

(2) Section fifteen of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:

“(2) The Corporation shall not, without the prior approval of the Minister, acquire by purchase any land, including improvements existing on the land, the cost of acquisition of which exceeds the sum of five thousand pounds, or enter into any lease of land for a term exceeding twenty-one years.”

4. Liability of Corporation as carrier—Section seventeen of the principal Act is hereby amended by inserting after the word “thereunder”, the words, “or of any other enactment limiting the liability of any person, whether as a common carrier or otherwise,”.

5. Borrowing powers—(1) The principal Act is hereby amended by repealing section twenty-four, and substituting the following section:

“24. (1) The Corporation may from time to time, with the consent of the Minister of Finance and on and subject to such terms and conditions as he thinks fit, borrow money and issue debentures or mortgage or charge any of its real or personal property.

“(2) The Minister of Finance may from time to time, on behalf of Her Majesty the Queen,—

“(a) Advance money to the Corporation; and

“(b) Give in respect of any advances made to the Corporation by any other person any guarantee, indemnity, or security,—

on or subject to such terms and conditions as that Minister thinks fit.”

(2) The New Zealand National Airways Amendment Act 1956 is hereby repealed.

6. Reserves—Subsection one of section twenty-seven of the principal Act is hereby amended by omitting the words “depreciation of assets”, and substituting the words “depreciation, replacement, or acquisition of assets”.

ANALYSIS

Title	
1. Short Title	4. Powers of Minister in respect of aerodromes
2. Insurance of certain aircraft	5. Indemnity in respect of certain messages
3. Powers of Director of Civil Aviation	

1960, No. 45

An Act to amend the Civil Aviation Act 1948

[21 October 1960]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Civil Aviation Amendment Act 1960, and shall be read together with and deemed part of the Civil Aviation Act 1948* (hereinafter referred to as the principal Act).

2. Insurance of certain aircraft—Subsection (2) of section 3 of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(dd) Requiring any person or any class of persons owning or operating an aircraft used for any purpose in respect of which a licence is not required under the Air Services Licensing Act 1951 or under the International Air Services Licensing Act 1947 to insure, in such manner and to such extent as may be prescribed in the regulations, against any liability which may arise out of or in connection with the operation of the aircraft in respect of the death of or bodily injury to any person and in respect of the loss of or damage to any property:”.

*1957 Reprint, Vol. 2, p. 107
Amendment: 1958, No. 57

3. Powers of Director of Civil Aviation—(1) Section 3 of the principal Act is hereby amended by adding the following subsection:

“(4) Any regulations under this section may confer on the Director of Civil Aviation power to issue, in such manner as may be prescribed, instructions, orders, or requirements for the purpose of ensuring the safety of aircraft engaged in civil aviation and, where the regulations so provide, any such instruction, order, or requirement shall be complied with by all persons affected thereby.”

(2) This section shall be deemed to have come into force on the twenty-sixth day of August, nineteen hundred and forty-eight.

4. Powers of Minister in respect of aerodromes—(1) The principal Act is hereby amended by inserting, after section 3A (as inserted by section 4 of the Civil Aviation Amendment Act 1955), the following section:

“3B. (1) In the exercise of his powers or functions under this Act and subject to the provisions thereof, the Minister may do all that is necessary or convenient to be done for, or as incidental to the establishment, maintenance, and operation by him of any aerodrome under his complete or partial control or of any services or facilities in connection with the operation of any such aerodrome in all respects as if the operation of the aerodrome or of the services or facilities were a commercial undertaking and in particular may himself carry out any work or undertaking in respect of which he is authorised to enter into an agreement under subsection (3) of this section.

“(2) Any power given to the Minister under this Act in respect of any aerodrome or any facilities in connection with any aerodrome may be exercised by him whether or not the aerodrome or the facilities had been established by him under this Act.

“(3) The Minister and any one or more local authorities, bodies, or persons may from time to time enter into and carry out such agreements for the execution, control, operation, or management of any work or undertaking authorised by this Act as may to them seem most suited to the circumstances.

“(4) Any agreement entered into under subsection (3) of this section may provide:

“(a) For the establishment, maintenance, or operation of any aerodrome or services and facilities in con-

nection with the operation of the aerodrome as a joint undertaking between the Minister and any other party or parties to the agreement:

- “(b) For the vesting of aerodrome buildings and facilities in trust for aerodrome purposes in any authority, body, or person approved by the Minister in that behalf:
- “(c) For the exchange, leasing, or subleasing of land or buildings vested in the Crown for the purposes of this Act and not immediately required for those purposes:
- “(d) For the transfer of the management of any aerodrome under the control of the Minister or of any facilities connected with the operation of any such aerodrome, from the Minister to any other party or parties to the agreement at such time and on such terms and conditions as may be agreed upon:
- “(e) For the transfer to the Minister of the control, management, or operation of any aerodrome, or any facilities in connection with the operation of any aerodrome, under the control of any authority, body, or person and for the vesting in or leasing to the Minister of any real or personal property necessary for the purpose of any such transfer:
- “(f) For the establishment, maintenance, management, and operation at any aerodrome of refreshment rooms, bookstalls, booking offices, travel agencies, and such other facilities as may be considered necessary or convenient for the operation of the aerodrome or for the convenience of persons using the aerodrome:
- “(g) For contributions by parties to the agreement in respect of the cost of any work or undertaking to which the agreement relates:
- “(h) For the apportionment or allocation between parties to the agreement of the cost of any work or undertaking to which the agreement relates:
- “(i) For the payment of grants or subsidies or the making of advances to any party to the agreement in respect of any work or undertaking to which the agreement relates:
- “(j) For the entering into contracts of insurance by any party to the agreement in respect of such matters in relation to the agreement as may require the provision of insurance.

“(5) Any agreement entered into under subsection (3) of this section may from time to time be varied by the parties thereto or may be terminated in accordance with the terms thereof.

“(6) Any agreement relating to the development or reconstruction of an aerodrome entered into by the Minister of Works under section 31 of the Finance Act (No. 3) 1944 may include any provision referred to in subsection (4) of this section.”

(2) Any agreement entered into or any thing done before the commencement of this section which would have been lawful if this section had been in force at the time when the agreement was entered into or the thing was done is hereby validated and declared to have been lawful.

5. Indemnity in respect of certain messages—The principal Act is hereby amended by inserting, after section 10, the following section:

“10A. (1) No person shall have any right to compensation nor shall any liability be imposed upon Her Majesty or the Minister by reason of any error, omission, or delay in the transmission or delivery of any message to which this section applies.

“(2) This section applies to any message of a class prescribed in that behalf by regulations under this Act (not being a message which may affect the safety of any aircraft or a message transmitted to or from any aircraft) transmitted through any aeronautical communications service established under this Act and operated by or under the control of the Minister.”

ANALYSIS

Title

- | | |
|--|-------------------------|
| | 1. Short Title |
| | 2. Duration of licences |

1960, No. 51**An Act to amend the Air Services Licensing Act 1951**

[25 October 1960]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Air Services Licensing Amendment Act 1960, and shall be read together with and deemed part of the Air Services Licensing Act 1951* (hereinafter referred to as the principal Act).

2. Duration of licences—(1) Section 25 of the principal Act is hereby amended by omitting the words “five years”, and substituting the words “seven years”.

(2) Subsection (8) of section 27 of the principal Act (as substituted by section 6 of the Air Services Licensing Amendment Act 1958) is hereby amended by omitting the words “five years”, and substituting the words “seven years”.

*1957 Reprint, Vol. 1, p. 177
Amendment: 1958, No. 44

PHILIPPINE ISLANDS

REPUBLIC ACT No. 776

AN ACT TO REORGANIZE THE CIVIL AERONAUTICS BOARD AND THE CIVIL AERONAUTICS ADMINISTRATION TO PROVIDE FOR THE REGULATION OF CIVIL AERONAUTICS IN THE PHILIPPINES AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR ¹

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I.—TITLE AND PURPOSE

SECTION I.—Title of Act.—The title of this Act shall be “The Civil Aeronautics Act of the Philippines.”

SEC. 2. Purpose and scope of act.—The general purpose of this Act is the reorganization of the Civil Aeronautics Board and the Civil Aeronautics Administration, defining their powers and duties and making certain adjustment of funds and personnel in connection therewith; and the regulation of civil aeronautics.

The provisions of this Act and the rules and regulations issued pursuant thereto shall not apply except with respect to aid traffic rules, to military aircraft and airmen of the Philippines and of foreign countries and to foreign civil and public aircraft and airmen other than those covered by Chapters III and IV hereof.

CHAPTER II.—GENERAL PROVISIONS

SEC. 3. Words and phrases defined.—The following definitions shall control in the application and construction of this Act, unless the context otherwise requires:

(a) “Administrator” means the Civil Aeronautics Administrator.

(b) “Aerodrome” means a defined area on land or water, including any buildings, installations and equipment intended to be used either wholly or in part for the arrival, departure and movement of aircraft.

(c) “Aeronautics” means the science and art of flight.

(d) “Aeronautical telecommunication” means and includes any telegraph or telephone communication signs, signals, writings, images and sounds of any nature, by wire, radio or other systems or processes of signalling, used in the aeronautical service.

(e) “Aeronautical telecommunication station” means any station operated to provide telecommunications for aeronautical purposes.

(f) “Air carrier” means a person who undertakes, whether directly or indirectly, or by a lease or any other arrangements, to engage in air transportation or air commerce.

¹ Published in English in Laws and Resolutions (1952), Republic of the Philippines, Office of the President, vol. VII, p. 312.

(g) "Air commerce" means and includes aid transportation for pay or hire, the navigation of aircraft in furtherance of a business, or the navigation of aircraft from one place to another for operation in the conduct of a business.

(h) "Air transportation" means service or carriage of persons, property, or mail, in whole or in part, by aircraft.

(i) "Aircraft" means any contrivance now known or hereafter invested, used, or designed for navigation of, or flight in, the air.

(j) "Aircraft engine" means an engine used or intended to be used for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(k) "Aircraft radio station" means a radio station on board any aircraft.

(l) "Airmen" means any individual who engages, as the person in command or as pilot, mechanic, flight radio operator or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of inspection, maintenance, overhauling or repair of aircraft, aircraft engine, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control operator.

(m) "Air navigation facility" means any facility used in, available for use in or designed for use in, aid of air navigation, including areas, lights, any apparatus or equipment for disseminating weather information, for signalling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(n) "Airway" means a path thru the navigable air space identified by an area of specified width on the surface of the earth designated or approved by the Administrator as suitable for air commerce or air transportation.

(o) "Airworthiness" means that an aircraft, its engines, propellers, and other components and accessories, are of proper design and construction, and are safe for air navigation purposes, such design and construction being consistent with accepted engineering practice and in accordance with aerodynamic laws and aircraft science.

