-paragraph (ii) of paragraph (f) of subsection (2) were omitted ;
- (c) subsection (4) were omitted ;
- (d) the following subsection were substituted for subsection (6)—

" (6) The powers of compulsory acquisition of land exercisable by the Ministry of Commerce for Northern Ireland under subsection (3) of section thirty-four of the Roads Act (Northern Ireland) 1948, shall include the power to acquire lands compulsorily in accordance with the provisions of that said subsection, for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under subsection (1) of this section or for any other purpose for which land is required in connection with such an order, and the said Act shall have effect accordingly.

The powers conferred on the said Ministry by this subsection shall be exercisable in relation to any land notwithstanding that such land is the property of a statutory undertaker or is declared by any other enactment to be inalienable ".

PART III

—cont.

Power of entry
for purposes of
survey.

29.—(1) Where a Minister has, under or in pursuance of this Part of this Act, made an order—

- (a) authorising the compulsory purchase of land ;
- (b) providing for the creation in his favour of easements over land or of other rights in or in relation to land ; or
- (c) declaring that any area of land shall be subject to control by directions ;

or has under consideration the making of any such order, any person authorised in writing by that Minister may at all reasonable times, on producing, if so required, evidence of his authority in that behalf, enter upon any of that land in order to make any survey which the Minister requires to be made for the purpose of any steps to be taken in consequence of the order or, as the case may be, for the purpose of determining whether the order should be made :

Provided that admission shall not, by virtue of this subsection, be demanded as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been served on the occupier.

(2) If any person obstructs a person so authorised as aforesaid in the exercise of any power conferred by this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(3) Proceedings under this section for an offence shall not, in England or Wales, be instituted except by or with the consent of the Minister or by or with the consent of the Director of Public Prosecutions, and shall not, in Northern Ireland, be instituted except by or with the consent of the Minister, or by the Attorney-General for Northern Ireland.

(4) Where such an offence as aforesaid has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression "director" includes any person occupying the position of director, by whatever name called.

(5) Where any land is damaged in the exercise of a power of entry conferred in pursuance of an authority given under this section, or in the making of any survey for the purpose of which any such power of entry has been so conferred, the Minister by whom the authority was given shall pay such compensation

PART III
—cont.

to the persons interested in the land as may be just ; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.

Special provisions relating to statutory undertakers.

30.—(1) Subject to the provisions of this section, the compensation to be paid to a statutory undertaker—

- (a) in respect of the compulsory purchase, in pursuance of this Part of this Act, otherwise than under section nineteen, of any land held by the undertaker for the purposes of the carrying on of his undertaking ;
- (b) in respect of the creation, by virtue of an order made under this Part of this Act, otherwise than under section nineteen, of any easement over any such land or of any other right in or in relation to such land ;
- (c) in respect of any direction under section twenty-six of this Act which affects any building, structure or apparatus held or used by him for the purposes of his undertaking, or which affects any of his rights to instal or maintain apparatus for those purposes, or which affects any right of way enjoyed by him for those purposes ;

shall in default of agreement be assessed by the arbitration of the tribunal constituted in accordance with the provisions of Part II of the Fourth Schedule to the Town and Country Planning Act, 1944, and the amount of the compensation shall be an amount calculated in accordance with the provisions of paragraph 2 of that Schedule :

Provided that, as respects compensation in respect of a compulsory purchase, if, before the expiration of two months from the date on which notice to treat is served in respect of the interest of the person by whom the statutory undertaking is carried on, that person gives notice in writing to the Minister by whom the order was made that he elects that, as respects all or any of the land comprised in the purchase, the compensation shall be ascertained in accordance with the enactments, other than Rule (5) of the Rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, which would be applicable apart from the provisions of this subsection, the compensation shall be so ascertained.

(2) The said paragraph 2 shall have effect for the purposes of this section as if, in sub-paragraph (1) thereof, the words “under section twenty-five of this Act” were omitted, as if, at the end of the said sub-paragraph, there were inserted the following words—

- “(e) in the case of compensation in respect of the imposition of a requirement to demolish a building or

structure either wholly or in part, any expense reasonably incurred by the person carrying on the undertaking in complying with the requirement, reduced by the value to that person of any materials derived from the demolished building or structure, or from the demolished part of the building or structure, as the case may be ; ”

and as if, in sub-paragraph (4) thereof, any reference to the imposition of a requirement included a reference to anything which may be done by virtue of an order made under this Part of this Act.

(3) The foregoing provisions of this section as to the assessment of compensation shall not have effect—

- (a) in the case of the compulsory purchase of land, unless the appropriate Minister has, upon a representation made to him before the expiration of the time within which objections may be made to the compulsory purchase order, certified that the land is in respect of its nature or situation of such a kind that it is comparable less with the generality of land than with land held for the purpose of the carrying on of statutory undertakings ;
- (b) in the case of the creation of any easement over land or any other right in or in relation to land, unless the appropriate Minister has, upon a representation made to him before the expiration of the time within which objections may be made to the order providing for the creation of that easement or right, certified that the land in question is of such a kind as aforesaid ; and
- (c) in the case of any direction which affects a building or structure, unless the appropriate Minister has, upon a representation made to him before the expiration of the time within which an application may be made to the court with respect to the direction in accordance with the provisions of Part II of the First Schedule to this Act, certified that the building or structure is in respect of its nature or situation comparable less with the generality of buildings or structures than with buildings or structures held for the purpose of the carrying on of statutory undertakings.

(4) The provisions of the Fourth Schedule to this Act (being provisions substantially corresponding to sections twenty-six and twenty-seven of the Town and Country Planning Act, 1944 and to sections twenty-five and twenty-six of the Town and Country Planning (Scotland) Act, 1945) shall have effect for the purpose of making any adjustments of the functions of statutory undertakers which may be necessary in consequence of the provisions of this Part of this Act :

PART III
—*cont.*

Provided that the references in that Schedule to an order made in pursuance of this Part of this Act shall not include a reference to any order made in pursuance of subsection (2) of section nineteen.

(5) In the application of this section to Scotland references to the Town and Country Planning (Scotland) Act, shall be substituted for references to the Town and Country Planning Act, 1945, but the references to enactments therein shall be the same except that in subsection (2) of this section for the words "section twenty-five" there shall be substituted the words "section twenty-four".

(6) This section shall not extend to Northern Ireland.

**Displacements
from land.**

31.—(1) Where the Minister has acquired land for purposes connected with the discharge of his functions, or gives a direction in relation to any land under section twenty-six of this Act, and the use of the land by the Minister for those purposes, or, as the case may be, the execution of the direction, will involve the displacement of persons residing in premises on the land, it shall be the duty of the Minister, in so far as there is not other residential accommodation available on reasonable terms to the persons who require it in consequence of the displacement, being residential accommodation suitable to the reasonable requirements of those persons, to secure the provision of such accommodation in advance of the displacement:

Provided that the Minister shall not be required by virtue of this subsection to secure the provision of accommodation in advance of a displacement if he is satisfied that for reasons of exceptional public importance it is essential that the displacement should be effected before such accommodation as aforesaid can be found.

(2) Where upon the determination of any tenancy the Minister is entitled to possession of any building, or any part of a building, then, whatever may be the value or rent of the building or part of a building, the Minister may obtain possession thereof under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, at any time after the tenancy has expired or has been determined.

(3) The Minister may pay:—

- (a) to any person who is displaced in order that land may be used by the Minister for purposes connected with the discharge of his functions, such reasonable allowance as the Minister thinks fit towards the expenses of that person in removing;
- (b) to a person carrying on any business in a building from which he is so displaced, such reasonable allowance (in addition to any allowance paid under the foregoing

paragraph) as the Minister thinks fit towards the loss which, in the opinion of the Minister, that person will sustain by reason of the disturbance to his business consequent upon his having to quit the building.

PART III
—cont.

In estimating any such loss as aforesaid the Minister shall have regard to the period for which the premises occupied by the person displaced might reasonably have been expected to be available for the purpose of his business, and to the availability of other premises suitable for that purpose.

(4) Where the Minister of Transport or the Ministry of Commerce for Northern Ireland acquires land in pursuance of this Part of this Act, the provisions of this section shall have effect in relation to that land as if the references therein to the Minister were references to the Minister of Transport or the said Ministry, as the case may be, and as if the references therein to purposes connected with the discharge of the functions of the Minister were references to the purposes for which the land is so acquired by the Minister of Transport or the said Ministry, as the case may be.

(5) In the application of subsection (2) of this section to Scotland, for the words from “whatever”, to the end of the subsection there shall be substituted the words “at any time after the tenancy has expired or has been determined, the Minister may serve notice on the occupier of the building or part of the building requiring him to remove therefrom within a period of twenty-one days; and on the expiry of that period a certified copy of the notice to remove shall be sufficient warrant for ejection against the occupier or any party in his right in the event of non-compliance with the notice”.

(6) In the application of subsection (2) of this section to Northern Ireland, the reference to the Small Tenements Recovery Act, 1838, shall be construed as a reference to Part IV of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935.

32.—(1) Section twenty-eight of the Town and Country Planning Act, 1944, and section twenty-seven of the Town and Country Planning (Scotland) Act, 1945 (which relate to consecrated land and burial grounds) shall, as respectively amended by the Town and Country Planning Act, 1947, and the Town and Country Planning (Scotland) Act, 1947, have effect in relation to any land acquired by the Minister as if the Minister had acquired that land under Part IV or Part III of the said Acts of 1947, as the case may be:

Consecrate
land and
burial
grounds.

Provided that the power of making regulations for the purposes of the said sections as applied by this section shall be exercisable by the Minister, and accordingly the references in subsection (3) of the said section twenty-eight to “the Minister”

PART III
—cont.

and the references in subsection (2) of the said section twenty-seven to the Secretary of State shall be construed as including references to the Minister of Civil Aviation.

(2) Any statutory instrument containing regulations made by the Minister by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) When land has been acquired by the Minister of Transport in pursuance of this Part of this Act, the foregoing provisions of this section shall have effect as if the land had been acquired by the Minister of Civil Aviation, but with the substitution of references to the Minister of Transport for references to the Minister of Civil Aviation.

(4) This section shall not extend to Northern Ireland.

33.—(1) As soon as may be after any of the following instruments, that is to say—

- (a) an order under section twenty-four of this Act ;
- (b) an order under section twenty-five of this Act, other than an order for the imposition of prohibitions or restrictions on the use of water ; or
- (c) an order under section twenty-six of this Act or any direction given under such an order ;

becomes operative, it shall be registered in the prescribed manner in the register of local land charges by the proper officer of any local authority in whose area the land to which the instrument relates, or any part of that land, is situated.

In this subsection the expression “ local authority ” means the council of a county and the council of a county borough.

(2) As soon as may be after such an instrument has become operative it shall be the duty of the Minister to notify that fact to the proper officer of the local authority by whom the instrument is required to be registered as aforesaid, and to furnish to him all necessary information relating to the instrument.

(3) The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this section, and in this section the expression “ prescribed ” means prescribed by rules made in the exercise of that power.

(4) The foregoing provisions of this section shall not apply in Scotland, but where any such instrument as is mentioned in subsection (1) becomes operative, it shall be recorded in the appropriate register of sasines, and on being so recorded shall be enforceable against any person having or subsequently acquiring any estate or interest in the land to which the order or direction relates.

Registration
of certain
orders in the
register of
local land
charges.

(5) The foregoing provisions of this section shall not apply to Northern Ireland but where any such instrument as is mentioned in subsection (1) adversely affects land in Northern Ireland, then—

- (a) if the land is registered land to which the Local Registration of Title (Ireland) Act, 1891, applies, the instrument on the lodgment by the Minister of a copy thereof with the Registrar of Titles shall, notwithstanding anything in the said Act or rules made thereunder be registered as a burden affecting the land and created after the first registration of the land, and may be so registered without the concurrence of the registered owner of the land or the production of the land certificate, without prejudice, however, to the power of the registering authority to order the production of the land certificate under subsection (2) of section eighty-one of the said Act ; and
- (b) if the land is not registered land to which the said Act applies, the instrument shall, on lodgment by the Minister of a copy thereof with the Registrar of Deeds for Northern Ireland, be registered in the Registry of Deeds, Northern Ireland, as an instrument affecting the lands to which the instrument relates.

34.—(1) Any notice required to be served on any person for the purposes of this Part of this Act may be served on him either by delivering it to him, or by leaving it at his proper address, or by post, so however that the notice shall not be duly served by post unless it is sent by registered letter. Notices.

(2) Any such notice required to be served upon an incorporated company or body shall be duly served if it is served on the secretary or clerk of the company or body.

(3) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such notice as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served:

Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

(4) If it is not practicable after reasonable inquiry to ascertain the name or address of any owner, lessee or occupier of land on whom any such notice as aforesaid is to be served, the notice may be served by addressing it to him by the description of "owner," "lessee" or "occupier" of the land (describing it)

PART III
—cont.

to which the notice relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

(5) In the application of this Part of this Act to Scotland, any provision therein requiring notice to be served on the owners, lessees, or occupiers of any land shall be deemed to be complied with if notice is served on all the persons appearing from the valuation roll to have an interest in the land, and any reference in this Part of this Act to owners, lessees, or occupiers shall be construed accordingly.

Service of a notice on a person so appearing to have an interest may be effected by sending the notice in a registered letter addressed to him at his address as entered in the valuation roll.

Exemptions
from stamp
duty.

35.—(1) Stamp duty shall not be payable on any conveyance of land, or on any instrument creating or disposing of any right in or in relation to land, being a conveyance or instrument to which the Minister of Civil Aviation is a party, if the Minister of Civil Aviation certifies that the duty would fall to be defrayed as part of his expenses.

(2) Stamp duty shall not be payable on any conveyance of land to which the Minister of Transport or the Ministry of Commerce for Northern Ireland is a party, if the Minister of Transport or that Ministry, as the case may be, certifies that the conveyance is made for the purpose of this Part of this Act, and that the duty would fall to be defrayed as part of his expenses.

(3) For the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of the Parliament of Northern Ireland to make laws) the foregoing provisions of this section shall be deemed to be provisions of an Act passed before the appointed day.⁵

Compensation
of officers.

36.—(1) The Minister shall by regulations provide for securing that where after the passing of the Civil Aviation Act, 1946, he acquires an aerodrome the following persons that is to say—

(a) any person who immediately before the acquisition was employed by the aerodrome undertaking in full-time service wholly or mainly connected with the maintenance or use of the aerodrome; and

(b) any person who, having been employed by the aerodrome undertaking before the acquisition in such service as is mentioned in the preceding paragraph, would have been within that paragraph but for any war service in which he has been engaged;

shall, in such cases, to such extent and subject to such conditions as the Minister thinks proper, be entitled to receive compensation

⁵ See note 1 *Supra* as to "Minister of Transport and Civil Aviation."

from the Minister for damage sustained by them in respect of their employment or their opportunities of re-employment, being damage attributable to the acquisition of the aerodrome.

(2) Regulations made under this section may include such incidental, consequential and supplemental provisions, including provisions with respect to the procedure for determining questions, as the Minister thinks expedient for the purposes of the regulations.