(p) "Appliances" means instruments, equipments, apparatus, parts, appurtenances, or accessories, of whatever description, which are used or are capable of being or intended to be used in the navigation, operation, or control of aircraft in flight (including parachutes and communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines or propellers.

(q) "Board" means the Civil Aeronautics Board.

(r) "Citizen of the Philippines" means (a) an individual who is a citizen of the Philippines, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the Philippines, of which the directing head and two-thirds or more of the Board of Directors and other managing officers are citizens of the Philippines, and in which sixty *per centum* of the voting interest is owned or controlled by persons who are citizens of the Philippines.

(s) "Civil Aircraft" means any aircraft other than a public aircraft.

(t) "Domestic air carrier" means an air carrier who is a citizen of the Philippines: *Provided*, That an aircarrier who is not a citizen of the Philippines but who may be allowed to engage in domestic and/or foreign air transportation, or domestic and/or foreign air commerce, in accordance with the provisions of section twelve, Chapter IV of this Act, shall, to all intents and purposes, be classified as a domestic air carrier.

(u) "Domestic air commerce" means and includes air commerce within the limits of the Philippine territory.

(v) "Domestic air transportation" means air transportation within the limits of the Philippine territory.

(w) "Flight radio operator" means and includes a member of the operating crew of aircraft who is granted a radio operator's license by the Civil Aeronautics Administrator to operate aircraft radio stations.

(x) "Foreign air carrier" means an air carrier who is not a citizen of the Philippines, and/or an air carrier other than a domestic air carrier.

(y) "Foreign air commerce" means and includes air commerce between the Philippines and any place outside it.

(z) "Foreign air transportation" means air transportation between the Philippines and any place outside it, or wholly outside the Philippines.

(aa) "Landing field" means any locality, either on water or on land, which is adapted for landing and taking-off of aircraft located along an airway and is intermediate to airports connected by the airway, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(bb) "Mail" means Philippine mail or foreign-transit mail.

(cc) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

(dd) "Navigable air space" means air space above the minimum altitude of flight prescribed by regulations issued under this Act.

(ee) "Permit" means Certificate of Public Convenience and Necessity.

(ff) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(gg) "Propeller" includes all parts, appurtenances and accessories thereof.

(hh) "Public aircraft" means an aircraft used exclusively in the service of the National Government of the Republic of the Philippines or of any political subdivision or instrumentality thereof, but not including any government-owned aircraft engaged in air commerce.

(ii) "Reasonable charges" are those which insure just and reasonable return on the capital invested, taking into consideration the cost of construction, operation and maintenance and non-aeronautical revenue of the air navigation facility affected; which shall be uniform.

SEC. 4. Declaration of policies.—In the exercise and performance of its powers and duties under this Act, the Civil Aeronautics Board and the Civil Aeronautics Administrator shall consider the following

among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(a) The development and utilization of the air potential of the Philippines.

(b) The encouragement and development of an air transportation system properly adapted to the present and future of foreign and domestic commerce of the Philippines, of the Postal Service, and of the National Defense;

(c) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in and foster sound economic conditions in such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(d) The promotion of adequate, economical and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(e) Competition between air carriers to the extent necessary to assure the sound development of an air transportation system properly adapted to the need of the foreign and domestic commerce of the Philippines, of the Postal Service, and of the National Defense;

(f) To promote safety of flight in air commerce in the Philippines; and

(g) The encouragement and development of civil aeronautics.

CHAPTER III.—CIVIL AERONAUTICS BOARD

SEC. 5. Composition of the Board.—The Aeronautics Board shall be composed of the Secretary of Commerce and Industry as Chairman, the Civil Aeronautics Administrator, the Commanding Officer of the Philippine Air Force, and two other members to be appointed by the President of the Philippines. They shall hold office at the pleasure of the President and shall be entitled to *per diem* for each meeting actually attended by them in such amount as may be fixed by the President. In case of absence or incapacity of the Secretary of Commerce and Industry, the Civil Aeronautics Administrator shall act as Chairman.

In case of the Under Secretary of Commerce and Industry and/or Deputy Administrator act in the stead of the Secretary of Commerce and Industry and/or Administrator, respectively, they shall hold office and be entitled to *per diem* for each meeting actually attended by them in the Civil Aeronautics Board. No member of the Board shall have any pecuniary interest in, or own any stock or bond of, any civil aeronautics enterprise.

SEC. 6. Principal office and quorum.—The Board shall have its principal office in the City of Manila and may hold hearings on any proceedings at such time and places within the Philippines as it may provide by order in writing. The Chairman and two members of the Board shall constitute a *quorum* to transact business. A majority vote of the members constituting a *quorum* shall be necessary for a valid and enforceable decision or order by the Board. A tie vote shall be referred to the President of the Philippines for decision.

SEC. 7. Permanent personnel.—The Board shall have a permanent Secretary, who shall be a member of the Philippine bar, with compensation at five thousand one hundred pesos *per annum*. He shall record all proceedings of the Board, take charge of and keep all its papers, and perform such other duties as may be prescribed by the Board in connection with its proceedings or papers. The Board shall also have a permanent stenographer with compensation at two thousand four hundred pesos per annum and such other employees and personnel as the Board may deem necessary in exercising and performing its powers and duties.

SEC. 8. Temporary personnel.—The Board may, with the approval of the President of the Philippines, engage for temporary service such duly qualified consulting engineers and agencies or other qualified persons as are necessary, and fix the compensation of such engineers, agencies, or persons without regard to civil service rules and regulations.

SEC. 9. Annual Report.—The Board shall make an annual report to the President which shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the development of civil aeronautics, together with such recommendations as to additional legislation relating thereto as the Board may deem necessary.

SEC. 10. Powers and duties of the Board.—(A) Except as otherwise provided herein, the Board shall have the power to regulate the economic aspect of air transportation, and shall have the general supervision and regulation of, and jurisdiction and control over, air carriers as well as their property, property rights, equipment, facilities, and franchise, is so far as may be necessary for the purpose of carrying out the provisions of this act.

(B) The Board may perform such acts, conduct such investigations, issue and amend such orders, and make and amend such general or special rules, regulations, and procedures as it shall deem necessary to carry out the provisions of this Act.

(C) The Board shall have the following specific powers and duties:

(1) In accordance with the provisions of Chapter IV of this Act, to issue, deny, amend, revise, alter, modify, cancel, suspend, or revoke, in whole or in part, upon petition, or complaint, or upon its own initiative, any temporary operating permit or certificate of Public Convenience and Necessity: *Provided, however*, That in the case of foreign air carriers, the permit shall be issued with the approval of the President of the Republic of the Philippines.

(2) To fix and determine reasonable individual, joint or special rates, charges or fares which an air carrier may demand, collect or receive for any service in connection with air commerce, the Board may adopt any original, amended, or new individual, joint or special rates, charges or fares proposed by an air carrier if the proposed individual joint, or special rates, charges or fares are not unduly preferential or unduly discriminatory or unreasonable. The burden of proof to show that the proposed individual, joint or special rates, charges or fares are just and reasonable shall be upon the air carrier proposing the same.

In fixing rates, charges, or fares under the provisions of this Act, the Board shall take into considerations, among other factors:

- (a) The effect of such rates upon the movement of traffic;
 - (b) The need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service;
 - (c) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;
 - (d) The inherent advantages of transportation by aircraft; and
 - (e) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.
- (3) To authorize charters whether domestic or international and special air services or flight heretofore exercised by the Department of Commerce and Industry under Commonwealth Act Numbered Ninety-seven under such terms and conditions as in its judgment the public interest requires.
- (4) To approve or disapprove increases of capital, sale or equipment of an air carrier engaged in air commerce, consolidation, merger, purchase, lease, operating contract or acquisition and control between domestic air carriers; or between domestic air carriers and foreign air carriers; or between domestic air carriers and any person engaged in any phase of aeronautics.
- (5) To inquire onto the management of the business of any air carrier and, to the extent reasonably necessary for such inquiry, to obtain from such carrier, and from any person controlling, or controlled by, or under common control with, such air carrier, full and complete reports and other information. Such reports shall be under oath whenever the Board so requires.
- (6) To require annual, monthly, periodical, and special reports from any air carrier, to prescribe the manner and form in which such reports shall be made, and to require from any carrier specific answers to all questions upon which the Board may deem information to be necessary. Such report shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it any contract, agreement, understanding or arrangement, or a true copy thereof, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.
- (7) To prescribe the forms of any and all accounts, records, and memoranda of the movement of traffic, as well as of the receipt and expenditures of money, and the length of time such accounts, records and memoranda shall be preserved: *Provided*, That any air carrier may keep additional accounts, records or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the board and do not constitute an undue financial burden on such air carrier.
- (8) To require each officer and director of any air carrier to transmit a report describing the shares or stock or other interest held by such air carrier with any persons engaged in any phase of aeronautics, and the holding of the stock in the control of, other persons engaged in any phase of aeronautics.

(D) The Board may investigate, upon complaint or upon its own initiative, whether any individual or air carrier, domestic or foreign, is violating any provisions of this Act, or the rules and regulations issued thereunder, and shall take such action, consistent with the provisions of this Act, as may be necessary to prevent further violation of such provision, or rules and regulations so issued.

(E) The Board may issue *subpoena* or *subpoena duces tecum*, require the attendance and testimony of witnesses in any matter or inquiry sending before the Board or its duly authorized representative, and require the production of books, papers, tariffs, contracts, agreements and all other documents submitted for purposes of this section to be under oath and verified by the person in custody thereof as to the truth and correctness of data appearing in such books, papers, tariffs, contracts, agreements and all other documents.

(F) The Board may review, revise, reverse, modify, or affirm on appeal any administrative decision or order of the Administrator on matters pertaining to:

- (1) Grounding of airmen and aircraft; or
- (2) Revocation of any certificate or the denial by the Administrator of issuance of any certificate; or
- (3) Imposition of civil penalty of fine in connection with the violation of any provision of this Act or rules and regulations issued thereunder.

(G) The Board shall have the power, either on its own initiative or upon review on appeal form an order or decision of the Administrator, to determine whether to impose, remit, mitigate, increase, or compromise, such fines and civil penalties as the case may be.

(H) (1) The Civil Aeronautics Board shall be advised of, and shall consult with the Department of Foreign Affairs concerning the negotiation of any air agreement with foreign governments for the promotion, establishment, or development of foreign air transportation.

(2) In exercising and performing its powers and duties under the provisions of this Act, the Civil Aeronautics Board shall take into consideration the obligation assumed by the Republic of the Philippines in any treaty, convention or agreement with foreign countries on matters affecting civil aviation.

CHAPTER IV.—CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 11. Nature, terms, and conditions.—Certificate of Public Convenience and Necessity is a permit issued by the Board authorizing a person to engaged in air commerce and/or air transportation, foreign and/or domestic.

Any permit may be altered, amended, modified, suspended, cancelled or revoked by the Board in whole or in part, upon complaint or petition or upon the Board's initiative as hereinafter provided, whenever the Board finds such action to be in the public interest.

There shall be attached to the exercise of the privileges granted by the permit, or amendment thereto, such reasonable terms, conditions or limitations as, in the judgment of the Board, the public interest may require.

No permit shall confer any proprietary, property, or exclusive right in the use of any air space, civil airway, landing area or government air-navigation facility.

The permit shall, among others specify the terminal and intermediate points, if any, between which the air carrier is authorized to operate, the service to be rendered, the time of arrival and departure at each point, and the frequency of flights: *Provided*, That no change in routes, rates, schedules, or frequency nor supplemental or additional flights to those covered by an Air Commerce Permit or franchise shall be affected without prior approval of the Civil Aeronautics Board. Insofar as the operation is to take place without the Philippines, the permit shall designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed.

No carrier shall abandon any route, or part thereof for which a permit has been issued, unless upon findings by the Civil Aeronautics Board that such an abandonment is uneconomical and is in the public interest.

SEC. 12. Citizenship requirement.—Except as otherwise provided in the Constitution and existing treaty or treaties, permit authorizing a person to engage in domestic air commerce and/or air transportation shall be issued only to citizens of the Philippines.

SEC. 13. Conduct of proceedings.—The Board shall conduct its proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. All hearings and investigations before the Civil Aeronautics Board shall be governed by the rules of procedure adopted by the Board, and in the conduct thereof the Board shall not be bound by the technical rules of evidence.

SEC. 14. Delegation of authority to conduct hearings.—The Board may designate in writing any of its members or any of its officers to conduct hearings and investigations on any matter pending before the Board and for that purpose the person so designated shall have authority to administer oaths, issue *subpoena* and *subpoena duces tecum*, require the attendance and testimony of witnesses, examine witnesses, make ocular inspection of or enter into any airline establishment, building, place or premise in the performance of its official business.

SEC. 15. Application for permit.—Application for permit shall be made to the Board in writing and shall be verified. Said application shall be in such form, shall contain such information, and shall be accompanied by such proof of service upon such interested persons as the Board shall by regulation require.

SEC. 16. Notice.—Upon the filing of any such application, the Board shall give due notice thereof: (1) to the public, by posting a notice of such application in the Office of the Civil Aeronautics Board and by publication once a week for three consecutive weeks, at the expense of the application, in a newspaper of general circulation, and (2) to such other persons as the Board may by regulation determine: *Provided, however*, That notice of publication may be dispensed with by the Board whenever, in its judgment, the public interest so requires. Any interested person may file with the Board a memorandum in support of, or in opposition to, the issuance of the permit.

SEC. 17. Time and place of meeting.—Within a week after the last publication of the application as provided in section 16 of this Act,

the Board or its duly designated representative shall set the time and the place for the meeting of the parties interested in said application or their attorneys, and shall notify said parties or their attorneys in writing to appear: *Provided*, That, if publication has been dispensed with, the Board shall immediately set the time and place for the meeting of the parties.

SEC. 18. Non-appearance.—If a party interested in the application fails to appear or if no party appears at the designated time and place, the Board or its duly designated representative may proceed *ex parte* or, in his discretion adjourn the proceeding for a future date, giving notice to the absent party or parties of the adjournment.

SEC. 19. Depositions.—The Board or its duly designated representatives may, in any investigation or hearing, by order in writing, cause the depositions of witnesses residing within or without the Philippines to be taken in the manner prescribed by the Rules of Court.

Witnesses whose depositions are necessary shall be entitled to mileage fees at the same rates as those allowed in the Courts of First Instance.

SEC. 20. Hearings and records of proceedings.—Hearings on all applications shall be open to the public unless the Board shall determine otherwise for reasons of national security.

Proceedings shall be recorded in such form and manner as may be determined by the Board and the record of proceedings shall become part of the records of the application.

SEC. 21. Issuance of permit.—The Board shall issue a permit authorizing the whole or any part of the service covered by the application, if it finds: (1) that the applicant is not willing and able to perform such service properly in conformity with the provisions of this act and the rules, regulations, and requirement issued thereunder, and (2) that such service is required by the public convenience and necessity, otherwise the application shall be denied.

SEC. 22. Modification, suspension or revocation.—The Board, upon petition or complaint or upon its own initiative, may, by order entered after notice and opportunity for hearing, alter, amend, modify or suspend any permit, in whole or in part, if public convenience and necessity so require, or may revoke any permit, in whole or in part, for intentional failure to comply with any provision of this Act or any order, rule or regulation issued thereunder, or any term condition or limitation of such permit: *Provided*, That the Board, for good cause, may, by order without notice and hearing suspend, for a period not to exceed thirty days, any permit or the exercise or any privilege or authority issued or granted under this Act whenever such step shall, in the judgment of the Board, be necessary to avoid serious or irreparable damage or inconvenience to the public. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension or revocation of any permit.

SEC. 23. Transfer of permit.—No permit may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

SEC. 24. Effective date and duration of permit.—Each permit shall be effective from the date specified therein and shall continue

in effect until suspended or revoked or until the Board shall certify that operation thereunder has ceased: *Provided*, That if any service authorized by a permit is not inaugurated within a period of ninety days after the date of authorization as shall be fixed by the Board or after such other period as may be designated by the Board, the Board may by order direct that such permit shall thereupon cease to be effective to the extent of such service: *Provided, further*, That no permit shall be issued for a period of more than twenty-five (25) years.

CHAPTER V.—CIVIL AERONAUTICS ADMINISTRATION

SEC. 25. Organization of the Civil Aeronautics Administration.—The Civil Aeronautics Administration shall be under the administrative supervision and control of the Department of Commerce and Industry. The Civil Aeronautics Administration shall have one chief and one deputy chief who shall be known as "Administrator" and "Deputy Administrator," respectively.

SEC. 26. The Civil Aeronautics Administrator.—The Administrator shall be appointed by the President of the Philippines with the consent of the commission on Appointments, and shall receive an annual basic salary of seven thousand two hundred pesos and, subject to the approval of the President, additional salary of one thousand eight hundred pesos *per annum*. He shall be the administrative head of the Civil Aeronautics Administration and shall possess the powers generally conferred upon bureau heads. He shall administer all laws relating to civil aviation in the Philippines. He shall submit in writing to the Department head annually or oftener as may be required, reports of the activities and transactions of his office.

SEC. 27. The Deputy Administrator.—The Deputy Administrator shall be appointed by the President with the consent of the Commission on Appointments. He shall receive an annual basic salary of six thousand pesos.

SEC. 28. Authority of the Officers of the Civil Aeronautics Administration to administer oaths.—Besides the Administrator, the Deputy Administrator, chief of the divisions, and duly designated members of the examining and investigating committees of the Civil Aeronautics Administration shall have authority to administer oaths in the transaction of official business.

SEC. 29. Permanent divisions.—The Civil Aeronautics Administration shall have such permanent divisions as may be determined by Administrative regulations or office orders duly approved by the Secretary of Commerce and Industry, which shall likewise determine the rate of compensation for the chiefs of division and their subordinate personnel, as well as other matters of detail concerning organization.

SEC. 30. Officials and employees.—Upon recommendation of the Administrator, such officers, assistants and employees as may be necessary for the proper functioning of the Civil Aeronautics Administration shall be appointed by the Secretary of Commerce and Industry. The Administrator may assign within the limits of available funds, officers, assistants, and other personnel for study and training abroad.

All rated and/or licensed airmen and such other authorized personnel of the Civil Aeronautics Board and/or Civil Aeronautics Administration who may be required to undertake or perform regular

and frequent aerial flight in connection with their duties, shall at the discretion of the head of the office receive an increase in compensation equivalent to fifty *per centum* of their respective base pay: *Provided, however,* That the total flying hours per month shall not be less than four hours.

Whenever the Administrator shall require the personnel of the Civil Aeronautics Administration to work beyond the usual office hours, the employees concerned shall in all cases be entitled to receive, as additional compensation for the overtime work performed, at least twenty-five per centum of their regular salaries.

SEC. 31. Temporary personnel.—The Administrator may, with the approval of the President, engage for temporary service such duly qualified consulting experts or other qualified persons as he may find necessary, and fix their compensation.

SEC. 32. Powers and Duties of the Administrator.—Subject to the general control and supervision of the Department Head, the Administrator shall have among others, the following powers and duties:

(1) To carry out the purposes and policies established in this Act; to enforce the provisions of, the rules and regulations issued in pursuance to, said Act, and he shall primarily be vested with authority to take charge of the technical and operational phase of civil aviation matters.

(2) To designate and establish civil airways, and to acquire, control, operate and maintain along such airways, air navigation facilities and to chart such airways and arrange for their publication including the aeronautical charts or maps required by the international aeronautical agencies by utilizing the equipment, supplies or assistance of existing agencies of the government as far as practicable.

(3) To issue airman's certificate specifying the capacity in which the holder thereof is authorized to serve as airman in connection with aircraft and shall be issued only upon the finding that the applicant is properly qualified and physically able to perform the duties of the position. The certificate shall contain such terms, conditions and limitations as the Administrator may determine to be necessary to assure safety in air commerce: *Provided, however,* That the airman's license shall be issued only to qualified persons who are citizens of the Philippines or qualified citizens of countries granting similar rights and privileges to citizens of the Philippines.

(4) To issue airworthiness certificate for aircraft which shall prescribe the duration of such certificate, the type of service for which the aircraft may be used, and such other terms and conditions and limitations as are required.

(5) To issue air carrier operating certificate and to establish minimum safety standards for the operation of the air carrier to whom such certificate is issued. The air carrier operating certificate shall be issued only to aircrafts registered under the provisions of this Act.

(6) To issue type certificate for aircraft, aircraft engine, propellers and appliances.

(7) To inspect, classify and rate any air navigation facilities and aerodromes available for the use of aircraft as to its suitability for such use and to issue a certificate for such air navigation facility and aerodrome; and to determine the suitability of foreign aerodromes,

and navigation facilities as well as air routes to be used prior to the operation of Philippine registered aircraft in foreign air transportation and from time to time thereafter as may be required in the interest of safety in air commerce.

(8) To issue certificates for persons or civil aviation schools giving instruction in flying, repair stations, and other air agencies and provide for the examination and rating thereof.

(9) To promulgate rules and regulations as may be necessary in the interest of safety in air commerce pertaining to the issuance of the airman's certificate including licensing of operating and mechanical personnel, type certificate for aircraft, aircraft engines, propellers and appliances, airworthiness certificate, air carrier operating certificate, air agency certificate, navigation facility and aerodrome certificate, air traffic routes, radio and aeronautical telecommunications and air navigation aids, aircraft accident inquiry, aerodromes, both public and private owned; construction of obstructions to aerodromes; registration of aircraft; search and rescue, facilitation of air transport; operations of aircraft, both for domestic and international, including scheduled and non-scheduled; meteorology in relation to civil aviation; rules of the air; air traffic services; rules for prevention of collision of aircraft; identification of aircraft, rules for safe altitudes of flight; and such other rules, regulations, standards, governing other practices, methods, procedures as the Administrator may find necessary and appropriate to provide adequately for safety regularity and efficiency in air commerce and air navigation.