(3) No regulations shall be made under this section unless a draft of the instrument containing the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.

(4) In this section the expression "war service" means service in any of His Majesty's forces and such other employment as may be prescribed by regulations made under this section.

Supplemental

37.—(1) Any two justices of the peace may appoint such persons as may be nominated for the purpose by the Minister to be special constables on any premises for the time being vested in the Minister or under his control. Power to appoint special constables.

(2) Every person so appointed shall be sworn in by the justices duly to execute the office of a constable on the premises aforesaid, and when so sworn in shall, on those premises, have the powers and privileges and be liable to the duties and responsibilities of a constable.

(3) Special constables appointed under this section shall be under the exclusive control of the Minister, and the Minister shall have power to suspend or terminate the appointment of any such special constable.

(4) In the application of this section to Scotland, references to two justices of the peace shall be construed as references to the magistrates of a burgh or to the council of a county, as the case may be, and references to swearing in shall be construed as references to making a declaration in the form and manner prescribed in section seventy-nine of the Burgh Police (Scotland) Act, 1892, and section eleven of the Police (Scotland) Act, 1857, respectively.

38.—(1) If any person trespasses on any land forming part of an aerodrome licensed in pursuance of an Order in Council under section eight of this Act, he shall be liable, on summary conviction to a fine not exceeding five pounds: Trespassing on licensed aerodromes.

Provided that no person shall be liable to any penalty under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were

PART III
—cont.

posted so as to be readily seen and read by members of the public, in such positions on or near the boundary of the aerodrome as appear to the court to be proper.

(2) Part VI of this Act applies to this section.

**Expenses of
Part III.**

39.—(1) Any expenses incurred by the Minister of Transport⁶ or the Ministry of Commerce for Northern Ireland in consequence of the passing of this Part of this Act shall, to such extent as the Treasury may direct, be defrayed by the Minister of Civil Aviation or by the Minister of Supply.

(2) Any expenses incurred by the Minister of Supply by reason of any such direction as aforesaid shall be defrayed out of moneys provided by Parliament.

(3) Except in so far as any expenses incurred by the Minister of Transport in consequence of the passing of this Part of this Act fall, by virtue of any such direction as aforesaid, to be defrayed by the Minister of Civil Aviation or the Minister of Supply, or fall to be defrayed out of the Road Fund under any other Act, they shall be defrayed out of moneys provided by Parliament.⁷

(4) There shall be defrayed out of moneys provided by Parliament any such increase in the sums payable into the Road Fund out of moneys so provided as is attributable to the passing of this Part of this Act.⁷

(5) Any expenses incurred by the Minister, the Minister of Health or the Secretary of State in consequence of the passing of this Part of this Act shall be defrayed out of moneys provided by Parliament.

PART IV

LIABILITY FOR DAMAGE, ETC., CAUSED BY AIRCRAFT

**Liability of
aircraft in
respect of
trespass,
nuisance and
surface
damage.**

40.—(1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight so long as the provisions of Part II and this Part of this Act and any Order in Council or order made under Part II or this Part of this Act are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or

⁶ See note 1 *Supra* as to "Minister of Transport and Civil Aviation."

⁷ In Subsection (3) the words "or fall to be defrayed out of the Road Fund under any other Act" and Subsection (4), are repealed on the winding up of the Road Fund by the Miscellaneous Financial Provisions Act, 1955 (c. 6) Section 4(4), Sch. II, Part. II.

landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft:

PART IV
—cont.

Provided that where material loss or damage is caused as aforesaid in circumstances in which—

- (a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage;

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

41.—(1) An Order in Council under section eight of this Act may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) of this section shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

Nuisance caused by aircraft on aerodromes.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of an Order in Council under section eight of this Act, as long as the provisions of any such Order in Council are duly complied with.

42.—(1) Subject to the provisions of this Part of this Act, where a person or his estate is liable to pay damages by reason of loss or damage which, after the appointed day, is caused on any one occasion to persons or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing, his or, as the case may be, his estate's total liability to pay damages by reason of the loss or damage shall be limited in accordance with the provisions of the Fifth Schedule to this Act;

Limitation of liability.

Provided that a person or, as the case may be, his estate shall not be entitled to the benefit of this section in relation to any such loss or damage as aforesaid in any case in which it is proved that the loss or damage is attributable to his wilful misconduct or to wilful misconduct on the part of any of his servants or agents, unless (in a case where the loss or damage is attributable to wilful misconduct on the part of any of his servants or agents) it is proved that the loss or damage occurred without his actual fault or privity.

PART IV
—cont.

(2) Any reference in this Act to the total limit of liability appropriate to an aircraft shall be construed as a reference to the total amount to which a person could, in the circumstances mentioned in the foregoing subsection, limit his liability to pay damages in respect of loss or damage caused on any one occasion by that aircraft, whether to persons or to property; and any reference in this Act to the limit of liability for property claims appropriate to an aircraft shall be construed as a reference to the amount to which a person could, in such circumstances, limit his liability to pay damages in respect of loss or damage caused on any one occasion by that aircraft, if that loss or damage were only loss of, or damage to, property.

(3) Without prejudice to the operation of the next following section, a person or, as the case may be, his estate shall not be entitled to the benefit of this section in relation to any loss or damage, if, at the time of the happening of the event which was the cause of the loss or damage, he was not the owner of the aircraft concerned and was in, or in possession or control of, the aircraft without the authority or permission of the owner thereof.

(4) Where any person or the estate of any person is alleged to be under any liability in respect of such loss or damage as is mentioned in subsection (1) of this section, and several claims for damages are made or apprehended in respect of that liability, the said person or his personal representative, as the case may be, may make application to the High Court, and thereupon the court may assess the liability to pay damages, and determine whether, and, if so, to what amount, it can be limited under this section, dealing separately, if need be, with such of the claims as are in respect of loss of or damage to property, and, if the liability can be so limited, may distribute the amount thereof among the several claims on the following principles:—

- (a) if the claims are solely in respect of loss of life or personal injury or solely in respect of loss of, or damage to, property, the amount of the liability shall be distributed rateably;
- (b) if there are claims both in respect of loss of life or personal injury and in respect of loss of, or damage to, property, one-half of the total limit of liability appropriate to the aircraft concerned shall be appropriated, so far as necessary, to meeting claims for loss of life or personal injury and shall be distributed rateably among them, and the other half shall be distributed rateably among all the claims, including claims in respect of loss of life or personal injury if and so far as they exceed the aforesaid appropriation.

(5) Where an application is made to the court under the last foregoing subsection, the court may stay any proceedings pending in any other court in relation to the same matter, and may give such directions as the court thinks proper for the joining of persons interested as parties to the proceedings, for the exclusion of claims which are not brought before the court within a certain time, and for requiring security from the person by whom the application to the court was made.

(6) Nothing in this or the last but one foregoing section shall affect the operation of the Carriage by Air Act, 1932, or any contract for the carriage of passengers or goods by air in so far as the contract provides for determining or limiting the liability of the carrier thereunder.

43.—(1) Subject to the provisions of this section, a person shall not fly, or cause or permit any other person to fly, an aircraft, unless there is in force in relation to the flying of the aircraft by that person or that other person, as the case may be,—

Compulsory
third-party
insurance.

- (a) a policy of insurance issued by an authorised insurer which, subject to any restrictions or conditions specified therein, insures the owner of the aircraft against all liability which he may incur in respect of loss or damage caused to persons or property on land or water by, or by any person in, or any article or person falling from, the aircraft while in flight, taking off or landing, or
- (b) a security given by an authorised giver of securities, being a security which consists of an undertaking by the giver of the security to make good, subject to any restrictions or conditions specified therein, any failure by the owner of the aircraft to discharge any such liability as aforesaid;

and a person or, as the case may be, his estate shall not be entitled to the benefit of the last foregoing section in relation to any claim made in respect of such loss or damage as aforesaid, unless it is proved that such a policy or security as aforesaid was in force in relation to the flying of the aircraft concerned at the time of the happening of the event which was the cause of the loss or damage giving rise to the claim, or, if the claim is made against the person who at that time was the owner of the aircraft or against his estate, that the aircraft was then in the possession or control of some other person without the authority or permission of the owner.

(2) If any person contravenes this section, he shall be liable, on summary conviction, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both.

PART IV
—cont.

(3) The foregoing provisions of this section shall not apply to an aircraft of which, at the material time, the owner is a local authority, a police authority or the Receiver for the Metropolitan Police District, or which, at that time, is being used for police purposes by, or under the direction of, a police officer or by a person employed by a police authority or employed by the said receiver, and shall not apply to any aircraft if and so long as the owner thereof has deposited, and keeps deposited, with the Accountant-General of the Supreme Court of Judicature in England, for and on behalf of that court, an amount at least equal to the total limit of liability appropriate to that aircraft or, where he is the owner of three or more aircraft, an amount at least equal to the aggregate of the two greatest of the total limits of liability appropriate to those aircraft respectively.

(4) For the purpose of this section except as it applies in Northern Ireland any person or body of persons carrying on in Great Britain marine, aviation and transit insurance business shall be an authorised insurer:

Provided that—

- (a) an assurance company which, immediately before the twenty-ninth day of October, nineteen hundred and forty-five, was carrying on in Great Britain assurance business of any class to which the Assurance Companies Act, 1909, applies in compliance with such of the provisions of that Act as then applied to the company and to that class of business; and
- (b) an association as respects which an order is for the time being in force under paragraph 3 of Part III of the Second Schedule to the Assurance Companies Act, 1946,

shall not for that purpose be an authorised insurer, unless it is a body corporate having a paid up share capital of not less than fifty thousand pounds (as required by section two of the said Act of 1946).

For the purposes of paragraph 1 of Part V of the said Second Schedule (which authorises the Board of Trade by regulations to adapt references in that Schedule to the said limit of fifty thousand pounds) the proviso to this subsection shall be treated as if contained in that Schedule.

(5) For the purpose of this section as it applies in Northern Ireland any person or body of persons carrying on in the United Kingdom marine, aviation and transit insurance business shall be an authorised insurer:

Provided that—

- (a) an insurance company which, immediately before the first day of December, nineteen hundred and forty-six,

was carrying on in the United Kingdom assurance business of any class to which the Assurance Companies Act, 1909, applies in compliance with such of the provisions of that Act as then applied to the company and to that class of business; and

PART IV
—cont.

- (b) an association as respects which an order is for the time being in force under paragraph 3 of Part III of the Second Schedule to the Assurance Companies Act (Northern Ireland), 1947,

shall not for that purpose be an authorised insurer unless it is a body corporate having a paid-up share capital of not less than fifty thousand pounds (as required by section two of the said Act of 1947).

For the purposes of paragraph 1 of Part V of the said Second Schedule (which authorises the Ministry of Commerce for Northern Ireland by regulations to adapt references in that Schedule to the said limit of fifty thousand pounds) the proviso to this subsection shall be treated as if contained in that Schedule.

No limitation on the powers of the Parliament of Northern Ireland contained in the Government of Ireland Act, 1920, shall preclude that Parliament from amending or repealing the provisions of this subsection.

(6) In this section :—

- (a) the expression “ authorised giver of securities ” means either an authorised insurer or a body of persons which carries on in the United Kingdom the business of giving securities of the kind required by this Part of this Act, and which has deposited and keeps deposited with the Accountant-General of the Supreme Court of Judicature in England, for and on behalf of that Court, the sum of fifteen thousand pounds in respect of that business; and
- (b) the expression “ local authority ” except in relation to Scotland means the council of a county, county borough, metropolitan borough or county district, the common council of the City of London, or any joint board or joint committee which is so constituted as to include among its members representatives of any such council and in relation to Scotland means any county, town or district council, or any joint committee which is so constituted as to include among its members representatives of any such council.

PART IV**—cont.**

Certificates of insurance or security.

44. A policy of insurance or a security shall be of no effect for the purposes of the foregoing provisions of this Part of this Act, unless and until there is delivered by the insurer to the person by whom the policy is effected, or by the giver of the security to the person to whom it is given, a certificate in such form, and containing such particulars with respect to the policy or security, as may be prescribed by the Minister, and any such certificate relating to a policy or certificate relating to a security is hereafter in this Act referred to as a "certificate of insurance" or "certificate of security," as the case may be.

Rights under policies, etc.

45. The provisions of the Sixth Schedule to this Act (being provisions which, subject to certain adaptations, modifications and exceptions, correspond with the provisions of the Road Traffic Acts, 1930 and 1934, referred to in the margin of the said Schedule) shall have effect in relation to policies of insurance, securities and deposits required for the purposes of the foregoing provisions of this Part of this Act.

Offences in connection with policies, etc.

46.—(1) If any person, with intent to obtain for himself or any other person such a policy of insurance or such a security as is required by this Part of this Act, fails to disclose a fact which he knows to be a material fact, or makes a representation of fact which he knows to be false in a material particular, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both.

(2) If any person issues a certificate of insurance or certificate of security which is to his knowledge false in any material particular, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both.

Survival of causes of action in Northern Ireland.

47. Except in so far as the Parliament of Northern Ireland may otherwise enact, the provisions contained in the Seventh Schedule to this Act (which, subject to certain adaptations, modifications and exceptions, correspond with provisions of the Law Reform (Miscellaneous Provisions) Act, 1934, relating to the survival of causes of action) shall have effect in Northern Ireland with respect to causes of action in respect of loss or damage which after the appointed day is caused to persons or property on land or water by, or by persons in, or articles or persons falling from, aircraft while in flight, taking off or landing.⁸

Power to give effect to Rome Convention.

48.—(1) Whereas a Convention for the unification of certain rules relating to damage caused by aircraft to third parties on the surface was, on the twenty-ninth day of May, nineteen

⁸ Section 47. Repealed by the Law Reform (Miscellaneous Provisions) Act (Northern Ireland), 1954 (c. 26) (N. I.), Section 6(2)(b).

hundred and thirty-three, signed in Rome on behalf of His Majesty, and a copy of that Convention has been laid before each House of Parliament:

PART IV
—cont.

And whereas it is expedient that provision should be made for giving effect to the said Convention:

Now, therefore, His Majesty may, if it appears to His Majesty in Council to be necessary or expedient so to do for the purpose of giving effect to the said Convention, make an Order in Council—

(a) directing—

(i) that the provisions set out in the Order shall, in relation to aircraft registered in any such country other than the United Kingdom as may be specified in the Order, have effect in lieu of the provisions of this Part of this Act, save section forty-one; or

(ii) that all or any of the said provisions shall, in relation to such aircraft as aforesaid, have effect subject to such modifications, adaptations and exceptions as may be specified in the Order;

(b) making such provision as appears to His Majesty in Council to be required for securing that an aircraft registered in the United Kingdom shall not leave the United Kingdom on a flight to or over any such country as aforesaid, unless there is on board the aircraft a certificate relating to a policy of insurance, a security or a deposit of money in respect of the aircraft, being a certificate in such form, and issued by such person, and containing such particulars, as may be prescribed by the Order.