(10) To provide for the enforcement of the rules and regulations issued under the provisions of this Act and to conduct investigations for violations thereto. In undertaking such investigation, to require by *subpoena* or *subpoena duces tecum*, the attendance and testimony of witness, the production of books, papers, documents, exhibits matter, evidence, or the taking of depositions before any person authorized to administer oath. Refusal to submit to the reasonable requirements of the investigation committee shall be punishable in accordance with the provisions of this Act.

(11) To investigate accidents involving aircraft and report to the Civil Aeronautics Board the facts, conditions and circumstances relating to the accidents and the probable cause thereof; and to make such recommendations to the Civil Aeronautics Board as may tend to prevent similar accidents in the future: *Provided*, That when any accident has resulted in serious or fatal injury the Civil Aeronautics Board shall make public such report and recommendations; *And provided, further*, That no report on any accident or any statement made during any investigation or during hearing relative to such accident may be admitted as evidence or used for any purpose in any civil suit growing out of any matter revealed within any such report, statement, investigation or hearing.

(12) To collect and disseminate information relative to civil aeronautics and the development of air commerce and the aeronautical industry; to exchange with foreign governments, information pertaining to civil aeronautics; and to provide for direct communication all matters relating to the technical or operational phase of aeronautics with international aeronautical agencies.

(13) To acquire and operate such aircraft as may be necessary to execute the duties and functions as the Civil Aeronautics Administration prescribed in this Act.

(14) To plan, design, acquire, establish, construct, operate, improve, maintain, and repair necessary aerodromes and other air navigation facilities.

(15) To impose and fix, except those mentioned in section forty, paragraph twenty-five and hereinafter provided, reasonable charges and fees for the use of government aerodromes or air navigation facilities; for services rendered by the Civil Aeronautics Administration in the rating of any aerodrome of air navigation facilities, civil aviation school and instructions, aircraft repair stations, and aircraft radio and aeronautical telecommunications stations. To collect and receive charges and fees for the registration of aircraft and for the issuance and/or renewal of licenses or certificates for aircraft, aircraft engines, propellers and appliances and airmen as provided in this Act.

(16) To fix the reasonable charges to be imposed in the use of privately owned air navigation facilities and aerodromes.

(17) To impose fines and/or civil penalties and make compromises in respect thereto.

(18) To adopt a system for registration of aircraft as hereinafter provided.

(19) To participate actively with the largest possible degree in the development of international standardization of practices in aviation matters important to safe, expeditious, and easy navigation, and to implement as far as practicable the international standards, recommended practices, and policies adopted by appropriate international aeronautical agencies.

(20) To exercise and perform its powers and duties under this Act consistent with any obligation assumed by the Republic of the Philippines in any treaty, convention or agreement on civil aviation matters.

(21) To cooperate, assist and coordinate with any research and technical agency of the Government on matters relating to research and technical studies on design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances and air navigation facilities including aircraft fuel and oil: *Provided*, That nothing in this Act shall be construed to authorize the duplication of the laboratory research, activities or technical studies of any existing governmental agency.

(22) To designate such prohibited and danger areas, in consonance with the requirements of the international aeronautical agencies and national security.

(23) To issue, deny, cancel or revoke any certificate, permit or license pertaining to aircraft, airmen, and all agencies: *Provided*, That any order denying, cancelling, revoking the certificate, permit or license may be appealed to the Civil Aeronautics Board, whose decisions shall be final, within fifteen days from the date of notification of such denial, cancellation or revocation.

(24) To administer, operate, manage, control, maintain and develop the Manila International Airport and all government-owned aerodromes except those controlled or operated by the Armed Forces of the Philippines, including such powers and duties as: (a) to plan, design, construct, equip, expand, improve, repair or alter aerodromes

or such structures, improvements, or air navigation facilities; (b) to enter into, make and execute contracts of any kind with any person, firm, or public or private corporation or entity; (c) to acquire, hold, purchase, or lease any personal or real property, right of ways, and easements which may be proper or necessary: *Provided*, That no real property thus acquired and any other real property of the Civil Aeronautics Administration shall be sold without the approval of the President of the Philippines; (d) to grant to any person, such concession or concession rights on space or property within or upon the aerodrome for purposes essential or appropriate to the operation of the aerodrome upon such terms and conditions as the Administrator may deem proper: *Provided, however*, That the exclusive use of any landing strip or runway within the aerodrome shall not be granted to any person; (e) to determine the types of aircraft that may be allowed to use any of the aerodromes under its management and control in the interest of public safety; (f) to prescribe, adopt, establish and enforce such rules and regulations consistent with existing laws, rules and regulations, as may be necessary for the safety, health and welfare of the public within the aerodrome.

(25) To determine, fix, impose, collect and receive landing fees, parking space fees, royalties on sales or deliveries, direct or indirect, to any aircraft for its use of aviation gasoline, oil and lubricants, spare parts, accessories, and supplies, tools, other royalties, fees or rentals for the use of any of the property under its management and control.

As used in this sub-section:

(1) "Landing fees" refer to all charges for the use of any landing strip or runway by any aircraft landing or taking off at an aerodrome.

(2) "Terminal fees" refer to charges for parking at or near the ramp, terminal area, or building, for purposes of loading or unloading passengers and/or cargo.

(3) "Royalties" refer to all charges based on gross business or sales, or gross or net profit.

(4) "Supplies" include any and all items of whatever nature or description which may be necessary for, or incidental to, the operation of an aircraft.

(26) To grant permit to civil aircraft or persons to carry instrument or photographic device to be used for aerial photography or taking of pictures by photograph or sketching of any part of the Philippines.

SEC. 33. The Civil Aeronautics Administration shall make an annual report on the Department Head which shall contain such information and data as may be considered of value in the development of civil aeronautics and such recommendation as to additional legislation of civil aeronautics as may be deemed necessary.

CHAPTER VI.—REGISTRATION AND RECORD

SEC. 34. Eligibility for registration.—Except as otherwise provided in the Constitution and existing treaty or treaties, no aircraft shall be eligible for registration unless it is owned by a citizen or citizens of the Philippines and is not registered under the laws of any foreign country.

Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceedings under the laws of the Republic of the Philippines.

The certificate of registration is conclusive evidence of ownership, except in a proceeding where such ownership is, or may be, at issue.

SEC. 35. Application for aircraft registration.—Applications for certificate of registration shall be made in writing, signed and sworn to be the owner of any aircraft eligible for registration. The application shall also state: (1) the date and place of filing; (2) the specification, construction, and technical description of the aircraft, and (3) such other information as may be required by the Administrator in such manner and form as the Administrator may by regulations prescribe.

SEC. 36. Issuance of certificate of registration.—Should the Administrator, upon considering the application for registration, find the aircraft eligible for registration, such aircraft shall be registered by the Administrator, and the Administrator shall issue to the owner thereof a certificate of registration.

SEC. 37. Revocation.—Any certificate or registration may be revoked by the Administrator for any course which renders the aircraft ineligible for registration.

SEC. 38. Conveyance to be recorded.—No conveyance made or executed, which affects the title to, or interest in, any civil aircraft of Philippine registry, or any portion thereof shall be valid in respect to such aircraft or portion thereof against any person other than the person by whom the conveyance is made or executed, his heirs, assignees, executors, administrators, devisees, or successors, in interest, and any person having actual notice thereof, until such conveyance is recorded in the Office of the Civil Aeronautics Administration. Every such conveyance so recorded in the Civil Aeronautics Administration shall be valid as against all persons. Any instrument, recording of which is required by the provisions of this Act, shall take effect from the date of its record in the books of the Civil Aeronautics Administration, and not from the date of its execution.

SEC. 39. Form of conveyance.—No conveyance may be recorded under the provisions of this Act unless it complies with the requirements for the registration of documents affecting land. The conveyance to be recorded shall also state: (1) the interest in the aircraft of the person by whom such conveyance is made or executed or, in the case of a contract of conditional sale, the interest of the vendor; and (2) the interest transferred by the conveyance.

SEC. 40. Method of recording.—The Administrator shall record conveyances delivered to it in the order of their receipt, in files kept for that purpose, indexed to show:

- (a) the identifying description of the aircraft;
- (b) the means of the parties to the conveyance;
- (c) the date of the instrument and the date and time it is recorded;
- (d) the interest in the aircraft transferred by the conveyance;
- (e) if such conveyance is made as security for indebtedness, the amount and date of maturity of such indebtedness; and
- (f) all particular estates, mortgages, liens, leases, orders, and other encumbrances and all decrees, instruments, attachments,

or entries affecting aircraft and other matters properly determined under this Act.

SEC. 41. Previously unrecorded ownership.—Applications for the issuance or renewal of an airworthiness certificate for aircraft whose ownership has not been recorded as provided in this Act shall contain such information with respect to the ownership of the aircraft as the Administrator shall deem necessary to show who have property interests in such aircraft and the nature and extent of such interest.

CHAPTER VII—VIOLATION AND PENALTIES

SEC. 42. Specific penalties.—(A) Any person engaging in air commerce without a permit issued by the Board as provided in this Act shall be punished by a fine not exceeding five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court: *Provided*, That a person engaging in air commerce on the date of the approval of this Act may continue so to engage until such time as the Board shall pass upon an application for a permit for such service, which application must be filed, as provided in Chapter IV of this Act, within one hundred and twenty days after the approval of this Act.

(B) Any air carrier violating any of the terms, conditions or limitations contained in any permit or amendment thereto shall be punished by a fine not exceeding one thousand pesos for each violation.

(C) Any air carrier violating any order, rule or regulation issued by the Board shall be punished by a fine not exceeding one thousand pesos for each violation.

(D) The following acts shall subject any air carrier to a fine not exceeding one thousand pesos for each offense:

(1) Discounts or rebates on authorized rates, fares and charges;

(2) Adopting rates, fares and charges which have been found or determined by the Board to be unjust, unreasonable, unduly preferential or unjustly discriminatory in a final order; or which have not been previously approved and authorized by the Board;

(3) Issuing any free pass, free tickets or free or reduced rates, fares or charges for passengers except to the following persons: (a) officers, agents, employees of the air carrier and their immediate families; (b) witnesses and attorneys attending any legal investigation into accidents or any legal investigation in which such air carrier is interested; (c) persons injured in aircraft accidents and physicians and nurses attending such persons; (d) member of the Board; (e) officers and personnel of the Civil Aeronautics Administration when traveling on official business upon the exhibition of their credentials; (f) members of Congress of the Philippines; and (g) such other persons duly approved by the Board.