(2) If the Convention recited in the foregoing subsection is amended by any Convention or agreement to which His Majesty or His Majesty's Government in the United Kingdom is a party, the said subsection shall have effect as if any reference therein to "the said Convention" were a reference to the first-mentioned Convention as so amended.

49.—(1) In this Part of this Act—

"certificate of insurance" and "certificate of security" have the meanings assigned to them by section forty-four of this Act.

Supplemental
provisions for
Part IV.

"material", in relation to any fact or particular, means of such a nature as to influence the judgment of a prudent insurer or giver of securities in determining whether he will take the risk or provide security, and,

PART IV
—cont.

if so, at what premium or for what consideration, as the case may be, and subject to what restrictions and conditions ;

“policy of insurance” includes a covering note.

(2) Where the aircraft concerned has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this Part of this Act shall have effect as if for references therein to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

(3) Part VI of this Act applies to this Part of this Act.

Commence-
ment of
certain
provisions in
Part IV.

50. The provisions of sections forty-two to forty-eight of this Act shall not come into operation until such day as the Minister may by order appoint, and references in this Part of this Act to the appointed day shall be construed as references to the beginning of the day so appointed.

An order under this section shall be made by statutory instrument.

PART V

MISCELLANEOUS

Application
of law of
wreck and
salvage to
aircraft.

51.—(1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel ; and where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

The foregoing provisions of this subsection shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to any part of His Majesty's dominions.

(2) His Majesty may by Order in Council direct that any provisions of any Act for the time being in force which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, apply in relation to aircraft as those provisions apply in relation to vessels.

(3) For the purposes of this section, any provisions of an Act which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck, and the expression "Act" shall be deemed to include any local or special Act and any provisions of the Harbours, Docks and Piers Clauses Act, 1847, as incorporated with any local or special Act, whenever passed.

PART V
—cont.

(4) Part VI of this Act applies to this section.

52.—(1) The power of His Majesty in Council under sub-section (1) of section four hundred and eighteen of the Merchant Shipping Act, 1894, to make regulations for the prevention of collisions at sea shall include power to make regulations for the prevention of collisions at sea—

Application to
seaplanes of
regulations as
to ships.

- (a) between seaplanes on the surface of the water, and
- (b) between vessels and seaplanes on the surface of the water ;

and accordingly the said section and sections four hundred and nineteen, four hundred and twenty-one and four hundred and twenty-four of the Merchant Shipping Act, 1894, shall apply in relation to seaplanes on the surface of the water as they apply in relation to ships or vessels, except that—

- (i) the reference in subsection (1) of the said section four hundred and eighteen to the Admiralty and the Minister of Transport shall be construed as including a reference to the Secretary of State and the Minister of Civil Aviation ;⁹
- (ii) for the purposes of subsection (2) of the said section four hundred and eighteen and for the purposes of the said section four hundred and twenty-four, sections four hundred and eighteen, four hundred and nineteen, four hundred and twenty-one and four hundred and twenty-four of the Merchant Shipping Act, 1894, shall be deemed to be the only provisions of Part V of that Act relating to the collision regulations or otherwise relating to collisions ; and
- (iii) any reference in the said section four hundred and nineteen to the master or to the person in charge of the deck shall be construed as a reference to the pilot or other person on duty in charge of the seaplane.

In this subsection the expression "vessels" has the same meaning as in the Merchant Shipping Act, 1894.

(2) For the purpose of the Dockyard Ports Regulation Act, 1865, seaplanes when on the surface of the water shall be deemed to be vessels :

Provided that the persons on whose recommendation rules under section seven of that Act may be made shall, in the case

⁹ See note 1 *Supra*.

PART V
—cont.

of rules relating to seaplanes, include the Secretary of State and the Minister of Civil Aviation.¹⁰

(3) Any enactment which confers or imposes on a conservancy or harbour authority any power or duty to make byelaws for the regulation of ships or vessels shall be construed as if the power or duty so conferred or imposed included a power or duty to make byelaws for the regulation of seaplanes when on the surface of the water, and also a power to include in the byelaws provisions authorising the harbour master or other officer of the authority to exercise, as respects seaplanes on the surface of the water, all or any of the functions which he is authorised by the enactment in question to exercise as respects ships or vessels:

Provided that byelaws made by virtue of this subsection shall not in any circumstances require, or authorise a harbour master or other officer to require, the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

(4) Where any enactment, whether by virtue of the last foregoing subsection or not, confers or imposes on a conservancy or harbour authority a power or duty to make byelaws for the regulation of seaplanes when on the surface of the water, or to include in the byelaws such provisions as are mentioned in the said subsection, the following provisions shall have effect:—

- (a) in a case where the enactment provides that the byelaws shall not come into force unless they have been confirmed or approved by some Government Department, byelaws made thereunder in relation to seaplanes shall not be confirmed or approved by that Department except after consultation with the Secretary of State and the Minister of Civil Aviation;
- (b) in a case where the enactment in question does not provide as aforesaid, byelaws made thereunder after the end of July, nineteen hundred and thirty-six in relation to seaplanes shall not, except in a case where they are required to be allowed or approved by a court or a judge, come into force unless they have been confirmed by the Minister of Transport after consultation with the Secretary of State and the Minister of Civil Aviation;
- (c) in a case where the enactment in question provides that the byelaws shall not come into force unless they have been allowed or approved by a court or a judge, the conservancy or harbour authority shall, before making application to that court or judge for the allowance of the byelaws, forward a copy thereof to the Secretary of State and the Minister of Civil Aviation, and the court or judge shall, before allowing or approving the

¹⁰ See note 1 *Supra*.

byelaws, take into consideration any representations made with respect thereto by or on behalf of the Secretary of State or the Minister of Civil Aviation."

PART V
—cont.

(5) For the purpose of this section—

- (a) the expression "enactment" shall be construed as including any provisional order for the time being in force (whether or not it has been confirmed by an Act), and the expression "byelaws" shall be construed as including rules and regulations;
- (b) the expressions "conservancy authority" and "harbour authority" shall have the meanings respectively assigned to them by section seven hundred and forty-two of the Merchant Shipping Act, 1894;
- (c) the expression "seaplane" shall be construed as including a flying boat and any other aircraft designed to manoeuvre on the water; and
- (d) seaplanes taking off from, or alighting on, the water shall be deemed to be on the surface of the water while in contact therewith.

(6) Part VI of this Act applies to this section.

53.—(1) Any lawful entry into the United Kingdom or any lawful transit across the United Kingdom, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any interference therewith by or on behalf of any person in the United Kingdom, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model. Exemption of aircraft and parts thereof from seizure on patent claims.

(2) The importation into, and storage in, the United Kingdom of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in the United Kingdom on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model:

Provided that this subsection shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the United Kingdom or are exported from the United Kingdom for sale or distribution.

¹¹ The provisions of Subsection 4 of this section requiring consultation between the Minister of Transport and the Minister of Civil Aviation are repealed by the Transfer of Functions (Ministry of Civil Aviation) Order, 1953, S. I. 1953, No. 1204.

PART V
—cont.

(3) This section applies—

(a) to an aircraft, other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time being in force a declaration made by His Majesty by Order in Council, with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory, and

(b) to such other aircraft as His Majesty may by Order in Council specify.

(4) The provisions of the Eighth Schedule to this Act shall have effect with respect to the detention on patent claims in respect of foreign aircraft other than aircraft to which this section applies.

(5) Part VI of this Act applies to this section.

Explanation of
Carriage by
Air Act, 1932.

54. For the avoidance of doubt in the construction of the Carriage by Air Act, 1932, whether as forming part of the law of the United Kingdom or as extended to any other country or territory, it is hereby declared that references to agents in the First Schedule to that Act include references to servants.

Recording and
registration
of births and
deaths, etc.

55.—(1) The Minister may by regulations provide for requiring such persons as may be specified in the regulations to keep records and make returns to him—

(a) of births and deaths occurring in any part of the world in any aircraft registered in Great Britain and Northern Ireland; and

(b) of the death, outside the United Kingdom, of any person who, being a traveller on such an aircraft, is killed on the journey in consequence of an accident;

and for the keeping in his Department of a record of any returns made to him in accordance with any such requirement as aforesaid.

Any person who fails to comply with any such requirement shall be liable on summary conviction to a fine not exceeding twenty pounds.

(2) Proceedings for an offence under this section shall not, in England or Wales, be instituted except by or with the consent of the Minister or by or with the consent of the Director of Public Prosecutions, and shall not, in Northern Ireland be instituted except by or with the consent of the Minister, or by the Attorney-General for Northern Ireland.

(3) Where such an offence as aforesaid has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be

guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection the expression "director" includes any person occupying the position of director, by whatever name called.

(4) Where any such regulations provide for the keeping of records in the Department of the Minister in accordance with subsection (1) of this section they shall also provide for the transmission of certified copies of those records to the Registrar General of Births, Deaths and Marriages in England, the Registrar General of Births, Deaths and Marriages in Scotland, or the Registrar General for Northern Ireland, as the case may require.

(5) The Registrar General to whom any such certified copies are sent shall cause them to be filed and preserved in a book to be kept by him for the purpose, and to be called the Air Register Book of Births and Deaths.

(6) Regulations made under subsection (1) of this section shall provide for the rectification of any records kept in the Department of the Minister in pursuance of the regulations and for the transmission of certified copies of any corrected entry in the records to the Registrar General of Births, Deaths and Marriages in England, the Registrar General of Births, Deaths and Marriages in Scotland, or the Registrar General for Northern Ireland, as the case may require.

(7) The Registrar General to whom a certified copy of any such corrected entry is sent in accordance with the regulations shall cause the corrected entry to be substituted for the corresponding entry for the time being made in the Air Register Book of Births and Deaths.

(8) The enactments relating to the registration of births and deaths in England, Scotland and Northern Ireland shall have effect as if the Air Register Book of Births and Deaths were a certified copy or duplicate register transmitted to the Registrar General in accordance with those enactments.

(9) The Minister may by regulations provide—

- (a) for the keeping in his Department of a record of persons reported to him as missing, being persons with respect to whom there are reasonable grounds for believing that they have died in consequence of an accident to an aircraft registered in Great Britain and Northern Ireland;

PART V
—*cont.*

- (b) for the rectification of any such record ; and
- (c) for the transmission of information as to the matters for the time being entered on the record to the Registrar General of Births, Deaths and Marriages in England, the Registrar General of Births, Deaths and Marriages in Scotland or the Registrar General for Northern Ireland, as the case may require.

Custody and
disposal of
lost property.

56. The Minister may by regulations make provision for securing the safe custody and re-delivery of any property which, while not in proper custody, is found on any premises belonging to him or under his control, or on any premises occupied by any of the Airways Corporations or in any aircraft on any such premises ; and any such regulations may in particular—

- (a) provide for requiring charges to be paid in respect of any such property before it is re-delivered ; and
- (b) provide for authorising the disposal of any such property if it is not re-delivered before the expiration of such period as may be specified in the regulations.

PART VI
SUPPLEMENTAL

Orders in
Council

57.—(1) An Order in Council made under any of the enactments to which this Part of this Act applies or this Part of this Act may contain such incidental and supplementary provisions as appear to His Majesty in Council to be necessary or expedient for the purposes of the Order and may authorise the Secretary of State or the Minister to make regulations for carrying out the purposes of the Order in respect of such matters as may be specified in the Order.

(2) An Order in Council made under any of the enactments to which this Part of this Act applies or this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked or varied by a subsequent Order in Council.

(3) Any reference in the enactments to which this Part of this Act applies or this Part of this Act to the provisions of an Order in Council shall include a reference to the provisions of any regulations made, or directions given, under the Order in Council.

Detention of
aircraft.

58. Any Order in Council, order or regulations made under any enactment to which this Part of this Act applies or this Part of this Act in relation to aircraft may provide for the detention of aircraft to secure compliance with the Order in Council, order or regulations, as the case may be, or with any enactment to which this Part of this Act applies in connection

with which the Order in Council, order or regulations is or are made, and may make such further provision as appears to His Majesty in Council or to the Secretary of State or the Minister, as the case may be, to be necessary or expedient for securing such detention.

PART VI
—cont.

59.—(1) Notwithstanding that an Order in Council made by Extra-virtue of any enactment to which this Part of this Act applies territorial effect or this Part of this Act or a regulation made by virtue of any such enactment by the Secretary of State or the Minister has effect only as part of the law of the United Kingdom, no provision contained in the Order or regulation shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it applies to British aircraft registered in the United Kingdom, wherever they may be, or prohibits, requires or regulates—

- (a) the doing of anything by persons in, or any of the personnel of, such British aircraft as aforesaid, wherever they may be, or
- (b) the doing of anything in relation to such British aircraft as aforesaid by other persons being British subjects or citizens of the Republic of Ireland, wherever they may be.

For the purposes of this subsection the personnel of an aircraft shall be deemed to include the commander or other person in charge of the aircraft, and all other members of the crew of the aircraft.

Nothing in this subsection shall affect subsection (1) of section three of the British Nationality Act, 1948 (which limits the criminal liability of certain persons who are not citizens of the United Kingdom and Colonies).

(2) His Majesty may by Order in Council direct that any of the following provisions, that is to say—

- (a) any enactment to which this Part of this Act applies ; or
- (b) any enactment in this Part of this Act ; or
- (c) any provision of any Order in Council or regulations made by virtue of any such enactment ;

being a provision which has extra-territorial operation in relation to British aircraft registered in the United Kingdom, shall, subject to such exceptions, adaptations and modifications, if any, as may be specified in the Order made under this subsection, have such operation also in relation to British aircraft registered in any country or territory mentioned in subsection (1) of section sixty-six of this Act or registered in the Isle of Man or the Channel Islands.

PART VI
—cont.

Offences.

60. Any offence under any enactment to which this Part of this Act applies or under an Order in Council or regulation made under either any such enactment or this Part of this Act shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

Savings.

61.—(1) Neither this Part of this Act nor any enactment to which this Part of this Act applies shall apply to aircraft belonging to or exclusively employed in the service of His Majesty:

Provided that His Majesty may, by Order in Council, apply to any such aircraft, with or without modification, any of the said enactments or any Orders in Council, orders or regulations made thereunder.

(2) Nothing in, or in any instrument made under, the enactments to which this Part of this Act applies or this Part of this Act, shall prejudice or affect the rights, powers or privileges of any general or local lighthouse authority.

PART VII

GENERAL

Jurisdiction.

62.—(1) Any offence whatever committed on a British aircraft shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

(2) His Majesty may, by Order in Council, make provision as to the courts in which proceedings may be taken for enforcing any claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and for applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

(3) Part VI of this Act applies to this section.

Interpretation.

63.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“air transport service” means a service for the carriage by air of passengers, mails or other freight;

¹² “Minister of Transport” see note 1 *Supra*. “Minister of Health” now Minister of Housing and Local Government. See S. I. 1951, Nos. 753, 1900. “Minister” see note 1 *Supra*.