(E) Any person who operates any civil aircraft in violation of any rule, regulation or order issued by the Administrator relating to aeronautical safety standards or practices or procedures shall be punished by a fine not exceeding five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court.

(F) Any person who, without the previous approval of the Civil Aeronautics Board, effects any consolidation, merger, purchase, lease, operating contract or acquisition and control between domestic air carriers, or between domestic air carrier and foreign air carriers, or between domestic air carriers and any person engaged in any phase of aeronautics shall be punished by a fine of five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court.

(G) No person shall use an unregistered aircraft eligible for registration under the provisions of the Act. Any person who operates such aircraft shall be punished by a fine not exceeding five thousand pesos or by imprisonment for not more than six months, or both, in the discretion of the court.

(H) Any person serving in any capacity as an airman in connection with any civil aircraft without an airman certificate, or in violation of the terms of any such certificate or in excess of the rating of such certificate shall be punished by a fine not exceeding five thousands pesos. The repetition of this offense shall be sufficient cause for the revocation of the airman's certificate.

(I) Any person who employs in connection with any civil aircraft used in air commerce an airman who does not have an airman's certificate authorizing him to serve in the capacity for which he is employed, shall be punished by a fine not exceeding five thousand pesos. A repetition of the offense shall be sufficient cause for revocation of the permit.

(J) Any person who operates any civil aircraft for which there is not currently in effect an airworthiness certificate or in violation of the terms of such certificate shall be punished by a fine not exceeding five thousand pesos. The repetition of this offense shall be sufficient cause for the revocation of the permit.

(K) Any person who without previous approval and authorization of the Board, shall adopt, establish, maintain, change, revise, abandon, alter, amend, deter, reject, discontinue, suspend, or restore, any classification, rule or regulation, or practice affecting routes, itineraries, schedules, classifications, increase or decrease of frequency of flights, in any manner whatsoever, shall be punished by a fine of five thousand pesos. The repetition of such offense shall be sufficient cause for revocation of the permit.

(L) No person shall interfere, obstruct, hinder, or delay the Civil Aeronautics Board or any person duly delegated by the Board in the performance of its duties in the public interest. A fine not exceeding five thousand pesos shall be imposed upon anyone who:

(1) with intent to interfere with the performance of the duties of the Board or any person duly delegated by the Board, shall knowingly or willfully alter, falsify, mutilate any report, accounts, records, books, papers, contracts, agreements, and all other documents; or

(2) shall knowingly and willfully fail or refuse: (a) to make and/or submit the books, contracts, tariffs, papers, agreements, reports and all other documents required to be submitted by him for consideration before the Administrator or his duly authorized representative or before the Board; or (b) to keep or preserve accounts, records, memoranda, books, reports, papers, and all other

documents required by the Administrator or his duly authorized representative, or by the Civil Aeronautics Board; or

(3) is guilty of misconduct in the presence of the Board or so near the same as to obstruct or interrupt the hearing or session or any proceedings before the Board and/or the Administrator or any representative duly authorized by them; or shall conduct himself in a rude or disorderly manner before the Administrator or his duly authorized representative or any member of the Board engaged in the discharge of official duty; or shall orally or in writing disrespectfully offend or insult any of the above-named bodies or persons on the occasion of or in the performance of their official duty or during any hearing, session, or investigation held by either the Board or Administrator or their duly designated representative; or

(4) refuses to be sworn in as a witness or to answer as such when lawfully required to do so: *Provided*, That, the Board or the Administrator or their duly authorized representative shall, if necessary, be entitled to the assistance of the municipal police for the execution of any order to compel a witness to be present or to testify; or

(5) without lawful justification or excuse, hinders, obstructs, or delays the Civil Aeronautics Board, the Administrator or their duly designated representative in the inspection or examination of the books and/or accounts of an air carrier for the purpose of ascertaining the correctness in any material particular of any report, papers, documents, books, contracts, agreements and/or other documents submitted by such air carrier, or for any other purpose deemed by the Board and/or the Civil Aeronautics Administration to be in accordance with the public interest; or

(6) neglects or refuses to attend and/or testify and/or to answer any lawful inquiry or to produce books, papers, or documents, if in his power to do so, in obedience to the *subpoena* or lawful requirements of the Civil Aeronautics Board or the Civil Aeronautics Administration; or

(7) testifies falsely or makes false affidavits or both before the Board or Civil Aeronautics Administration or any duly designated representative of either.

(M) No person shall interfere with air navigation. A fine not exceeding five thousand pesos or imprisonment for not more than one year, or both, in the discretion of the court, shall be impressed upon any person who:

(1) with intent to interfere with air navigation within the Philippines, exhibits within the Philippines any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act or for a true light or signal in connection with an airport or other air navigation facility; or

(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or

(3) knowingly removes, extinguishes, or interferes with the operation of any true light or signal.

(N) Any person, who shall knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued un-

der this Act or knowingly use or attempt to use any fraudulent certificate shall be punished by a fine not exceeding five thousand pesos or imprisonment for not more than one year, or both, in the discretion of the court.

(O) For the purpose of carrying out the provisions of this section, the manager, or general manager or business manager, or person in charge of the business of the firm or corporation committing an unlawful act shall be held personally liable.

(P) The Administrator may file the necessary complaints for the imposition of the penalties provided by this Act.

SEC. 43. General penalty.—Any violation of the provisions of this Act, or any order, rule or regulation issued thereunder, or any term, condition or limitation of any certificate or permit issued under this Act for which no penalty is expressly provided shall be punished by a fine not exceeding five hundred pesos for each violation.

SEC. 44. Compromise regarding penalty.—The Civil Aeronautics Board may enter into compromise with respect to any penalty of fine imposed by virtue of the provisions of this Act. Failure to comply with the order or decision of the Board respecting such compromise shall be deemed good and sufficient reason for the suspension of the permit or any certificate until compliance is made. Compliance may also be enforced by appropriate action brought in a court of competent jurisdiction.

CHAPTER VIII.—ORDER AND JUDICIAL REVIEW

SEC. 45. Enforcement of orders.—The orders, decisions, and regulations of the Board and the terms and conditions of any certificate issued by it may also be enforced by any of the civil remedies provided by existing laws.

SEC. 46. Effective date of orders and decisions.—All orders, rules, and regulations of the Civil Aeronautics Board shall take effect at such time as the Board may prescribe. Whenever the Board is of the opinion that an emergency requiring immediate action exists in respect to safety in air navigation, it may, upon complaint or upon its initiative, make such just and reasonable orders, rules and regulations as may be essential in the interest of safety in air navigation to meet such emergency, without answer or other form of pleading by the interested person or persons, with or without notice, hearing, or the making or filing of a report: *Provided*, That the Board shall immediately initiate proceedings relating to the matters embraced in any such order, rule, or regulation and shall, insofar as practicable, give preference to such proceedings over all others under this Act.

SEC. 47. Reconsideration of orders.—Any interested party may request the reconsideration of any order, ruling or decision of the Civil Aeronautics Board by petition filed within fifteen days from the date of the notice of the said order, ruling or decision made by the Board. The petition shall clearly and specifically state the grounds for reconsideration. Copies of said petition shall be served on all parties interested in the matter. It shall be the duty of the Board to call a hearing on said petition without delay; after notice to all parties concerned, and, after hearing, to decide the same as soon as practicable.

SEC. 48. Finality of decision, order or ruling.—Decisions, orders,

and/or rulings of the Board shall become final and conclusive after fifteen days from the date thereof unless appealed within said period to the Supreme Court by certificate.

SEC. 49. Judicial review.—The Supreme Court may review any order, ruling or decision of the Board and modify or set aside such order, ruling or decision when it clearly appears that there was no evidence before the Board to support reasonably such order, ruling or decision, or that the same is contrary to law or that the Board has no or has exceeded its jurisdiction. The evidence presented to the Board together with the record of proceedings before the Board shall be certified by the Secretary of the Board to the Supreme Court.

Any ruling, order, decision or award of the Civil Aeronautics Board, except such ruling, order, decision, or award with respect to the issuance of a permit, may be reviewed by the Supreme Court upon a writ of certiorari in proper cases. The procedure for review, except as herein provided, shall be prescribed by the Supreme Court.

Except as otherwise provided in the preceding paragraph, all orders, rulings, or decisions of the Board may be reviewed on the application of any person affected thereby by certiorari in appropriate cases or by petition to be known as Petition for Review, which shall be filed within fifteen days from the notification of such order, ruling or decision, or, in case a petition for the reconsideration of such order is filed in accordance with the preceding section and the same is denied, within fifteen days after notice of the order denying the petition for reconsideration. Said petition shall be placed on file in the office of the Supreme Court, which shall furnish copies thereof to the secretary of the Board, and other parties interested.

CHAPTER IX.—RECEIPTS OF THE CIVIL AERONAUTICS ADMINISTRATION AND CIVIL AERONAUTICS BOARD

SEC. 50. Fees.—For services rendered and documents issued by the Civil Aeronautics Administration and/or the Civil Aeronautics Board, the following fees shall be charged and collected:

(1) For filing of an application to engage in air commerce, two hundred and fifty pesos;

(2) For filing of an application for ratings of aviation schools and other air agencies, one hundred pesos;

(3) For each airman's certificate issued, a maximum charge of fifty pesos;

(4) For certifying copies of official documents and orders in the files of the Civil Aeronautics Administration and Civil Aeronautics Board, fifty centavos per copy, plus twenty centavos per each page of folio so certified;

(5) For certified transcripts of notes of the Civil Aeronautics Administration or Civil Aeronautics Board, thirty centavos for each page of not less than two hundred words;

(6) For the registration of aircraft, a maximum fee of fifty pesos for every aircraft registered, regardless of type;

(7) For the registration of engines, propellers and/or appliances, a fee of ten pesos for every engine, propeller and/or appliance registered.

SEC. 51. Other fees.—When any act or service has been performed or rendered by the Civil Aeronautics Administration under the pro-

visions of this Act for which no fee has been fixed by law, such fees shall be collected as may from time to time be prescribed by the Civil Aeronautics Administration with the approval of the Department Head.

SEC. 52. Disposition of receipts.—All money collected by the Civil Aeronautics Administration under the provisions of this Act shall constitute a revolving fund and shall be disbursed for the construction, repair, maintenance and improvement of government air navigation facilities: *Provided, however*, That any and all sums to be derived and collected for the Manila International Airport as well as cash and collections on accounts receivable standing to the credit of the National Airports Corporation and the Manila International Airport Division shall accrue to the Manila International Airport revolving fund which shall be disbursed by the Civil Aeronautics Administration for the operation of the Manila International Airport and for such other expenses as may be necessary, appropriate or incidental in connection therewith.

CHAPTER X.—MISCELLANEOUS PROVISIONS

SEC. 53. Separability of unconstitutional provisions.—The unconstitutionality of any section, subsection, sentence, clause, or term of this Act shall not affect the validity of the other provisions thereof.