“Airways Corporations” means the British Overseas Airways Corporation, the British European Airways Corporation, and the British South American Airways Corporation;

“appropriate Minister” means, in relation to the undertakings indicated in paragraph (a) of the definition of statutory undertakers below, the Minister of Transport, in relation to those indicated in paragraph (b) thereof, the Minister of Fuel and Power (but in relation to the undertaking of the North of Scotland Hydro-Electric Board, the Secretary of State) and in relation to those indicated in paragraph (c) thereof the Minister of Health except in Scotland and in Scotland the Secretary of State;

“land” includes any estate or other interest in land and any easement, but this definition shall not affect the construction of the provisions of sections nineteen and twenty-three of this Act as to the acquisition of land;

“local authority” means, except in relation to Scotland, the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London and, in relation to Scotland, any county or town council;

“Minister” means the Minister of Civil Aviation;

“owner”,—

(a) in relation to any land in England or Wales means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits under a lease or agreement, the unexpired term whereof exceeds three years,

(b) in relation to any land in Scotland or Northern Ireland, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes also a lessee under a lease the unexpired period of which exceeds three years;

“purposes of civil aviation” includes all purposes connected with air navigation except purposes of defence of the realm by air and the expression “defence of the realm by air” includes the Air Force and the administration of all matters relating thereto;

“statutory undertaker” means any person (including a local authority) authorised by any Act (whether public, general or local), or by any order or scheme made

PART VII
—cont.

under or confirmed by any Act, to construct, work or carry on—

(a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking; or

(b) any undertaking for the supply of electricity, gas or hydraulic power; or

(c) any undertaking for the supply of water;

and the expression “statutory undertaking” shall be construed accordingly.

(2) Any reference in this Act to the carrying out of works on land shall be construed as including a reference to the making of excavations on the land or to the carrying out of levelling operations on the land, and references to the maintenance of works or to interference with works shall be construed accordingly.

(3) For the avoidance of doubt it is hereby declared that in this Act the expression “loss or damage” includes in relation to persons, loss of life and personal injury.

(4) Any reference in this Act to goods or articles shall be construed as including a reference to mails or animals.

(5) Any reference in this Act to any country or territory shall, unless the context otherwise requires, be construed as including a reference to the territorial waters, if any, adjacent to that country or territory.

(6) Any power conferred by this Act shall be in addition to and not in derogation of any other power so conferred.

(7) Any power conferred by this Act to make rules or regulations shall be exercisable by statutory instrument.

(8) Any power conferred by this Act to make any Order in Council or order shall be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to vary or revoke the Order in Council or order.

(9) References in this Act to any enactment shall, except in so far as the context otherwise requires, be taken as referring to that enactment as amended by or under any other enactment.

General
application to
Scotland.

64.—(1) The provisions of this section shall, in addition to any express provisions for the application to Scotland of any provision of this Act, have effect for the general application of this Act to Scotland.

(2) Any reference to the High Court shall be construed as a reference to the Court of Session, and any reference to the Lord Chief Justice shall be construed as a reference to the Lord President of the Court of Session.

(3) Any reference to the Lands Tribunal shall be construed as a reference to the Lands Tribunal for Scotland.

PART VII
—cont.

(4) The expression “stay” shall mean “sist”, the expression “requiring security from” shall mean “requiring caution to be found by”, the expression “arbitrator” shall mean “arbiter”, and the expression “plaintiff” shall mean “pursuer”.

(5) For any reference to an easement there shall be substituted a reference to a servitude.

(6) Any inquiry in relation to an order, which by virtue of any provision of this Act is subject to special parliamentary procedure, shall, if the Minister so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction has been so given—

- (a) it shall be deemed to have been so given under section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945, and
- (b) nothing in section fifty of the Town and Country Planning (Scotland) Act, 1945, as applied under paragraph 4 or paragraph 8 of the Fourth Schedule to this Act shall apply to such inquiry.

65.—(1) The following provisions shall, in addition to any express provision for the application to Northern Ireland of any provision of this Act, have effect for the general application of this Act to Northern Ireland, that is to say—

General application to Northern Ireland.

- (a) any reference to any enactment shall be construed as a reference to that enactment as it has effect in Northern Ireland;
- (b) any reference to an Act of Parliament shall be construed as including a reference to an Act of the Parliament of Northern Ireland; and “enactment” includes an enactment of that Parliament;
- (c) “summary conviction” means conviction subject to and in accordance with the Petty Sessions (Ireland) Act, 1851, and any Act amending that Act;
- (d) any reference to the High Court shall be construed as a reference to the High Court of Justice in Northern Ireland.

(2) His Majesty may by Order in Council direct that any of the provisions of this Act set out in Part I of the Ninth Schedule to this Act, shall, in the application of that provision to Northern

PART VII
—*cont.*

Ireland, have effect subject to such adaptations as may be specified in the Order.

Part VI of this Act applies to this subsection.

(3) The authorisation required for the compulsory purchase by an authority of land in Northern Ireland under subsection (2) of section nineteen of this Act shall be a compulsory purchase order made by that authority and confirmed by the Minister, and the provisions of the Tenth Schedule to this Act shall have effect in relation to every such order; and the provisions of this subsection and that Schedule may be adapted under the last foregoing subsection.

(4) The disputes which by this Act are directed to be determined by the Lands Tribunal shall, in the application of this Act to Northern Ireland, be determined by an official arbitrator appointed under section one of the Acquisition of Land (Assessment of Compensation) Act, 1919, and the arbitrator shall be selected in accordance with rules made by the Reference Committee under the said section one; and, save in the case of a dispute under subsection (3) of section nine, rules so made may make provision with respect to the reference and determination of the dispute and may apply any of the provisions of sections three to six of the said Act of 1919 with such modifications as may be necessary.

Application
to H.M.
dominions.

66.—(1) His Majesty may, by Order in Council direct that any of the provisions of this Act set out in Part II of the Ninth Schedule to this Act shall extend with such exceptions, adaptations and modifications, if any, as may be specified in the Order in Council, to any colony, any British protectorate or any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom.

For the purposes of the Mandated and Trust Territories Act, 1947, this subsection shall be deemed to be contained in an Act of an earlier session than that Act.

(2) If and so far as the provisions of any law made by the legislature of Southern Rhodesia for the purpose of giving effect to the Chicago Convention, or any Annex thereto, or any amendment of the Convention or any Annex thereto, or for any other purposes similar to the purposes of the enactments set out in Part II of the Ninth Schedule to this Act, purporting to have extra-territorial operation in relation to aircraft registered in Southern Rhodesia, the said provisions shall be deemed to have such operation.

(3) Part VI of this Act applies to this section.

67.—(1) His Majesty may by Order in Council direct that any of the provisions of this Act shall extend with such exceptions, modifications and adaptations, if any, as may be specified in the Order, to any of the Channel Islands or to the Isle of Man.

PART VII
—cont.
Application to
Channel
Islands and
Isle of Man.

(2) Part VI of this Act shall apply to any Order in Council under this section extending any of the enactments set out in Part II of the Ninth Schedule to this Act as it applies to any Order in Council made under an enactment to which the said Part VI applies.

(3) An Order in Council under this section, except so far it extends any such enactment as aforesaid, may provide for the payment of sums out of moneys provided by Parliament for any purpose for which sums are required to be so paid in consequence of the exercise of the powers conferred by this section.

68.—(1) The disputes which by this Act are directed to be determined by the Lands Tribunal shall, in the period before the coming into force of the Lands Tribunal Act, 1949, for the part of Great Britain in question, be determined by an official arbitrator appointed under section one of the Acquisition of Land (Assessment of Compensation) Act, 1919, and the arbitrator shall be selected in accordance with rules made by the Reference Committee under the said section one; and, during the said period, save in the case of a dispute under subsection (3) of section nine, rules so made may make provision with respect to the reference and determination of the disputes and may apply any of the provisions of sections three to six of the said Act of 1919 with such modifications as may be necessary.

Transitory
provisions.

(2) Section twenty-five of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, shall until the commencement of the Merchant Shipping (Safety Conventions) Act, 1949, apply in relation to sea-planes on the surface of the water as it applies in relation to ships or vessels:

Provided that rules under subsection (2) of the said section twenty-five with respect to sea-planes shall not be made by the Minister of Transport except after consultation with the Secretary of State and the Minister of Civil Aviation, and any reference in subsection (3) of the said section to the master or to the person in charge of the deck shall be construed as a reference to the pilot or other person on duty in charge of the sea-plane.

This subsection shall be construed as if contained in section fifty-two of this Act.

69. The provisions of the Eleventh Schedule to this Act shall have effect with respect to the amendments of the enactments therein specified.

Amendments
of other
enactments.

PART VII
—cont.
Repeal and
savings.

70.—(1) The enactments set out in the Twelfth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of the Interpretation Act, 1889, this subsection shall have effect subject to the following provisions of this section.¹³

(2) Nothing in this repeal shall affect any instrument or other thing whatsoever made or done or having effect under any enactment repealed by this Act and every such instrument or thing shall continue in force and, so far as it could have been made or done under this Act, shall have effect as if made or done under this Act.

(3) Nothing in this repeal shall affect the terms and conditions on and subject to which any person held office or served before the commencement of this Act.

(4) Where under any Act passed before this Act there is a power to affect Acts of Parliament passed or in force before a particular time and that power would, but for the passing of this Act, have included power to change the law which is reproduced in this Act, then that power shall include power to make such provision as will secure the like change in the law as reproduced in this Act notwithstanding that this Act is not an Act passed or in force before that time and notwithstanding that the terms of this Act, apart from this subsection, are not such as to render that power applicable.

(5) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or the corresponding enactment in this Act.

Short title.

71. This Act may be cited as the Civil Aviation Act, 1949.

¹³ Subsection (1) is repealed, in its application to the United Kingdom, by the S. L. R. Act, 1953 (c. 5).

SCHEDULES

FIRST SCHEDULE

PROVISIONS RELATING TO CERTAIN ORDERS UNDER PART III

Sections 24, 25
and 30, and
2nd and 3rd
Schedules.

PART I

1. Before making the order, the Minister—

- (a) shall publish in one or more newspapers circulating in the district in which the land is situated; and
- (b) shall serve on every owner, lessee and occupier of any of the land and upon every local authority within whose area any of the land is situated;

a notice stating that the Minister proposes to make the order and the effect thereof, and specifying the time (not being less than twenty-eight days from the service of the notice) within which, and the manner in which, objections to the making of the order may be made.

2. If no objection is duly made by any such local authority, owner, lessee or occupier as aforesaid or if all objections so made are withdrawn, the Minister may, if he thinks fit, make the order.

3. If any objection duly made as aforesaid is not withdrawn, the Minister shall, before making the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may, if he thinks fit, make the order.

4. Notwithstanding anything in the two last foregoing paragraphs, the Minister may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of those paragraphs if he is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.

5. Immediately after the order has been made, the Minister shall publish in one or more newspapers circulating in the district in which the land is situated a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours, and shall serve a like notice on every person who, having duly objected to the order, has not withdrawn his objection.

PART II

6. If any person aggrieved by the order desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of the Minister or that any requirement of this Act has not been complied with in relation to the order, he may, within six weeks from the time when notice that the order has

1ST SCH.
—cont.

been made is first published in accordance with the requirements of this Act, make an application to the High Court; and on any such application the Court—

- (a) may by interim order suspend the operation of the order or of any provision contained therein, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the order or any provision contained therein is not within the powers of the Minister, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects the applicant.

7. Subject to the provisions of the last foregoing paragraph, the order shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the expiration of six weeks from the date on which notice of the making of the order is first published in accordance with the requirements of this Act.

8. This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid shall have effect in relation to an order to which that Act applies as if in paragraph 6, for the reference to the time when notice that the order has been made is first published in accordance with the requirements of this Act, there were substituted a reference to the time when the order becomes operative under the said Act of 1945, and as if in paragraph 7 the words from “and shall become operative” to the end were omitted.

PART III

9. Any person having an interest in land the value of which is diminished in consequence of the coming into operation of the order shall be entitled to recover compensation from the Minister for the diminution, and the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect accordingly.

10. Where the order comes into operation before the expiration of two years from the end of the war period, Part VIII of the Requisitioned Land and War Works Act, 1945 (which provides for adjustments of compensation for the purpose of eliminating changes in value due to the exercise of emergency powers) shall apply in relation to any compensation payable under the foregoing provisions of this Schedule as it applies where compensation is payable on the acquisition of an easement over land by virtue of Part II of that Act:

Provided that for the purposes of this paragraph subsection (5) of section forty-one of the said Act of 1945 shall have effect as if for the reference therein to the date of the notice to treat there were substituted a reference to the date on which the order comes into operation.

In this paragraph the expression “war period” has the same meaning as it has in section forty of the said Act of 1945.

11. Where any interest in land is subject to a mortgage—

1ST SCH.
—cont.

- (a) any compensation payable under the foregoing provisions of this Schedule in respect of the diminution in the value of the interest shall be assessed as if the interest were not subject to the mortgage;
- (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
- (c) a mortgagee shall not be entitled to claim compensation under the said provisions in respect of his interest as such; and
- (d) the compensation payable in respect of the interest subject to the mortgage may be paid by the Minister to such of the claimants as he thinks proper, and shall be applied by that claimant in such manner as the parties interested may agree, or, in default of such agreement, as may be determined by arbitration.

In this paragraph the expression "mortgage" includes an equitable charge and any other encumbrance, and includes a sub-mortgage, and the expression "mortgagee" shall be construed accordingly.

12. Where the order provides for the creation of any easement over land held by a statutory undertaker for the purposes of the carrying on of his undertaking, or of any right in or in relation to such land, the undertaker shall be entitled to recover compensation from the Minister in accordance with the special provisions of Part III of this Act relating to statutory undertakers in any case in which those provisions apply, and shall not, in any such case, be entitled to recover compensation under the foregoing paragraphs of this Schedule.

This paragraph shall not apply to Northern Ireland.

PART IV

13. In the application of this Schedule to Scotland—

- (a) in paragraph 8, for the words "section six of the Statutory Orders (Special Procedure) Act, 1945," there shall be substituted the words "subsection (4) of section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act"; and
- (b) for references to a mortgage and to a mortgagee there shall be substituted respectively references to a heritable security and to a creditor in a heritable security; and in paragraph 11 for the words from "In this paragraph" to the end of the paragraph there shall be substituted the words—

"In this paragraph the expression 'heritable security' means a heritable security within the meaning of the Conveyancing (Scotland) Act, 1924, exclusive of a security by way of ground annual and a real burden *ad factum praestandum*, but inclusive of a security constituted by *ex facie* absolute disposition."

Section 25.

SECOND SCHEDULE

PROVISIONS RELATING TO ORDERS UNDER S. 25

1. Any person having an interest in land to which the order relates shall, if the value of the interest is diminished by the coming into operation of the order, be entitled to recover compensation from the Minister for the diminution.

2. Where the order comes into operation before the expiration of two years from the end of the war period, Part VIII of the Requisitioned Land and War Works Act, 1945 (which provides for adjustments of compensation for the purpose of eliminating changes in value due to the exercise of emergency powers) shall apply in relation to any compensation payable under the foregoing paragraph as it applies where compensation is payable on the acquisition of an easement over land by virtue of Part II of that Act:

Provided that for the purposes of this paragraph subsection (5) of section forty-one of the said Act of 1945 shall have effect as if paragraph (a) thereof were omitted therefrom.