SEC. 54. The provisions of Commonwealth Act Numbered Ninety-seven (Commonwealth Act Numbered One hundred and sixty-eight as amended by Commonwealth Act Numbered Five hundred and twenty-nine) Republic Act Numbered One hundred and twenty-five, section one hundred and thirty-six to one hundred and fifty of Executive Order Numbered Ninety-four dated October four, nineteen hundred and forty-seven, sections two, three, four, and six of Executive Order Numbered Three hundred and sixty-five dated November ten, nineteen hundred and fifty, and Republic Act Numbered One hundred and fifty eight, and all other laws, executive orders, administrative orders or proclamations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

The present personnel of, and all unexpended balances of appropriations available to, the Civil Aeronautics Administration created under the aforementioned Executive Orders shall be transferred to, and shall be available for use by the Civil Aeronautics Administration reorganized under this Act, respectively.

SEC. 55. Appropriation.—The sum of sixty thousand pesos or so much thereof as may be necessary is authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated for the purpose of carrying out the provisions of sections seven and eight, Chapter III, of this Act, and the sum of sixty thousand pesos or so much thereof as may be necessary, is authorized to be appropriated out of any funds in the said Treasury not otherwise appropriated for carrying out the provisions of sections twenty-six, thirty and thirty-one, Chapter V, of this Act.

SEC. 56. Effectivity.—This Act shall take effect upon its approval. Approved, June 20, 1952.

ROMANIA

THE AIR CODE OF THE ROMANIAN PEOPLE'S REPUBLIC

Approved by Decree No. 516 of December 5, 1953 ¹

CHAPTER I—GENERAL PROVISIONS

Art. 1. The Romanian People's Republic shall have exclusive and complete sovereignty over its air space.

The air space of the Romanian People's Republic shall be the space included within the borders and above the territory of the Romanian People's Republic.

Art. 2. The air space of the Romanian People's Republic shall include:

- (a) the space of air traffic;
- (b) areas reserved for air operations;
- (c) prohibited areas.

The "space of air traffic" shall be that portion of the air space, whether in the air or on the ground, which is designated for takeoffs and landings, and in which the operation of aircraft is permitted, regardless of the ownership or the nature of such flight activities. "Areas reserved for air operations" shall be such portions of the air space that are reserved for specific aeronautical activities (areas for schools, aeronautical sports, testing and certification of aircraft, and similar activities).

"Prohibited areas" shall be those portions of the air space where aircraft do not have the right to fly.

Areas reserved for air operations and prohibited areas shall be established by the ministries to be designated by decision of the Council of Ministers.

Within the space of air traffic, conditional areas may be established in which aircraft may fly only if they observe certain conditions.

Art. 3. Civil and military flight operations shall be carried out within the air space of the Romanian People's Republic.

The provisions of this Code shall apply to all civilian flight activities and to all persons and contrivances employed for such activities.

Military flight activities shall be regulated by separate provisions.

Art. 4. Civilian flight activities of the Romanian People's Republic shall have as their purpose:

- a) the achievement and continual development of public air transportation for passengers and goods (public air traffic);
- b) the achievement and development of utilitarian aeronautics (air transportation) in support of the national economy and in order to raise the living standard of the working people by serv-

¹ Buletinul Oficial al Marii Adunari Nationale R.P.R. (Official Law Gazette of the Grand National Assembly of the R.P.R.) No. 56 of December 30, 1953, as amended by Decree No. 204, B.O. No. 15, May 11, 1956, and Decree No. 212, B.O. No. 17, June 20, 1959.

ing industry, agriculture, forestry, fishing, medical and health activities, scientific research, aerial photography, and similar activities;

c) the achievement and development of aviation as a sport for the masses and for cultural and educational activities and exhibitions.

Art. 5. Civil flying activities in the Romanian People's Republic shall be carried on under [the supervision of] the ministries and state institutions, people's councils, organizations, enterprises and private persons.

The following shall be deemed the "Central Administration of Civil Aviation" within the meaning of this Code: ministries, institutions, organizations or enterprises which carry on civilian flight activities by virtue of special laws or international conventions and which have civil aviation activities under their supervision.

The central units of civil aviation may carry out only such flights which form the object of their specific activities as stated in their laws of organization and functioning or in international conventions.

Art. 6. The Ministry of Land, Sea and Air Transportation,² through the general directorate of the civil air fleet, shall be the state agency which regulates, coordinates and controls all civil aviation activities in the air and on the ground within the space of air traffic of the Romanian People's Republic.

Within the area reserved for civil aviation, air traffic for civil aviation activities shall be subject to the regulations and the control of the central unit for which the respective area has been reserved, provided that the minimum technical conditions established by the Ministry of Land, Sea and Air Transportation are complied with.

Art. 7. International civil flight activities within the air space of the Romanian People's Republic shall take place on air routes or in areas established for such activities. They shall be governed by the provisions of international air agreements and conventions concluded by the Romanian People's Republic, by the provisions of this Code, and in accordance with the decisions of the Council of Ministers and the flight regulations for the airspace of the Romanian People's Republic, drawn up on the basis of these decisions.

Art. 8. All civil aviation facilities in the Romanian People's Republic, including airfields, structures and ground installations, shall be State property.

The following shall be excepted:

a) civil aircraft, flight equipment and air installations belonging to air transport enterprises established by international agreements concluded by the Romanian People's Republic;

b) cooperative-collective property of civil aircraft, flight equipment, structures and aeronautical installations;

c) private civil aircraft and flight equipment.

Art. 9. Civil aircraft, flight and airdrome equipment, civil airfields, structures and installations shall be included in the inventory of the central organization of civil aviation, in accordance with their

² The present title "Ministry of Land, Sea and Air Transportation" was established by Article II of Decree No. 204, B.O. No. 15 of May 11, 1956. The old title as mentioned in Decree No. 516, B.O. No. 52 of Dec. 8, 1953 was "Ministry of Sea and Air Transportation."

laws of organization and with the provisions concerning the procurement of basic facilities and the transfer of the use of such facilities.

For the achievement of their task, the agencies of State administration, organizations, and enterprises other than the central organization of civil aviation, in conformity with the provisions of Article 5, paragraph 2, may acquire civil aircraft, flight and airdrome equipment, civil airfields, structures and installations, with the agreement of, and under the conditions for maintenance and use established by the Ministry of Land, Sea and Air Transportation.

Private persons may acquire civil aircraft and flight equipment with the approval of the Ministry of Land, Sea and Air Transportation, which shall establish in each case the conditions for their maintenance and use.

Aviation facilities mentioned in this article may not be mortgaged, pledged or form the object of law suits, irrespective of the nature of the debt.

Art. 10. Romanian laws and regulations shall also apply to civil aircraft not registered in the Romanian People's Republic and to their flight crews and passengers on board, throughout the time of their flight within the air space of the Romanian People's Republic, with the exceptions established by international agreements and conventions concluded by the Romanian People's Republic.

Legal acts and events taking place on board civilian aircraft registered in the Romanian People's Republic, as well as the legal status of their cargo, during an international flight beyond the borders of the Romanian People's Republic, shall be regulated by the laws of the Romanian People's Republic.

Damage caused on the ground by Romanian civil aircraft or by Romanian civil aircraft during an international flight beyond the borders of the Romanian People's Republic, shall be under the jurisdiction of the State on whose territory the damage was caused, with the exception of the cases provided for by international agreements and conventions concluded by the Romanian People's Republic.

CHAPTER II—CIVIL AIRCRAFT

Art. 11. All flying craft (heavier or lighter than air) used for the transportation of passengers or goods, with the exception of those aircraft held and used by the Air Force, shall be considered civil aircraft.

The classification of civil aircraft shall be established in Annex No. 1 of this Code.

Art. 12. The construction of civil aircraft may be undertaken in the Romanian People's Republic only in accordance with the prior technical advice of the Ministry of Land, Sea and Air Transportation.

Certification and acceptance of civil aircraft and the use of flight accessories shall be in accordance with the technical standards of performance in flight of civil aircraft, approved by an order issued by the Ministry of Land, Sea and Air Transportation.

Art. 13. Any civil aircraft built in, or imported into the Romanian People's Republic shall be attested to be airworthy by an airworthiness certificate issued for a specified period.

The issuance, acknowledgement, extension and withdrawal of airworthiness certificates for aircraft which fly within the air traffic space

shall be made by the Ministry of Land, Sea and Air Transportation according to the conditions established by this Ministry.

For sporting gliders, parachutes and free balloons intended for sporting aviation, the issuance, acknowledgement, extension and withdrawal of airworthiness certificates shall be made by the central authority for sporting aviation.

Catapults for launching civil aircraft shall be used only on the basis of certificates issued under the same conditions as airworthiness certificates for civil aircraft.

The Ministry of Land, Sea and Air Transportation shall keep records of all airworthiness certificates of civil aircraft listed in Article 13, Paragraph 2, built in, or imported into the Romanian People's Republic, in the register of records of airworthiness of civil aircraft.

Art. 14. After issuing the certificates of airworthiness all civil aircraft shall be registered by the Ministry of Land, Sea, and Air Transportation in the sole book of registration of civil aircraft.

Art. 15. All aircraft registered in the register of civil aircraft shall bear the nationality markings and the flag of the Romanian People's Republic, as described in Annex 2 of this Code.

Following their registration, the Ministry of Land, Sea and Air Transportation, shall supply the aircraft with a registration certificate and with an identification mark. The nationality marking and the identification mark shall constitute the registration marks of civil aircraft and shall be applied to the fuselage so that they may be identified both from the air and from the ground. In addition to their registration marks, civil aircraft may also have applied to their fuselage, upon the approval of the Ministry of Land, Sea and Air Transportation, other marks, colors or inscriptions, on condition that these do not interfere with identification of the registration marks from the air or from the ground.

A registration certificate shall be evidence of Romanian nationality and of the civil character of an aircraft built in the Romanian People's Republic or imported into it.

Art. 16. The validity of the registration certificate of a Romanian civil aircraft shall cease as soon as the aircraft is removed from the register of civil aircraft by the Ministry of Land Sea and Air Transportation.

The changes and modifications to which an aircraft has been subjected prior to removal [from the register] shall be recorded in the register of civil aircraft and in the respective registration certificate. They shall be deemed to have effect with respect to third parties only if these formalities are fulfilled.

Whenever a civil aircraft has been registered in the Romanian People's Republic, previous registrations of the same in the registers of other states shall no longer be recognized by the Romanian People's Republic. Likewise, the Romanian People's Republic shall not recognize the registration of Romanian civil aircraft in other states if they have not been previously removed from the register of civil aircraft.

Art 17. Takeoffs and flights within the air traffic space of civil aircraft registered in the Romanian People's Republic may be made only [by planes] carrying flight documents.