In this paragraph the expression "war period" has the same meaning as it has in section forty of the said Act of 1945.

3. Paragraph 11 of the First Schedule to this Act shall have effect in relation to any compensation payable under paragraph 1 of this Schedule as it has effect in relation to any such compensation as is therein mentioned.

4. Any person who sustains damage by being disturbed in the use of land or water by reason of the coming into operation of the order (not being damage which consists of the diminution in the value of an interest in land) shall be entitled to recover compensation from the Minister for the damage.

5. For the purposes of assessing compensation under this Schedule, in so far as it is payable in respect of the diminution in the value of an interest in land, section two of the Acquisition of Land (Assessment of Compensation) Act, 1919 shall, so far as it is applicable and subject to any necessary modifications, have effect as it has effect for the purpose of assessing compensation for the compulsory acquisition of land.

6. Where any dispute arises as to whether compensation is payable under this Schedule, or as to the amount of any special compensation or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.

Section 26.

THIRD SCHEDULE

PROVISIONS RELATING TO DIRECTIONS UNDER S. 26

PART I

1. Immediately after the Minister has given the direction, he shall publish in one or more newspapers circulating in the district a notice stating that the direction has been given, and shall also serve notice of the direction—

(a) in the case of a direction given for the purpose specified in paragraph (c) of subsection (2) of section twenty-six of

3RD SCH.
—cont.

- this Act, upon every owner, lessee and occupier of any land to which the right of way is appurtenant, and upon every local authority in whose area any of that land is situated;
- (b) in the case of a direction given for any other purpose specified in the said subsection, upon every owner, lessee and occupier of the land to which the direction relates and upon every local authority in whose area any of that land is situated;
 - (c) in the case of a direction restricting the installation of apparatus or extinguishing rights to instal or maintain apparatus, upon every person whose rights to instal or maintain apparatus are affected by the direction; and
 - (d) in the case of a direction requiring the removal of any apparatus, upon the person entitled to maintain the apparatus required to be removed under the direction.

Any notice given with respect to any direction for the purpose of complying with the requirements of this paragraph shall state the effect of the direction.

In the application of this paragraph to Scotland, for the words "any land to which the right of way is appurtenant" there shall be substituted the words "the dominant tenement".

2. The provisions of Part II of the First Schedule to this Act shall, with the necessary modifications, have effect in relation to the direction as they have effect in relation to orders made under section twenty-four of this Act.

PART II

3. Any person having an interest in land the value of which is diminished in consequence of the coming into operation of the direction shall be entitled to recover compensation from the Minister for the diminution.

4. Where the direction comes into operation before the expiration of two years from the end of the war period, Part VIII of the Requisitioned Land and War Works Act, 1945 (which provides for adjustments of compensation for the purpose of eliminating changes in value due to the exercise of emergency powers) shall apply in relation to any compensation payable under the foregoing paragraph as it applies where compensation is payable on the acquisition of an easement over land by virtue of Part II of that Act:

Provided that for the purposes of this paragraph subsection (5) of section forty-one of the said Act of 1945 shall have effect as if paragraph (a) thereof were omitted therefrom.

In this paragraph the expression "war period" has the same meaning as it has in section forty of the said Act of 1945.

5. Paragraph 11 of the First Schedule to this Act shall have effect in relation to any compensation payable under paragraph 3 of this Schedule as it has effect in relation to any such compensation as is therein mentioned.

6. Any person who sustains damage by being disturbed in the enjoyment of any right in or over land in consequence of the coming into operation of the direction (not being damage which consists of the diminution in the value of an interest in land) shall be entitled to recover compensation from the Minister in respect of that damage.

3RD SCH.
—cont.

7. The Minister shall pay compensation in respect of any expenditure reasonably incurred by any person for the purpose of carrying out work which is required to be carried out by the direction.

8. The compensation payable to any person by virtue of the foregoing provisions of this Schedule shall be reduced by the value to him of any timber, apparatus or other materials removed for the purposes of complying with the direction.

9. For the purpose of assessing compensation under this Schedule, in so far as it is payable in respect of the diminution in the value of an interest in land, section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall, so far as it is applicable and subject to any necessary modifications, have effect as it has effect for the purpose of assessing compensation for the compulsory acquisition of land.

10. Where any dispute arises as to whether compensation is payable under this Schedule, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.

11. Where the direction affects any building, structure, or apparatus held or used by a statutory undertaker for the purposes of his undertaking, or affects any of the rights of a statutory undertaker to instal or maintain apparatus for those purposes, or affects any right of way enjoyed by a statutory undertaker for those purposes, the undertaker shall be entitled to recover compensation from the Minister in accordance with the special provisions of Part III of this Act relating to statutory undertakers in any case in which those provisions apply, and shall not, in any such case, be entitled to recover compensation under the foregoing paragraphs of this Schedule.

This paragraph shall not apply in Northern Ireland.

Section 30.

FOURTH SCHEDULE

ADJUSTMENTS OF THE FUNCTIONS OF STATUTORY UNDERTAKERS

PART I

1. Where it appears to the Minister and the appropriate Minister, upon a representation made by the person carrying on a statutory undertaking, that in order to facilitate any adjustment of the carrying on of the undertaking necessitated by any order made or proposed to be made under or in pursuance of Part III of this Act, or by any direction given or proposed to be given in pursuance of the said Part III, it is expedient that the powers and duties of the said person in relation to the carrying on of the undertaking should be extended or modified, the Minister and the appropriate Minister may by order provide for such extension or modification of the said powers and duties as appears to them to be requisite for facilitating the adjustment.

2. Without prejudice to the generality of the provisions of the foregoing paragraph, an order under this Part of this Schedule may provide—

(a) for empowering the person carrying on the undertaking to acquire, whether compulsorily or by agreement, any land specified in the order and to erect or construct any buildings or works so specified;

- (b) for applying in relation to the acquisition of such land and the construction of such works enactments relating to the acquisition of land and the construction of works (including the Acquisition of Land (Assessment of Compensation) Act, 1919 and Part V of the Town and Country Planning Act, 1947);

4TH SCH.
—cont.

and for such incidental and supplemental matters as appear to the Minister and the appropriate Minister to be expedient for the purposes of the order.

3. As soon as may be after the making of a representation under this Part of this Schedule, the person carrying on the undertaking shall publish, in such form and manner as may be directed by the Minister and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, and shall also, if it is so directed by the Minister and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed.

4. The provisions of the First Schedule to the Town and Country Planning Act, 1944, shall have effect as if the reference in sub-paragraph (1) of paragraph 1 of that Schedule to the making of an order under section twenty-six of that Act included a reference to the making of an order under this Part of this Schedule; and, subject to those provisions in a case in which they have effect, the Minister and the appropriate Minister may, if they think fit, make an order.

5. An order under this Part of this Schedule shall be subject to special parliamentary procedure.

PART II

6. Where on a representation in that behalf made by the person carrying on a statutory undertaking the appropriate Minister is satisfied that the making of any order under or in pursuance of Part III of this Act or the giving of any direction in pursuance of the said Part III has rendered impracticable the fulfilment of any obligation of the said person incurred in connection with the carrying on of the undertaking, the appropriate Minister may by order direct that the said person shall be relieved of the fulfilment of the obligation either absolutely or to such extent as may be specified in the order.

7. As soon as may be after the making of a representation to the appropriate Minister under the last foregoing paragraph the person carrying on the undertaking in question shall, as may be directed by the appropriate Minister, either publish, in such manner as may be so directed, a notice giving such particulars as may be so directed of the matters to which the representation relates and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, or serve such a notice on such persons, or persons of such classes, as may be so directed, or both publish and serve such notices.

4TH SCH.
—cont.

8. The provisions of the First Schedule to the Town and Country Planning Act, 1944, shall have effect as if the reference in sub-paragraph (1) of paragraph 1 of that Schedule to the making of an order under section twenty-seven of that Act included a reference to the making of an order under this Part of this Schedule; and subject to those provisions in a case in which they have effect, the appropriate Minister may, if he thinks fit, make an order.

9. If any objection to the making of an order under this Part of this Schedule is made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.

PART III

10. This Schedule shall apply to Scotland subject to the following modifications:—

- (a) for references to the Town and Country Planning Act, 1944, to sections twenty-six and twenty-seven thereof, to the First Schedule thereto and to sub-paragraph (1) of paragraph 1 of that Schedule there shall be substituted respectively references to the Town and Country Planning (Scotland) Act, 1945, to sections twenty-five and twenty-six thereof, to the First Schedule thereto, and to sub-paragraph (1) of paragraph 1 of that Schedule; and
- (b) for the reference to Part V of the Town and Country Planning Act, 1947, there shall be substituted a reference to Part IV of the Town and Country Planning (Scotland) Act, 1947.

Section 42.

FIFTH SCHEDULE

LIMITS OF LIABILITY

1. The limits of liability under subsection (1) of section forty-two of this Act in respect of such loss or damage as is mentioned in that subsection shall, in the case of an aircraft of any such description as is mentioned in the first column of the following Table, be an amount to be ascertained, in relation to that description of aircraft, by reference to the second column of the said Table.

Description of Aircraft	Limit of Liability
(a) Airships	£25,000.
(b) Balloons (whether fixed or free).	£5,000.
(c) Gliders	£2,000, so, however, that not more than £1,000 shall be payable in respect of loss of, or damage to, property.

Description of Aircraft	Limit of Liability	5TH SCH. —cont.
(d) Other aircraft—		
(i) if the weight of the aircraft fully loaded does not exceed 5,000 pounds.	£10,000, so, however, that not more than £5,000 shall be payable in respect of loss of, or damage to, property.	
(ii) if the weight of the aircraft fully loaded exceeds 5,000 pounds but does not exceed 10,000 pounds.	£10,000, so, however, that, in respect of loss of, or damage to, property, there shall not be payable more than £1 for each pound of the weight of the aircraft fully loaded.	
(iii) if the weight of the aircraft fully loaded exceeds 10,000 pounds but does not exceed 25,000 pounds.	£1 for each pound of the weight of the aircraft fully loaded.	
(iv) if the weight of the aircraft fully loaded exceeds 25,000 pounds.	£25,000.	

2. References in the foregoing Table to pounds of weight shall be construed as references to pounds avoirdupois; and the Minister may by regulations prescribe the manner in which the weight of an aircraft fully loaded is to be ascertained for the purposes of this Schedule, and direct that, in the case of an aircraft of any particular description, such document as may be specified in the regulations, being a document which purports to show the weight of the aircraft fully loaded, shall be evidence of that weight.

SIXTH SCHEDULE

Section 45.

PROVISIONS AS TO POLICIES OF INSURANCE, SECURITIES AND DEPOSITS

Rights and remedies under or in respect of policies and securities

1.—(1) Where a certificate of insurance has been delivered in connection with a policy of insurance, so much of the policy as purports to restrict, or attach conditions to, the insurance of any person insured thereby shall, subject to the provisions of this paragraph, be of no effect as respects any such liability as is required to be covered by a policy under Part IV of this Act:

Provided that nothing in this paragraph shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of a person which is covered by the policy by virtue only of this paragraph, shall be recoverable by the insurer from that person.

(2) Nothing in this paragraph shall affect any provision in a policy being a provision which—

(a) restricts the insurance—

(i) by limiting the period of the insurance, or

(ii) by limiting the loss or damage insured against to loss or damage caused to persons or property in the United Kingdom, or

6TH SCH.
—cont.

(iii) in the case of any aircraft, by specifying as the amount up to which the insurer undertakes to indemnify the insured against liability incurred by him by way of damages in respect of loss or damage caused on any one occasion to persons or property on land or water by, or by a person in, or an article or person falling from, that aircraft while in flight, taking off or landing, an amount not less than the total limit of liability appropriate to that aircraft, or

(iv) in the case of any aircraft, by specifying as the amount up to which the insurer undertakes to indemnify the insured against liability incurred by him by way of damages in respect of loss of, or damage to, property on land or water caused on any one occasion by, or by a person in, or an article or person falling from, that aircraft while in flight, taking off or landing, an amount not less than the limit of liability for property claims appropriate to that aircraft, or

(v) by providing that the insurer shall not be liable to pay any claim under the policy if, at the time of the happening of the event which was the cause of the loss or damage giving rise to the claim, a licence to fly was not in force in respect of the aircraft in connection with which the claim is made, or

(b) provides that the insurer shall not be liable to pay any claim in respect of loss or damage which is caused or contributed to by conditions of war, riot or civil commotion.

(3) For the purposes of this paragraph, a provision in a policy which enables one party or either party to determine the insurance shall be deemed to be a provision restricting the insurance by limiting the period thereof, if, but only if, the provision requires the giving to the other party of at least seven clear days' notice in writing of the cancellation of the insurance.

(4) In this paragraph the expression "licence to fly" means a written authority permitting the aircraft to fly, issued in accordance with an Order in Council under section eight of this Act.

2.—(1) If, after a certificate of insurance has been delivered in connection with a policy of insurance, a judgment in respect of any such liability as is required to be covered by a policy under Part IV of this Act (being a liability covered by the terms of the policy) is obtained against a person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer shall, subject to the provisions of this paragraph, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any amount payable by way of interest on that sum by virtue of any enactment relating to interest on judgments.

In the application of this sub-paragraph to Scotland, the words "by virtue of any enactment relating to interest or judgments" shall be omitted.

(2) No sum shall be payable by an insurer under the foregoing provisions of this paragraph—

6TH SCH.
—cont.

- (a) in respect of any judgment, unless before, or within seven days after, the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings; or
- (b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or
- (c) in connection with any liability, if both—
 - (i) the policy was cancelled by mutual consent or by virtue of any provision contained therein, and the cancellation took effect before the happening of the event which was the cause of the loss or damage giving rise to the liability, and
 - (ii) a written notice of the cancellation stating the time at which it takes effect was, not less than seven clear days before the date of the happening of the said event, served by the insurer on the Minister.

Any notice to be served for the purposes of this sub-paragraph on the Minister shall be deemed to be duly served if it is sent by registered post in a letter addressed to the Secretary of the Ministry of Civil Aviation, London.

(3) No sum shall be payable by an insurer under the foregoing provisions of this paragraph, if, in an action commenced before, or within three months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that, apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact, or by a representation of fact which was false in some material particular, or, in a case where he has avoided the policy on that ground, that he was entitled so to do apart from any provision contained in the policy:

Provided that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled to the benefit of this sub-paragraph as respects any judgment obtained in proceedings commenced before the commencement of that action, unless before, or within seven days after, the commencement of that action, he has given notice thereof to the person who is the plaintiff in the said proceedings, specifying the non-disclosure or false representation on which the insurer proposes to rely; and any person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party to the action.