The following flight documents shall be carried by civil aircraft within the air traffic space:

- the registration certificate;
- the airworthiness certificate;
- a flight plan and logbook or mission order, according to the nature of the flight;
- a radio license, radio logbook and telecommunications code manual for aircraft provided with radios.

Aircraft which do not possess such documents shall be grounded by the competent agencies until special approval for taking off is given under the conditions established by the Ministry of Land, Sea and Air Transportation.

At the airbase at which they are registered, civil aircraft shall also carry aircraft documents consisting of board and engine papers issued at the same time as the airworthiness certificate.

Besides flight documents and aircraft documents, civil aircraft shall carry, according to the nature of their activity or mission, other specific documents (board documents); however, if such documents are lacking or are not in order, the aircraft shall not be grounded.

The Ministry of Land, Sea and Air Transportation, together with the central authorities of civil aviation shall issue the forms for the flight documents, and shall establish the rules and the method of issuing specific board documents, the flight log, the radio log, and the rules according to which entries shall be made in these [documents].

Licenses for radio sets on board civil aircraft shall be issued by the Ministry of Post and Telecommunications.³

All flight and aircraft documents of civil aircraft removed from the register of civil aviation shall be forwarded to the Ministry of Land, Sea and Air Transportation within 15 days and kept on record for at least 5 years from the date of removal [from the registry].

CHAPTER III—CIVIL AVIATION PERSONNEL

SECTION I—GENERAL PROVISIONS

Art. 18. The civil aviation personnel of the Rumanian People's Republic shall be composed of:

- a) The flight crew;
- b) the ground crew.

In order to become a member of the civil aviation personnel of the Rumanian People's Republic and to fulfill the corresponding duties in flying or on the ground, the following shall be required:

1. Rumanian citizenship;
2. A certificate of qualification.

The certificate of qualification referred to in clause 2 of this article shall be a personal document issued and extended for periods of one year.

The respective training, examinations and qualifications for the entire civil flight and ground personnel of the Rumanian People's Republic shall be established and enforced by the Ministry of Road, Naval and Air Transport, with the exception of the training, examinations and qualifications for the flight and ground personnel in the

³ The Ministry of Post and Telecommunications became the Directorate of Post and Telecommunications within the framework of the Ministry of Transportation and Telecommunications (Law No. 2, B.O. No. 11, March 28, 1957).

sporting aviation who carry on their activities in the areas reserved for sporting aviation as established and enforced by the central authorities of the sporting aviation.

The psychological and physical examinations of the civil aviation personnel shall be made exclusively by the medical center of civil aviation, organized within the Ministry of Land, Sea and Air Transportation which functions in collaboration with the Institute of Physiology of the Academy of the Rumanian People's Republic.

The certificate of qualification of the entire air and ground personnel in the civil aviation of the Rumanian People's Republic shall be issued, acknowledged, extended, exchanged, suspended or withdrawn by the Ministry of Land, Sea and Air Transportation, with the exception of the certificate of qualification of the personnel in the sporting aviation of the Rumanian People's Republic which shall be issued, extended, exchanged, suspended or withdrawn by the central authority of the sporting aviation.

The documents issued by the central authority of the sporting aviation to the air crew on performance-type gliders and free balloons shall be valid within the entire air space of the Rumanian People's Republic.

Art. 19. The flight and ground personnel of the civil aviation of the Romanian People's Republic must, according to their qualifications, continually raise the level of their special technical training, both theoretical and practical, and must have up-to-date knowledge of air legislation. All this shall be checked when the documents of the civil air personnel are extended, acknowledged or exchanged.

Art. 20. It shall be compulsory for the civil aviation personnel to obtain certificates of qualification for the duration of the flight activities of the flight crew and the ground activities of the ground personnel.

The absence of a certificate or some irregularity therein shall result in the immediate suspension of activities of the member of the civil aviation personnel which shall last until the certificate is revalidated.

Art. 21. The civil aviation personnel shall be classified according to their specialty and qualification, and technical and practical training, as established by the Ministry of Land, Sea and Air Transportation in agreement with the competent agencies.

Art. 22. Citizens of other States may be granted permission to become members of the civil aviation personnel of the Romanian People's Republic on the basis of international agreements or conventions concluded by the Romanian People's Republic or on the basis of a permission given by the Ministry of Land, Sea and Air Transportation after consultation with the ministries concerned. Such persons shall be supplied with certifications of qualification as member of the civil aviation personnel in recognition of the documents they hold.

SECTION II—FLIGHT CREW

Art. 23. The flight crew shall include:

A. The flight crew on board a civil aircraft: the pilot, navigator, radio operator, mechanic, and any other member of the crew participating in the navigation of an aircraft.

B. The technical or auxiliary staff on board a civil aircraft who are not members of the flight crew, but exercise functions on board in

connection with passengers, cargo, or special apparatus of the aircraft while in flight, testing after repairs, current repair and maintenance of the aircraft and those who have control of aircraft with a view to issuing or extending certificates of airworthiness.

The flight crew mentioned under letters A and B shall become professional upon its employment in its respective flight functions.

Throughout the duration of their practical training, the students of flight crew training schools shall be included in the flight crew under conditions established by special provisions.

Any other person on board a civil aircraft shall be considered a passenger and shall not be included in the flight crew.

Art. 24. The document of qualification of a member of a flight crew must include the category, class and type of the aircraft on board which the holder of the respective document may exercise his functions.

Only a crewman qualified for passenger flights may work on aircraft carrying passengers.

Art. 25. Beginning with the first flight carried out at a civil aviation school, the entire flight activities of a flight crew must be recorded in an individual flight logbook, which must be completed and maintained in accordance with the provisions in force.

The flight logbook shall be a compulsory document for the establishment of the length of service of the flight crew in order to calculate pensions and shall, whenever necessary, prove the flight activities of the holder.

Crew, captain of an aircraft and pilot-captain on board

Art. 26. Civil aircraft which, in addition to the pilot, require other personnel, shall employ the services of a crew. The crew of a civil aircraft shall include the crew and the technical or auxiliary staff on board.

The participation of other persons besides the crew on board aircraft undergoing technical tests shall be prohibited.

A certificate of airworthiness shall establish the composition of the crew of civil aircraft in accordance with their function, according to the class and category of the aircraft.

Art. 27. The sole pilot or the first pilot of a civil aircraft, qualified for the category, class and type of the respective aircraft shall be its captain.

The function of a captain of an aircraft shall begin when he takes over the aircraft in order to carry out a mission and shall last until the aircraft is returned upon completion of the mission. On board, the captain of the aircraft shall also exercise the function of the authorized official of the civil authorities and officer of the judiciary police [militia].

The captain of an aircraft which tows other aircraft shall also be the captain of the latter until it is released.

Art. 28. The captain of an aircraft shall be responsible for the preparation of each separate flight. For this purpose he must:

- a) establish, together with the entire crew, the details of navigation and flight and check the condition and the training of the crew;

- b) verify the flight documents of the aircraft;
- c) verify the technical condition of the aircraft, of its engines, and installations and equipment;
- d) check whether the aircraft has sufficient fuel and lubricants for carrying out the mission;
- e) verify the fulfillment of the conditions required by the certificate of airworthiness in respect to the cargo and the adequate distribution of such cargo.

The captain of the aircraft must refuse to take off if he finds irregularities when carrying out the tasks established by this article.

Art. 29. For the duration of the mission, the captain of an aircraft shall be responsible to the agency which entrusted him with the mission, for carrying it out satisfactorily, for strict observance of the provisions of the Code concerning flight and the standards of air navigation, for the behaviour and discipline of the crew during the flight and on the ground, and for the use and maintenance in good condition of the aircraft while in flight.

During stops or any other landings while on a mission, the responsibility of the captain of an aircraft for the aircraft, passengers and cargo shall cease as soon as the aircraft is handed over to the airport controller, after the entire crew and the passengers have left the plane. His responsibility shall begin again when he takes over the aircraft.

On landing the captain of an aircraft must turn over to the airport controller his aircraft documents and the documents on board.

During the flight the captain of the aircraft may not transfer his authority to other persons. If, however, during the flight or on the ground the captain of the aircraft is prevented, by any cause whatsoever, from exercising his functions, and if another person has not been appointed to replace him, the function of captain of the aircraft shall be exercised by the other members of the crew in the following order: pilot, navigator, mechanic, mechanic on board, wireless operator, auxiliary staff.

Art. 30. Instructions given by the captain of an aircraft during flight must be strictly observed by all persons in the aircraft.

The captain of the aircraft shall have unlimited disciplinary power for the purpose of satisfactorily fulfilling the mission and may take whatever measures he deems necessary against persons who fail to comply with his instructions. He may land any member of the crew or any passenger at an intermediary stop if [the taking of] such a measure is necessary for the safety of the flight and the maintenance of order in the aircraft. Likewise, if necessary to save the aircraft, he may order the jettisoning of ballast.

In case of danger, the captain of an aircraft shall have the duty to take all necessary steps for saving the passengers, crew and cargo. He must be the last to leave the aircraft.

In case of an accident during the flight, the captain of a civil aircraft shall perform all his duties until the competent authority relieves him of the mission he was to have carried out with the aircraft.

Art. 31. If military action is directed against the Romanian People's Republic, the captain of a civil aircraft must take all steps necessary to prevent the aircraft, the aircraft documents and the documents on board, the crew, the passengers and the cargo from being captured by the enemy.

Art. 32. On the ground, the captain of the aircraft shall have the following duties:

a) to take necessary action in case his aircraft is held or in case steps are taken concerning the crew, passengers or cargo;

b) on behalf of the operator of the aircraft or of the owners of the goods on board, to take any steps necessary and indispensable for carrying out or continuing the flight in good condition. For this purpose the captain of the aircraft shall have the right to sign documents or agreements.

In case of damage, forced landing, etc. the captain of an aircraft shall be entitled to take all the steps demanded by the situation, justifying them later and taking into account the interests of the operator of the aircraft and of the owners of the goods on board.

Unless he has special authorization to do so, the captain of an aircraft may in no event alienate the aircraft, parts of the aircraft or any other property included in its inventory.

Art. 33. By virtue of the exception of Article 27, a person other than the sole pilot or first pilot of an aircraft may be appointed as captain of the aircraft. In this case the sole pilot or first pilot of the aircraft may exercise the function of pilot-captain.

The duties and responsibilities for carrying out a mission shall be divided between the captain of the aircraft and the pilot-captain as follows:

From the time of taking off until the landing, the pilot-captain shall be entrusted with and shall be responsible for the technical direction of the aircraft and its safety during the flight, and may take any steps [necessary] for the achievement of the safety of the flight. In case of danger he shall be the last to leave the aircraft;

In accordance with the provisions of this Code, the captain of the aircraft shall be entrusted with, and responsible for the carrying out of the mission in good condition in respect to all other operations which do not concern the actual direction and safety of the aircraft while in flight.