(4) Nothing in this paragraph shall, in relation to any particular policy of insurance, require the insurer to pay any sum in excess of the amount for which, apart from this paragraph, he is liable under the policy or would be liable under the policy if it had not been cancelled or avoided; and where, by reason of two or more judgments against a person insured by the policy having been obtained in respect of loss or damage, caused on any one occasion, several claims under this paragraph are made against, or apprehended by, the insurer in relation to any aircraft, he may make application to the High Court,

6TH SCH.
—cont.

and thereupon the court may determine the maximum liability of the insurer in respect of the claims and also, if need be, his liability in respect of such of those claims as are for loss of or damage to property and may distribute the amount of his liability among the several claims on the following principles:—

- (a) if the claims are solely in respect of loss of life or personal injury or solely in respect of loss of, or damage to, property, the amount of the liability shall be distributed rateably;
- (b) if there are claims both in respect of loss of life or personal injury and in respect of loss of, or damage to, property, one-half of the insurer's total maximum liability shall be appropriated, so far as necessary, to meeting claims for loss of life or personal injury and shall be distributed rateably among them, and the other half shall be distributed rateably among all the claims, including claims in respect of loss of life or personal injury if and so far as they exceed the afore-said appropriation:

Provided that for the purposes of this sub-paragraph so much only of a claim shall be taken into account as represents the amount of damages awarded under the judgment in respect of which the claim is made, and interest on that amount.

(5) Where an application is made to the court under the last foregoing sub-paragraph, the court may stay any proceedings pending in any other court in relation to the same matter, and may give such directions as the court thinks proper for the joining of persons interested as parties to the proceedings, for the exclusion of claims which are not brought before the court within a certain time, and for requiring security from the insurer.

(6) If an insurer becomes liable under this paragraph to pay, in respect of any liability of a person insured by a policy, an amount for which the insurer would not, apart from the provisions of this paragraph, be liable, he shall be entitled to recover the said amount from that person.

(7) References in the foregoing provisions of this paragraph to a person insured by a policy shall, unless the context otherwise requires, be construed as including references to his estate, and except in Scotland the said provisions shall, in relation to a claim established against the estate of a deceased person in proceedings for the administration of that estate, have effect—

- (a) as if the final determination in those proceedings that the claim is established were a judgment obtained against the estate of the deceased in proceedings brought by the claimant as plaintiff, and
- (b) as if the making of the claim in the administration proceedings were the commencement of the proceedings in which the judgment was given.

(8) In this paragraph the expression "liability covered by the terms of the policy" means a liability which is covered by the policy, or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy.

3. Where a certificate of insurance has been delivered in connection with a policy of insurance, the happening, in relation to a person insured by the policy, of any such event as is mentioned in subsection (1) or subsection (2) of section one of the Third Parties (Rights against Insurers) Act, 1930, shall, notwithstanding anything in that Act, not affect any such liability of that person as is required to be covered by a policy under Part IV of this Act, but nothing in this paragraph shall affect any rights against the insurer conferred by that Act on the person to whom the liability was incurred.

6TH SCH.
—cont.

4.—(1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy of insurance under Part IV of this Act shall, on demand by or on behalf of the person making the claim, state whether or not, at the time of the event which was the cause of the loss or damage giving rise to the claim, he, or (if the claim is made against him as representing the estate of a deceased person) the deceased, was insured in respect of that liability by any policy having effect for the purposes of Part IV of this Act, or would have been so insured if the insurer had not avoided or cancelled the policy, and, if he or the deceased, as the case may be, was or would have been so insured, give such particulars with respect to that policy as were specified in the certificate of insurance delivered in connection with the policy.

(2) If any person fails, without reasonable excuse, to comply with this paragraph, or wilfully makes any false statement in reply to such a demand as aforesaid, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, twenty pounds or, in the case of a second or subsequent offence, fifty pounds, or to imprisonment for a term not exceeding four months.

5.—(1) Where a certificate of insurance has been delivered in connection with a policy of insurance, and the policy is cancelled by mutual consent or by virtue of any provision in the policy, the person to whom the certificate was delivered shall, within seven days from the taking effect of the cancellation, surrender the certificate to the insurer or, if it has been lost or destroyed, send a written notice to that effect by post to the insurer.

Where a notice is sent to an insurer in pursuance of the foregoing provisions of this paragraph, the person sending the notice shall, if within seven days after the receipt thereof he is requested by the insurer so to do, make a statutory declaration to the effect that the certificate of insurance to which the notice relates has been lost or destroyed, as the case may be.

(2) If any person fails to comply with this paragraph, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, twenty pounds or, in the case of a second or subsequent offence, fifty pounds, or to imprisonment for a term not exceeding four months.

(3) Any reference in this paragraph to a certificate of insurance shall, in relation to a policy in connection with which more than one such certificate is issued, be construed as a reference to all the certificates, and shall, where any copy of such a certificate has been issued, be construed as including a reference to that copy.

6TH SCH.
—cont.

6. The foregoing provisions of this Schedule shall apply in relation to securities having effect for the purposes of Part IV of this Act, as they apply in relation to policies of insurance; and, in relation to any security having effect for the purposes of Part IV of this Act, references in the said provisions to being insured, to a certificate of insurance, to an insurer and to a person insured shall be construed respectively as references to the having in force of the security, to the certificate of security, to the giver of the security and to a person whose liability is covered by the security.

Deposits

7.—(1) No part of any sum which, for the purpose of any provision of section forty-three of this Act, has been deposited by any person with the Accountant-General of the Supreme Court shall, so long as any liabilities incurred by that person, being such liabilities as are required to be covered by a policy of insurance under Part IV of this Act, have not been discharged or otherwise provided for, be applicable in discharge of any other liabilities incurred by him.

(2) Any rules made by the Board of Trade under section two of the Assurance Companies Act, 1909, which apply to deposits made by insurers carrying on aircraft insurance business, shall with such modifications and adaptations as may be prescribed by rules made by the Minister after consultation with the Lord Chancellor, apply to deposits made under section forty-three of this Act with the Accountant-General of the Supreme Court and the Minister, after the like consultations, may make such rules with respect to the said deposits as the Board of Trade might have made under the said section two if the Assurance Companies Act, 1946, had not passed.

Supplementary Provisions

8.—(1) The Minister may make regulations—

- (a) for prescribing the forms of certificates of insurance and certificates of security to be used for the purposes of Part IV of this Act, and the particulars to be contained in such certificates;
- (b) as to applications for, and the issue of, such certificates of insurance and certificates of security, as to the issue of copies of any such certificates which are lost or destroyed, and as to the keeping of records and documents and the furnishing of particulars, and the giving of information with respect thereto, to the Minister or a chief officer of police;
- (c) as to the carrying of documents in aircraft, and as to the production of such documents on demand to such persons as may be specified in the regulations;
- (d) for prescribing (without prejudice to any Order in Council made under Part IV of this Act) that the provisions of Part IV of this Act which relate to insurance, securities and deposits in respect of third party risks shall, in relation to any such class of aircraft registered outside the United Kingdom as may be specified in the regulations, have effect subject to such modifications, adaptations and exceptions as may be so specified; and
- (e) generally for carrying into effect the said provisions of Part IV of this Act.

(2) If any person contravenes or fails to comply with any regulations made by the Minister under this paragraph, that person shall be liable on summary conviction to such fine, not exceeding twenty pounds, as may be prescribed by the regulations.

(3) Any statutory instrument containing regulations made by the Minister under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) In this paragraph the expression "chief officer of police" has the same meaning as in the Police Pensions Act, 1921.

6TH SCH.
—cont.

SEVENTH SCHEDULE¹⁴

Section 47.

SURVIVAL OF CAUSES OF ACTION IN NORTHERN IRELAND AFTER DEATH

1. This Schedule applies to every cause of action in respect of loss or damage which, after the appointed day, is caused to persons or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing.

2. Subject to the provisions of this Schedule, on the death of any person, after the appointed day, all causes of action to which this Schedule applies subsisting against, or vested in, him shall survive against, or, as the case may be, for the benefit of, his estate.

3. Where a cause of action to which this Schedule applies survives as aforesaid for the benefit of the estate of a deceased person, and the death of that person has been caused by the circumstances which give rise to the cause of action, the damages recoverable for the benefit of his estate shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

4. No proceedings shall be maintainable in respect of a cause of action which, by virtue of this Schedule, has survived against the estate of a deceased person unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death, or
- (b) the cause of action arises not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

5. Where damage has been suffered by reason of any circumstances by reason of which a cause of action to which this Schedule applies would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Schedule, to have been subsisting against him before his death such cause of action by reason of those circumstances as would have subsisted if he had died after the damage was suffered.

6. In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this Schedule, any liability in respect

¹⁴ Repealed by the Law Reform (Miscellaneous Provisions) Act (Northern Ireland), 1954 (c. 26) (N. I.), Section 6(2)(b).

7TH SCH.
—cont.

of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by a contract or promise.

Section 53.

EIGHTH SCHEDULE

PATENT CLAIMS AGAINST AIRCRAFT NOT PROTECTED
UNDER CHICAGO CONVENTION

1. Where it is alleged by any person interested that a foreign aircraft, which is not an aircraft to which section fifty-three of this Act applies, and which is making a passage through or over the United Kingdom, infringes in itself or in any part of it any invention, design or model which is entitled to protection in the United Kingdom, it shall be lawful, subject to and in accordance with rules of court, to detain the aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this Schedule referred to as "the deposited sum") and thereupon the aircraft shall not, during the continuance or in the course of the passage be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, in respect or on account of the alleged infringement.

2. The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, fixed by the Minister or some person duly authorised on his behalf, and payment thereof shall be made or secured to him in such manner as he shall approve.

3. The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by rules of court, and such rules may provide generally for carrying this Schedule into effect.

4. For the purposes of this Schedule, the expression "owner" shall include the actual owner of an aircraft, and any person claiming through or under him, and the expression "passage" shall include all reasonable landings and stoppages in the course or for the purpose of the passage.

Sections 65,
66 and 67.

NINTH SCHEDULE

PART I

PROVISIONS WHICH MAY BE ADAPTED FOR NORTHERN IRELAND

Section seven;

Sections thirteen and fourteen;

Sections nineteen to twenty-two;

In section twenty-three, subsections (8), (9), (10) and (11);

Section twenty-seven;

Section thirty-eight;

Sections forty-two to fifty;

Section fifty-two;

The Schedules referred to in the foregoing enactments and Parts VI and VII of this Act so far as they apply to the foregoing enactments.

PART II

9TH SCH.
—cont.

PROVISIONS WHICH MAY BE EXTENDED TO THE COLONIES, ETC.

The enactments set out in Part I of this Schedule;
 Sections eight to eleven;
 Subsection (1) of section sixteen;
 In section twenty-three, subsections (1), (5) and (6);
 Sections forty and forty-one;
 Section fifty-one;
 Section fifty-three;
 Section sixty-two;
 The Eighth Schedule;
 Parts VI and VII of this Act so far as they apply to the foregoing enactments.

TENTH SCHEDULE

Section 65.

ORDERS FOR THE COMPULSORY PURCHASE OF LAND IN NORTHERN
IRELAND UNDER s. 19 (2)

PART I

Provisions as to the Compulsory Acquisition of Land

1. A compulsory purchase order shall be in the prescribed form and shall describe, by reference to a map the land to which the order applies, and shall incorporate, subject to the modifications hereinafter mentioned and any necessary adaptations,—

- (a) the Lands Clauses Acts, except section ninety-two and sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845;
- (b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and
- (c) sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845.

2. The modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be incorporated in a compulsory purchase order are as follows:—

- (a) the arbitrator shall not take into account any building erected, or any improvement or alteration made, or any interest in land created, after the date on which notice of the order having been made is published in accordance with this Part of this Schedule, if in the opinion of the arbitrator, the erection of the building, or the making of the improvement or alteration, or the creation of the interest, in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining compensation or increased compensation;
- (b) no person shall be required to sell a part only of any house, building or manufactory, or of any land which forms part of a park or garden belonging to a house, if he is willing and

10TH SCH.
--cont.

able to sell the whole of the house, building, manufactory, park or garden, unless the arbitrator determines—

(i) in the case of a house, building or manufactory, that such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or

(ii) in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house;

and if he so determines, he shall award compensation in respect of any loss due to the severance of the part proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the local authority that part of the house, building, manufactory, park or garden.

3. Before submitting a compulsory purchase order to the Minister, the local authority by which the order was made shall—

(a) publish in a newspaper circulating in the district of the local authority a notice in the prescribed form stating that the order has been made and describing the area to which it applies, and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours, and

(b) serve on every owner, lessee and occupier (except tenants for a period not exceeding one month) of any land to which the order relates, a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation, and specifying the time within which, and the manner in which, objections to the order may be made.

4. If no objection to a compulsory purchase order is duly made by any of the persons upon whom notices are required by the last foregoing paragraph to be served, or if all such objections so made are withdrawn, the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a local inquiry to be held and consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order with or without modification:

Provided that—

(a) the Minister may require any person who made an objection to state in writing the grounds thereof, and may confirm the order without causing a local inquiry to be held, if he is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed; and

(b) the order as confirmed by the Minister shall not, unless all persons interested consent, authorise the local authority to purchase any land which the order would not have authorised them to purchase if it had been confirmed without modification.

5.—(1) Where the Minister causes a local inquiry to be held under the last foregoing paragraph, the provisions of sections two hundred and nine, two hundred and ten, two hundred and twelve and two hundred and thirteen of the Public Health (Ireland) Act, 1878, shall apply with the substitution of the Minister for the Ministry of Health and Local Government for Northern Ireland.

10TH SCH.
—cont.

(2) The costs in relation to the inquiry, not exceeding five guineas a day, shall be paid by the parties concerned in the inquiry, or by such of them and in such proportions as the Minister may direct, and the Minister may certify the amount of the costs incurred, and any sum so certified and directed by the Minister to be paid by any such party shall be a debt to the Crown from that party.

6. For the purposes of this Part of this Schedule a notice may be served—

(a) by registered post or by delivery to, or at the residence of, the person to whom it is addressed; or

(b) if the local authority is unable, after reasonable inquiry, to ascertain the name and address of the person upon whom the notice should be served, by addressing it to him—

(i) by name, if his name is known, or

(ii) if his name is not known, by the description of “owner” or “occupier” of the premises (naming them) to which the notice relates,

and by delivering the notice to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

PART II

Restrictions on Acquisition of Land

1. The Minister shall not confirm a compulsory purchase order authorising the purchase of any land which is the site of an ancient monument or other object of archaeological interest or which forms part of any common, open space or allotment or which belongs to the council of a county, county borough or urban or rural district, or the commissioners of a town, or is held by any statutory undertakers for the purposes of their undertaking, and shall not confirm a compulsory purchase order authorising the purchase of any forest, plantation or area of woodland, except after consultation with the Ministry of Agriculture for Northern Ireland.

2. In this Part of this Schedule—

(a) the expression “common” includes any town or village green;

(b) the expression “open space” means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground; and

(c) the expression “allotment” means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

10TH SCH.
—cont.

PART III

Validity and date of operation of Compulsory Purchase Orders

1. As soon as may be after a compulsory purchase order has been confirmed by the Minister, the local authority by which the order was made shall publish in a newspaper circulating in the district of the local authority a notice in the prescribed form stating that the order has been so confirmed, and naming a place where a copy of the order and of any map therein referred to may be seen at all reasonable hours, and shall serve a like notice on every person who, having given notice of his objection to the order, appeared at the local inquiry in support of his objection.

2. If any person aggrieved by a compulsory purchase order desires to question the validity of the order, or of any provision contained therein, on the ground that it is not within the powers of this Act, or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order, he may, within six weeks after the date on which notice of the confirmation of the order is published in accordance with the last foregoing paragraph, make an application for the purpose to the High Court, and upon any such application the court—

- (a) may by interim order suspend the operation of the order in question or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings, and
- (b) if satisfied that the order in question or any provision contained therein is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.

3. Subject to the foregoing provisions of this Part of this Schedule, a compulsory purchase order shall not, either before or after it has been confirmed, be questioned in any legal proceedings whatsoever, and shall become operative at the expiration of six weeks from the date on which notice of the confirmation of the order is published in accordance with this Schedule.

4. Except by leave of the Court of Appeal no appeal shall lie to the House of Lords from a decision of the Court of Appeal under this Part of this Schedule.

PART IV

Regulations

The Minister may make regulations prescribing anything which may be prescribed for the purposes of this Schedule.

ELEVENTH SCHEDULE

Section 69.

AMENDMENTS OF OTHER ENACTMENTS

Public Health Act, 1936, s. 143

1.—(1) In section one hundred and forty-three of the Public Health Act, 1936 (which empowers the Minister of Health to make regulations with a view to the treatment of certain diseases and for preventing the spread of such diseases) for references to the Secretary of State there shall be substituted references to the Minister.

(2) The said section shall have effect in relation to aerodromes for the time being vested in or under the control of the Minister, and in relation to persons in aircraft arriving at or departing from such aerodromes, subject to the following modifications, that is to say—

(a) in subsection (3) thereof, for the words “shall satisfy the authorities, whether county councils, local authorities, or port health authorities, by whom they are to be enforced and executed” there shall be substituted the words “may provide for their enforcement and execution by officers designated for that purpose by the Minister or the Minister of Civil Aviation”;

(b) in subsection (4) for the words “Authorised officers of any such authority” there shall be substituted the words “Officers so designated as aforesaid”.

(3) Without prejudice to the generality of the power conferred by the said section, regulations made thereunder may provide for requiring persons alighting from aircraft to answer questions pertaining to their state of health or their contact with infection.

(4) His Majesty may by Order in Council direct that the said section, so far as it relates to such regulations as are specified in subsection (9) thereof, shall apply in relation to aerodromes in Northern Ireland for the time being vested in or under the control of the Minister of Civil Aviation, and in relation to persons and aircraft arriving at or departing from such aerodromes, subject to such exceptions, modifications and adaptations as may be specified in the Order.

(5) His Majesty may by Order in Council direct that any regulations made under the said section as that section has effect by virtue of foregoing provisions of this paragraph shall extend, with such exceptions, modifications and adaptations, if any, as may be specified in the Order, to any of the Channel Islands or to the Isle of Man.

For the purposes of this sub-paragraph, subsections (4) and (5) of the said section shall be deemed to form part of the regulations mentioned in this sub-paragraph.

11TH SCH.
—cont.

Public Health (Scotland) Act, 1945, s. 1

2.—(1) Section one of the Public Health (Scotland) Act, 1945 (which empowers the Secretary of State to make regulations with a view to the treatment of certain diseases and for preventing the spread of such diseases) shall have effect in relation to aerodromes for the time being vested in or under the control of the Minister of Civil Aviation, and in relation to persons and aircraft arriving at or departing from such aerodromes, subject to the following modifications, that is to say—

(a) in subsection (3) for the words “ shall satisfy the authorities, whether local authorities or port local authorities, by whom they are to be enforced and executed ” there shall be substituted the words “ may provide for their enforcement and execution by officers designated for that purpose by the Secretary of State or the Minister of Civil Aviation ”.

(b) in subsection (4), for the words “ Authorised officers of any such authority ” there shall be substituted the words “ Officers so designated as aforesaid ”.

(2) Without prejudice to the generality of the powers conferred by the said section, regulations made thereunder may provide for requiring persons alighting from aircraft to answer questions pertaining to their state of health or their contact with infection.

Air Navigation Act, 1936

3. Part VI of this Act applies to sections twenty-four and twenty-six of the Air Navigation Act, 1936.

Railway (Air Transport) Acts

4. In the Great Western Railway (Air Transport) Act, 1929, the London and North Eastern Railway (Air Transport) Act, 1929, the London, Midland and Scottish Railway (Air Transport) Act, 1929, and the Southern Railway (Air Transport) Act, 1929, references to the Secretary of State or to the Air Council or to the President of the Air Council shall be construed as references to the Minister.

Other Local and Private Acts

5. Any enactment contained in a local or private Act other than the Acts hereinbefore mentioned, being an enactment relating to civil aviation, shall have effect subject to such modifications as may be specified by Order in Council for the purpose of the transfer to the Minister of functions of the Secretary of State relating to civil aviation.

TWELFTH SCHEDULE ¹⁵

Section 70.

REPEALS

Session and Chapter	Short title	Extent of repeal
10 & 11 Geo. 5. c. 80.	The Air Navigation Act, 1920.	The whole Act.
26 Geo. 5. & 1 Edw. 8. c. 44.	The Air Navigation Act, 1936.	The whole Act, save sections twenty-four and twenty-six and in subsection (1) of section thirty-five the words " This Act may be cited as the Air Navigation Act, 1936 ", and the Fourth Schedule.
1 & 2 Geo. 6. c. 33.	The Air Navigation (Financial Provisions) Act, 1938.	The whole Act.
2 & 3 Geo. 6. c. 61.	The British Overseas Airways Act, 1939.	Section thirty and the Fourth Schedule.
8 & 9 Geo. 6. c. 21.	The Ministry of Civil Aviation Act, 1945.	The whole Act, save so far as it amends the British Overseas Airways Act, 1939.
9 & 10 Geo. 6. c. 28.	The Assurance Companies Act, 1946.	In section one, in subsection (1), the words from the beginning to the words " Part III of that Act and ". In section five, in subsection (1) paragraph (c); in subsection (2) paragraph (c); in subsection (3) the words " or sub-paragraph (2) of paragraph 7 of the Third Schedule to the Air Navigation Act, 1936 ". In the Second Schedule the proviso to paragraph 1 of Part I and paragraph (a) of sub-paragraph (2) of paragraph 3 of Part III.
9 & 10 Geo. 6. c. 70.	The Civil Aviation Act, 1946.	Part II. Sections thirty-six to forty-six. Sections forty-eight and forty-nine. Section fifty-two. In section fifty-three, subsections (3) to (10), and (12), (13) and (15). Section fifty-four. In section fifty-five, in subsection (1) the words from " except " to the second " aerodromes " and from " For the purposes of " to the end of the subsection. The Third, Fourth, Fifth and Sixth Schedules.
10 & 11 Geo. 6. c. 18.	The Air Navigation Act, 1947.	The whole Act.

¹⁵ Repealed in its application to the United Kingdom, by the S. L. R. Act, 1953 (c. 5).

12TH SCH.
—cont.

Session and Chapter	Short title	Extent of repeal
10 & 11 Geo. 6. c. 51.	The Town and Country Planning Act, 1947.	At the end of the Eighth Schedule the amendments of the Civil Aviation Act, 1946.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act, 1947.	In the Eighth Schedule the amendments of the Civil Aviation Act, 1946.

Act of the Parliament of Northern Ireland

10 & 11 Geo. 6. c. 1.	The Assurance Companies Act (Northern Ireland), 1947.	In section one, in subsection (1), the words from the beginning to the words "Part III of that Act and". In section five, paragraph (b) of subsection (1) and paragraph (b) of subsection (2). In the Second Schedule, the proviso to paragraph 1 of Part I and subparagraph (2) of paragraph 3 of Part III.
--------------------------	---	--

Order in Council

S.R. & O., 1936, No. 1378.	The Air Navigation (Northern Ireland) (Adaptation of Enactments) Order, 1936.	In the Schedule, the amendments of the First Schedule to the Air Navigation Act, 1936.
-------------------------------	---	--

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Small Tenements Recovery Act, 1838	1 & 2 Vict. c. 74.
Defence Act, 1842	5 & 6 Vict. c. 94.
Lands Clauses Consolidation Act, 1845	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act, 1845	8 & 9 Vict. c. 20.
Harbours, Docks and Piers Clauses Act, 1847	10 & 11 Vict. c. 27.
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict. c. 93.
Ordnance Board Transfer Act, 1855	18 & 19 Vict. c. 117.
Police (Scotland) Act, 1857	20 & 21 Vict. c. 72.
Dockyard Ports Regulation Act, 1865	28 & 29 Vict. c. 125.
Documentary Evidence Act, 1868	31 & 32 Vict. c. 37.
Promissory Oaths Act, 1868	31 & 32 Vict. c. 72.
Defence Acts Amendment Act, 1873	36 & 37 Vict. c. 72.
Public Health (Ireland) Act, 1878	41 & 42 Vict. c. 52.
Municipal Corporations Act, 1882	45 & 46 Vict. c. 50.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Local Registration of Title (Ireland) Act, 1891	54 & 55 Vict. c. 66.
Burgh Police (Scotland) Act, 1892	55 & 56 Vict. c. 55.
Notice of Accidents Act, 1894	57 & 58 Vict. c. 28.
Merchant Shipping Act, 1894	57 & 58 Vict. c. 60.
Public Health (Scotland) Act, 1897	60 & 61 Vict. c. 38.
Assurance Companies Act, 1909	9 Edw. 7. c. 49.

Short Title	Session and Chapter
London County Council (Finance Consolidation) Act, 1912	2 & 3 Geo. 5. c. cv.
Defence of the Realm (Acquisition of Land) Act, 1916	6 & 7 Geo. 5. c. 63.
Air Force (Constitution) Act, 1917	7 & 8 Geo. 5. c. 51.
Acquisition of Land (Assessment of Compensation) Act, 1919	9 & 10 Geo. 5. c. 57.
Air Navigation Act, 1920	10 & 11 Geo. 5. c. 80.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Police Pensions Act, 1921	11 & 12 Geo. 5. c. 31.
Conveyancing (Scotland) Act, 1924	14 & 15 Geo. 5. c. 27.
Land Charges Act, 1925	15 & 16 Geo. 5. c. 22.
Great Western Railway (Air Transport) Act, 1929	19 & 20 Geo. 5. c. liv.
London North Eastern Railway (Air Transport) Act, 1929	19 & 20 Geo. 5. c. lv.
London Midland and Scottish Railway (Air Transport) Act, 1929	19 & 20 Geo. 5. c. lvi.
Southern Railway (Air Transport) Act, 1929	19 & 20 Geo. 5. c. lvii.
Third Parties (Rights against Insurers) Act, 1930	20 & 21 Geo. 5. c. 25.
Road Traffic Act, 1930	20 & 21 Geo. 5. c. 43.
Merchant Shipping (Safety and Load Line Conventions) Act, 1932	22 & 23 Geo. 5. c. 9.
Carriage by Air Act, 1932	22 & 23 Geo. 5. c. 36.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
Law Reform (Miscellaneous Provisions) Act, 1934	24 & 25 Geo. 5. c. 41.
Road Traffic Act, 1934	24 & 25 Geo. 5. c. 50.
Restriction of Ribbon Development Act, 1935	25 & 26 Geo. 5. c. 47.
Public Health Act, 1936	26 Geo. 5. & 1 Edw. 8. c. 49.
Private Legislation Procedure (Scotland) Act, 1936	26 Geo. 5. & 1 Edw. 8. c. 52.
Air Navigation Act, 1936	26 Geo. 5. & 1 Edw. 8. c. 44.
Ministers of the Crown Act, 1937	1 Edw. 8. & 1 Geo. 6. c. 38.
Air Navigation (Financial Provisions) Act, 1938	1 & 2 Geo. 6. c. 33.
British Overseas Airways Act, 1939	2 & 3 Geo. 6. c. 61.
Town and Country Planning Act, 1944	7 & 8 Geo. 6. c. 47.
Public Health (Scotland) Act, 1945	8 & 9 Geo. 6. c. 15.
Ministry of Civil Aviation Act, 1945	8 & 9 Geo. 6. c. 21.
Town and Country Planning (Scotland) Act, 1945	8 & 9 Geo. 6. c. 33.
Requisitioned Land and War Works Act, 1945	8 & 9 Geo. 6. c. 43.
Statutory Orders (Special Procedure) Act, 1945	9 & 10 Geo. 6. c. 18.
Assurance Companies Act, 1946	9 & 10 Geo. 6. c. 28.
Acquisition of Land (Authorisation Procedure) Act, 1946	9 & 10 Geo. 6. c. 49.
Civil Aviation Act, 1946	9 & 10 Geo. 6. c. 70.
Town and Country Planning Act, 1947	10 & 11 Geo. 6. c. 51.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6. c. 53.
Air Navigation Act, 1947	10 & 11 Geo. 6. c. 18.
Mandated and Trust Territories Act, 1947	11 & 12 Geo. 6. c. 8.
British Nationality Act, 1948	11 & 12 Geo. 6. c. 56.
Lands Tribunal Act, 1949	12 & 13 Geo. 6. c. 42.
Merchant Shipping (Safety Conventions) Act, 1949	12 & 13 Geo. 6. c. 43.

Air Corporations Act, 1949 to 1956¹

ARRANGEMENT OF SECTIONS

Section

Constitution of the corporations

1. The Air Corporations.
2. Constitution of the corporations.

Functions of the corporations

3. Functions of the corporations.
4. Appointment of committees.
5. General powers of Minister in relation to the corporations.
6. Use of aircraft registered in His Majesty's dominions.
7. Corporations not to be exempt from taxation, etc.

Borrowing powers

8. Borrowing powers of the corporations.
9. Provisions as to stock of the corporations.
10. Power of Treasury to guarantee stock and temporary loans of the corporations.
11. Transfers of guaranteed stock to be free of stamp duty.
12. Limitation of the borrowing powers of the corporations.

Exchequer grants

13. Exchequer grants to the corporations.
14. Revision of Exchequer grants to the corporations.
15. Exchequer grants to associates of the corporations.
16. Limitation of Exchequer grants.
17. Expenses and receipts of Minister.

General financial provisions

18. Reserve funds.
19. Application of revenues.

Staff, wages, pensions, etc.

20. Terms and conditions of employment of staff, etc.
21. Pensions, etc.

Accounts, reports and information

22. Accounts and audit.
23. Annual report and periodical returns.

¹ The Air Corporations Act, 1949, 1953 and 1956, may be cited by this title. Air Corporations Act, 1956, Section 2(1).

Reservation of certain air services to the corporations and their associates

Section

24. Reservation of certain air services to the corporations and their associates.
25. Power of Minister to require information.

Special powers in case of emergency

26. Special powers in case of emergency.

Transitional provisions relating to merger of British South American Airways Corporation and British Overseas Airways Corporation

27. Merger of British South American Airways Corporation and British Overseas Airways Corporation.
28. Stock and loans.
29. Disposal of excess revenue.
30. Accounts, etc.
31. Supplementary.

Transitional provisions relating to the acquisition of certain undertakings by British Overseas Airways Corporation

32. Transitional provisions relating to the acquisition of certain undertakings by British Overseas Airways Corporation.
33. Exemption from stamp duty.

Transitory provisions as to superannuation, etc.

34. Pension and superannuation schemes of vendor companies.
35. Superannuation schemes already established by British Overseas Airways Corporation.

Supplemental

36. Provisions as to offences.
37. Regulations and order.
38. Interpretation.
39. General application to Northern Ireland.
40. Application to Channel Islands and Isle of Man.
41. Repeal and savings.
42. Short title.

SCHEDULES:

First Schedule.—Supplementary Provisions as to the Corporations.

Second Schedule.—Provisions as to Pensions and Superannuation Schemes of Vendor Companies.

Part I—Pensions Scheme of Imperial Airways Limited.

Part II—Superannuation Scheme of British Airways Limited.

Third Schedule.—Repeals.

CHAPTER 91

An Act to consolidate the enactments relating to the constitution and functions of the British Overseas Airways Corporation, the British European Airways Corporation and the British South American Airways Corporation.
[16th December 1949.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Constitution of the corporations

1.—(1) There shall be two corporations to be known as “the British Overseas Airways Corporation” and “the British European Airways Corporation” and, subject to the transitional provisions of this Act as to its merger with the British Overseas Airways Corporation, there shall also be a corporation to be known as “the British South American Airways Corporation.”

(2) The three corporations mentioned in the preceding subsection are hereinafter referred to as “the corporations” and the two corporations first mentioned therein are hereinafter referred to as “the permanent corporations.”

2.—(1) Each of the corporations shall consist of a chairman, a deputy chairman and such number of other members as the Minister may from time to time determine:

Constitution of the corporations.

Provided that—

- (a) the total number of members of each corporation shall not be less than five nor more than eleven;
- (b) two deputy chairmen of the British Overseas Airways Corporation may be appointed.

-(2) The members of each of the corporations shall be appointed by the Minister, who shall also appoint the chairman and deputy-chairman or deputy-chairmen of each corporation from among its members;²

(3) The supplementary provisions contained in the First Schedule to this Act shall have effect in relation to each of the corporations.

Functions of the corporations

Functions of the corporations.

3.—(1) Each of the corporations shall, subject to the provisions of this Act, have power to provide air transport services and to carry out all other forms of aerial work, and may provide such services and carry out such work, whether on charter terms or otherwise, in any part of the world; and it shall be the duty of each of the corporations to exercise those powers so as to secure that the air services which they may provide are developed to the best advantage, and, in particular, to exercise those powers so as to secure that the services provided by the corporation are provided at reasonable charges.

(2) Each of the corporations shall have power, subject as hereinafter provided, to do anything which is calculated to facilitate the discharge of their functions under the preceding subsection, or of any other functions conferred or imposed on the corporation by or under this Act, or is incidental or conducive to the discharge of any such functions.

(3) The Minister may, by an order relating to any of the corporations, define the powers conferred upon the corporation by the preceding provisions of this section so far as he thinks it desirable so to do for the purpose of securing that the public are properly informed as to the general nature and scope of the activities in which the corporation may engage; but nothing in any such order shall prejudice the generality of the powers conferred by the preceding provisions of this section.

Save as may be expressly provided by an order made under this subsection, none of the corporations shall have power to manufacture air-frames or aero-engines or airscrews.

(4) Without prejudice to the generality of the powers conferred by the preceding provisions of this section, each of the corporations shall in particular have power, subject as hereinafter provided—

(a) to acquire any undertaking constituted for the purpose of providing air transport services or of engaging in any other activities of a kind which the corporation have power to carry on, or to acquire, hold or have any shares or stock in, or any financial interest in, any such undertaking;

² "The Minister" is now the Minister of Transport and Civil Aviation. See the Transfer of Functions (Ministry of Civil Aviation) Order, 1953, S. I. 1953, No. 1204.

(b) to promote the formation of any such undertaking as is mentioned in the preceding paragraph ; and

(c) to lend money to, or enter into guarantees for the benefit of, any such undertaking as aforesaid.

(5) The Minister may, by an order relating to any of the corporations, limit the powers of the corporation, to such extent as he thinks desirable in the public interest, by providing that any power of the corporation specified in the order shall not be exercisable except in accordance with a general or special authority given by him.

(6) Any statutory instrument containing an order made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4. Each of the corporations shall appoint such committees, Appointment of committees. with such advisory or executive functions, as are necessary for the purpose of securing the efficient discharge of the functions of the corporation, and, in particular, for the purpose of securing that those functions are exercised with due regard to the circumstances and requirements of particular areas.

5. The Minister may, after consultation with any of the corporations, give to that corporation directions of a general character as to the exercise and performance by that corporation of their functions in relation to matters appearing to the Minister to affect the national interest ; and the corporation concerned shall give effect to any such directions. General powers of Minister in relation to the corporations.

6. Without prejudice to their general duty to comply with directions given by the Minister under this Act, each of the corporations shall in particular comply with such directions as may from time to time be given by the Minister, after consultation with the corporation, for securing that, to such extent and in such cases as may be specified in the directions, aircraft used by the corporation in connection with any service operated by them shall be registered in some part of His Majesty's dominions. Use of aircraft registered in His Majesty's dominions.

7.—(1) Except in so far as is otherwise provided by sections twenty-seven and thirty-three of this Act, it is hereby declared that nothing in this Act exempts any of the corporations from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local. Corporations not to be exempt from taxation, etc.

(2) It is hereby declared that no provision of this Act conferring any power or imposing any duty upon any of the corporations authorises the disregard by the corporation of any rule of law, whether having effect by virtue of any enactment or otherwise.

(3) Without prejudice to the generality of the provisions of the last preceding subsection, nothing in this Act shall be construed as exempting any of the corporations, or any person employed by any of the corporations, from compliance with the provisions of any Order in Council made or having effect under section thirteen of the Civil Aviation Act, 1949 (which relates to the licensing of air transport and commercial flying).

Borrowing powers

Borrowing powers of the corporations.

8.—(1) Each of the permanent corporations may, with the consent of the Treasury, or in accordance with the terms of any general authority given by the Treasury, borrow temporarily, by way of overdraft or otherwise, such sums as the corporation may require for meeting their obligations or discharging their functions.

(2) Subject to the provisions of this Act, each of the permanent corporations may, with the consent of the Treasury, borrow money by the issue of stock for all or any of the following purposes, that is to say—

- (a) the provision of working capital ;
- (b) the promotion of other undertakings, the acquisition of other undertakings or of shares or stock in other undertakings, and the making of loans to, and the fulfilment of guarantees given for the benefit of, other undertakings ;
- (c) the redemption of any stock which the corporation are required or entitled to redeem ; and
- (d) any other expenditure properly chargeable to capital account, including the repayment of any money temporarily borrowed under subsection (1) of this section for any of the purposes mentioned in the preceding paragraphs of this subsection.

Provisions as to stock of the corporations.

9.—(1) Each of the permanent corporations may create and issue any stock required for the purpose of exercising their powers under the last preceding section, and may also, with the consent of the Treasury, create and issue stock which is to be allotted as consideration for the acquisition of other undertakings or of shares or stock in other undertakings.

(2) Subject to the provisions of subsection (1) of section twenty-eight of this Act, stock issued by any of the corporations and the interest thereon shall be charged on the undertaking and all property and revenues of that corporation.

(3) Subject to the provisions of this Act, the stock of each of the corporations shall be issued, transferred, dealt with and redeemed upon such terms and in accordance with such regulations as the Minister, with the approval of the Treasury, may prescribe, and any such regulations may, in relation to any such stock, apply with or without modifications any provisions of the Local Loans Act, 1875, or of any enactment relating to stock issued by a local authority.

(4) The approval of the Minister shall be required for naming or changing the name of stock issued by the British Overseas Airways Corporation.

³
10.—(1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the redemption or repayment of, and the payment of any interest on, any stock issued, or temporary loan raised, by any of the corporations.

Power of Treasury to guarantee stock and temporary loans of the corporations.

(2) Any sums required by the Treasury for fulfilling a guarantee given under this section shall be charged on and issued out of the Consolidated Fund of the United Kingdom, or the growing produce thereof (hereinafter referred to as "the Consolidated Fund"), and any sums received by way of repayment of any sums so issued, or by way of interest thereon, shall be paid into the Exchequer.

(3) The undertaking and all property and revenues of the corporation concerned shall be charged with the repayment of any sums so issued out of the Consolidated Fund, including interest thereon at such rates as the Treasury may determine; and any such charge shall rank—

(a) where the charge is a charge for the repayment of sums issued out of the Consolidated Fund in respect of stock, next after the principal and interest of the stock and any sums which the corporation are bound to set aside towards the redemption of the stock, and in priority to any other charge not existing at the date of the issue of the stock; and

(b) where the charge is a charge for the repayment of sums issued out of the Consolidated Fund in respect of a temporary loan, next after the principal and interest of the loan (in so far as that principal or interest are charged upon the undertaking, property or revenues of the corporation), and in priority to any other charge not existing at the date of the raising of the loan.

(4) Immediately after any guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament.

³ Extended by the Air Corporations Act, 1956 (c. 3), Section 1(3).

(5) Where any sum is issued out of the Consolidated Fund under this section, the Treasury shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament an account of that sum and of any payments made, during the financial year to which the account relates, by way of repayment of that sum or by way of interest thereon.

Transfers of guaranteed stock to be free of stamp duty.

11. Where the payment of principal and interest on any stock issued by any of the corporations is guaranteed by the Treasury, transfers of the stock shall be exempt from all stamp duties.

Limitation of the borrowing powers of the corporations.

12.—(1) Subject as hereinafter provided, the aggregate of the amounts outstanding in respect of the principal of any stock issued and of any temporary loans raised by the British Overseas Airways Corporation shall not at any time exceed sixty million pounds.⁴

(2) Subject as hereinafter provided, the aggregate of the amounts outstanding in respect of the principal of any stock issued and of any temporary loans raised by the British European Airways Corporation shall not at any time exceed twenty million pounds.⁵

(3) Nothing in this section shall prevent either of the permanent corporations from borrowing in excess of the limit prescribed by the preceding provisions of this section for the purpose of redeeming any stock of the corporation which they are required or entitled to redeem, or of paying off any temporary loan.

Exchequer grants

Exchequer grants to the corporations.

13.—(1) In respect of each financial year which expires before the first day of April, nineteen hundred and fifty-six, each of the corporations shall, at such time before the beginning of the year as the Minister may direct, submit to the Minister—

- (a) a programme of the air transport services which the corporation propose to provide during that year and of the other activities in which the corporation propose to engage during that year; and
- (b) an estimate of the revenue to be received by the corporation during that year and of the expenditure to be incurred by them on revenue account during that year.

(2) Every programme and estimate so submitted shall be in **such form and shall contain such particulars, and every estimate**

⁴ Raised from sixty million pounds to one hundred and sixty million pounds by the Air Corporations Act 1956 (c. 3), Section 1(1).

⁵ Raised from twenty million pounds to sixty million pounds by the Air Corporations Act, 1956 (c. 3), Section 1(1) and the borrowing powers of the British Overseas Airways Corporation were extended in accordance with *Ibid.*, Section 1(2).

so submitted shall be made upon such basis, as the Minister may, with the approval of the Treasury, direct.

(3) If, after the Minister has considered any such programme and estimate and has given to the corporation concerned an opportunity of making representations to him with respect thereto, it appears to the Minister and to the Treasury that the expenditure on revenue account of the corporation concerned during the financial year to which the estimate relates will be in excess of their revenue during that year, the Minister and the Treasury shall determine whether any Exchequer grant should be made to the corporation concerned for the year in question, and, if such a grant is to be made, the basis on which the amount thereof is to be calculated; and the Minister shall, at the conclusion of the year, make to the corporation such grant, if any, as falls to be made upon that basis.

(4) If having regard to any determination made for the purposes of the last preceding subsection it appears to the Minister to be expedient so to do, he may, notwithstanding that the year to which the determination relates is not yet ended, make to the corporation concerned such payments as the Treasury may approve on account of any grant which he may subsequently become authorised to make to the corporation for that year under the preceding provisions of this section.

Any such payment shall be provisional only, and, when it is determined what grant ultimately falls to be made to the corporation for the year under the preceding provisions of this section, shall be subject to adjustment, either by way of payments to the corporation by the Minister, or payments to the Minister by the corporation, as the case may require.

(5) In this section—

- (a) the expression "revenue" does not include any grant which may be made by the Minister under this Act; and
- (b) the expression "expenditure" in relation to any estimate, includes any sum thereby proposed to be set aside or allocated for any purpose, other than a sum which would fall to be charged to capital account.

14.—(1) If, after the Minister and the Treasury have made any determination for the purposes of subsection (3) of the last preceding section, it appears that any material assumption is, or is likely to be, at variance with the facts, the corporation concerned may, and shall if the Minister so requires, submit to the Minister a statement giving particulars of the discrepancy.

Revision of
Exchequer
grants to the
corporations.

In this subsection the expression "material assumption", in relation to any determination, means any of the assumptions which were made for the purpose of arriving at the estimate of revenue and expenditure upon which the determination was based.

(2) If having regard to any such statement, and to any information furnished to him in connection therewith, the Minister is satisfied that any determination made for the purposes of subsection (3) of the last preceding section ought to be revised, he may, with the consent of the Treasury, revise the determination, and where any such revision is made the amount of the grant to be made under the last preceding section to the corporation concerned for the financial year in question shall be increased or reduced accordingly.

(3) Where any such revision is made, such adjustments shall be made, either by way of payments to the corporation by the Minister, or payments to the Minister by the corporation, as are necessary in consequence of the revision.

(4) Where any such determination has been so revised as aforesaid, the determination may be further revised in accordance with the provisions of this section, and the said provisions shall have effect for the purposes of any such further revision as they have effect for the purposes of a first revision.

Exchequer
grants to
associates
of the
corporations.

15.—(1) The Minister may, with the approval of the Treasury, make grants to any associate of any of the corporations in consideration of promises made by the associate with respect to the performance, at any time before the first day of April, nineteen hundred and fifty-six, of functions similar to those which any of the corporations have power to perform.

(2) It shall be a term of every agreement made by the Minister to make grants in pursuance of this section that no grants shall be payable under the agreement unless the associate complies with such requirements as may be imposed by the Minister for securing that one or more directors of the associate shall be a person or persons nominated by him.

(3) In this Act the expression "associate", in relation to any of the corporations, means any subsidiary of the corporation, or any undertaking which—

- (a) is constituted for the purpose of providing air transport services or of engaging in any other activities of a kind which the corporation have power to carry on; and
- (b) is associated with the corporation under the terms of any arrangement for the time being approved by the Minister as being an arrangement calculated to further the efficient discharge of the functions of the corporation;