In flights for the testing and technical inspection of an aircraft or with a view to issuing or extending the certificate of airworthiness, the technician who carries out such operations shall also be the captain of the aircraft.

SECTION III—GROUND CREW

Art. 34.

The ground crew who may exercise aeronautical functions on a civil airdrome in the Romanian People's Republic shall include the technical ground personnel qualified for the category and class of the respective airdrome who directly participate in the technical preparation, direction and maintenance of flight safety over the airdrome and within the area of the airdrome.

The management of the aeronautical activities of a civil airdrome shall be assigned to the airdrome controller.

The technical staff in charge of the installation for the safety of air navigation within the territory, outside the zone of the airdrome, shall be assimilated to the airdrome staff.

The Ministry of Land, Sea and Air Transportation shall establish according to functions, the minimum qualification and duties of the ground crew of civil airdromes open to public traffic (airports), in

accordance with the provisions of Article 44 of this Code, and the composition and duties of the ground crew outside the airdrome zones which is in charge of safety installations for air travel in the Romanian People's Republic.

The standards regarding such personnel shall be applied in accordance with the laws in force.

Art. 35.

The airdrome controller of a civil airdrome shall perform the following tasks:

1. direct all flight activities in the air and on the ground, within the airdrome and within the airdrome zone;
2. administer the area included in the inventory of the airdrome on behalf of its operator.
3. insure that the measures taken in accordance with Article 47, for clearing areas of obstacles endangering air navigation are observed.

The airdrome controller must be thoroughly acquainted with all administrative, topographical and climatic conditions of his airdrome and airdrome zone.

Within airdromes open to public air traffic the controller of the airdrome shall be the agency of the Ministry of Land, Sea and Air Transport. Within other airdromes, the airdrome controllers shall be subordinate to the central agencies of civil aviation which operate the respective airdromes.

For civil aviation areas operated in accordance with the provisions of Article 9, Paragraph 2 of this Code, management of the aeronautical activities shall be carried out in accordance with special instructions given, according to circumstances, by the Ministry of Land, Sea and Air Transport.

The airdrome controller may delegate his functions to technical agencies subordinate to him. In bad weather conditions the takeoff and landing operations shall be carried out under the direction of the airdrome controller.

In the absence of the airdrome controller or if he is unable to perform his duties, the duties of the controller shall be performed by the superintendent of air traffic if no other person has previously been appointed to replace him.

As regards installations for the safety of air traffic installed outside the airdrome zones, and which are operated by a ground crew, the heads of such stations shall direct and administer all activities of such installations.

Art. 36. The airdrome controller shall have authority over the entire technical and administrative staff of the airdrome and the civil or military guards of the airdrome, with the exception of the customs, health, and military agencies which function in accordance with instructions issued by the administrative authorities to which they belong. The instructions issued by the controller in the exercise of his duties shall be binding for all persons during the navigation of aircraft within the zone. All crews of civil aircraft, regardless of the category or the unit to which they belong, shall be subordinate to the airdrome controller.

Art. 37. The airdrome controller shall hold the seal of the airdrome and shall be the only person entitled to issue visas before the takeoff

or landing on the basis of aircraft documents submitted by the captains of aircraft. He shall be responsible for the accuracy of the verifications made when granting such visas. The airdrome controller shall be entitled to retain any aircraft if he finds any lack of [information] or any irregularity in the aircraft documents or if this is necessary as a preventive measure for the safety of the flight.

The airdrome controller shall be responsible for the successful performance of all aeronautical activities within his jurisdiction, for the strict observance of the rules of air and airport traffic, for the behavior and discipline of the agencies under him, and for the good functioning of all airdrome installations and those within the airdrome zone, necessary for the carrying out of the respective activities. He may take any steps [necessary] for removing danger or obstacles dangerous to air navigation.

Art. 38.

Within the airdrome the responsibility of the airdrome controller as regards aircraft, crews, passengers and cargo shall begin, in accordance with Article 29, as soon as the responsibility of the captain of the aircraft ceases, and shall end as follows:

As regards passengers and cargo: when they leave the airdrome in domestic flights, and on delivering them to the customs agencies, in international flights;

As regards aircraft; when handing them over to the military authorities at the airdrome after the crew has left the aircraft and the aircraft has been closed in the presence of its captain and placed in the hangar.

Art. 39. The airdrome controller must make a written report in case of disregard or infringements of aeronautical provisions and forward them without delay to his supervisory authority and to the Ministry of Land, Sea and Air Transportation.

SECTION IV—LABOR CONDITIONS AND RIGHTS OF PERSONNEL

Flight personnel in civil aviation

Art. 40. By derogation from the provisions of common law, the professional flight personnel in civil aviation shall enjoy, for the strain caused by the efforts and risks of flying, special working conditions, allowances for flight, the protection and stimulation of work, rest, insurance in case of death or of inability to work, and old-age pensions, established by special laws.

By "old-age pensions" of professional flight personnel in civil aviation shall be understood a pension to which flight personnel are entitled after reaching the length of service calculated on the basis of strain in aeronautical work, without also requiring any age limit.

Any member of the professional flight personnel in civil aviation who loses his ability to work while on duty shall, in case of an air accident or industrial disease, be granted a higher disability pension. Likewise, the family of a member of the professional flight personnel in civil aviation who dies while on duty, shall be granted a higher pension for the loss of the breadwinner. Such pensions shall be established by special laws.

The Ministry of Land, Sea and Air Transportation shall establish, according to functions, the minimum qualifications and duties of the

ground crew of civil airdromes open for public air traffic, in accordance with the provisions of Article 44 of this Code, and the qualifications and duties of the ground crew outside the airdrome zones who are in charge of safety installations for air navigation in the Romanian People's Republic.

Art. 41. The entire civil flight personnel in the Romanian People's Republic shall wear, while performing their duties, the uniform of civil aviation established by regulations to be approved by the Council of Ministers.

CHAPTER IV.—AREAS OF CIVIL AVIATION

Art. 42. Civil aircraft may take off and land in the Romanian People's Republic only in areas designated for civil aviation in accordance with the provisions of this Code.

Such areas, generally called "civil aviation areas" are airdromes and working or auxiliary areas.

Areas designated, even for a limited time, for the takeoff and landing of civil aircraft, and equipped with the structures and installations necessary for air traffic (aeronautical structures) shall be "airdromes." Airdromes equipped with structures and installations necessary for public passenger and freight transport (public air traffic) shall be "airports."

Areas marked for flying, but not equipped with any buildings, or equipped with only a few structures and installations necessary for aeronautical activities, shall be "working areas" or "auxiliary areas."

Notwithstanding the provisions of this article, civil aircraft may takeoff or land in any area within the territory of the Romanian People's Republic in the following cases:

- a) a forced landing;
- b) carrying out special missions specified in the aircraft log-book;
- c) performance flights of gliders or free balloons.

Art. 43. Agencies must obtain the permission of the Ministry of Land, Sea and Air Transportation in order to establish the location of civil aviation areas in the Romanian People's Republic and test them within the space of air traffic.

Art. 44. An area shall become a civil aviation area after it has been declared as such, and may be used by aircraft only after it has been officially approved and opened for air traffic. Civil aviation areas subject to experiments with a view to being officially approved for air traffic shall be used only by civil aircraft with which such experiments are being carried out.

Civil aviation areas designated for public air traffic or freight transport and those operated in accordance with Article 9, Paragraph 2, shall be declared as civil aviation areas, tested, approved for air traffic or closed for such traffic by the Ministry of Land, Sea and Air Transportation.

Civil airdromes shall be opened to public air traffic (airports) or closed to such traffic by order of the Ministry of Land, Sea and Air Transportation after previous consultation with the ministries concerned.

Civil airdromes open to domestic public air traffic may be opened to international air traffic if they fulfill the conditions demanded by the international standards for air navigation and traffic.

Areas designed for air freight transport and those held in accordance with Art. 9, Par. 2, shall be opened to air traffic by the Ministry of Land, Sea and Air Transportation.

Civil aviation areas not provided for in paragraphs 2, 3 and 5 of this article shall be declared civil aviation areas, tested and officially approved for air traffic or withdrawn from such traffic by the central authorities of civil aviation under the minimum technical conditions established by the Ministry of Land, Sea and Air Transportation, with the approval of that Ministry and with the advice of the ministries concerned.

Areas approved for air traffic shall be grouped by categories and classes according to their destination and their capacity of use, under the technical conditions established by the Ministry of Land, Sea and Air Transportation.

Civil aviation areas assigned and classified may be opened and used for air traffic only on the basis of certificates valid for one year, which are issued, extended, suspended or withdrawn by the central units of civil aviation mentioned in Paragraphs 2, 5 and 6 of this Article.

Art. 45. Civil airdromes open to public air traffic (airports) shall be established, equipped and maintained by the Ministry of Land, Sea and Air Transportation.

The areas controlled by the central administration of civil aviation shall be established, equipped and maintained by their administrators in accordance with the technical conditions established by the Ministry of Land, Sea and Air Transportation, in consideration of the category and class of the respective areas.

On airdromes open to public air traffic (airports) where several civil aeronautical activities are carried out, some of which are not public air traffic, the central administration of aviation may, with the approval of the Ministry of Land, Sea and Air Transportation, set up structures and installations necessary for their activities, provided such structures and installations do not endanger the safety of air communications and transports.

Areas designed for air freight transports and those operated under the conditions established in Article 9, Paragraph 2, shall be set up, equipped, and maintained by their administrators under the direct guidance of the Ministry of Land, Sea and Air Transportation. Communal and district [regional] areas designed for air freight transports shall be set up and maintained by the People's Councils.

All civil airdromes in the Romanian People's Republic shall be set up on the basis of studies and geotechnical surveys, the results of which shall be entered on the certificate of official approval and classification cards of these airdromes.

Structures and installations for the safety of air operations outside an airdrome may be set up and used for civil aviation only with the approval of the Ministry of Land, Sea and Air Transportation under the technical and organizational conditions established by this Ministry.

In order to speed up the improvement of towns in the Romanian People's Republic, the People's Councils may participate in setting up, equipping and maintaining civil aviation areas by agreement, according to circumstances with the administrators of such areas.

Art. 46. Any of the areas officially approved by the civil aviation authorities of the Romanian People's Republic may be transferred by the Ministry of Land, Sea and Air Transportation from a higher class and category to a lower class and category if the area is found to be no longer suitable for classification, setting up equipment or minimum maintenance. The Ministry of Land, Sea and Air Transportation also shall have the right to suspend, for a limited or unlimited period, the use of ground installations of any kind designed for civil aviation, if the emplacement or functioning of such installations does not correspond to the conditions established for the safety of air navigation and circulation. In such cases the Ministry of Land, Sea and Air Transportation may extend the facilities, structures and installations of civil aviation on the entire territory included within the space of air circulation, or change them in any way, with a view to achieving safety of the air transports and communications.

Art. 47. For the safety of the takeoff and landing of aircraft and in order to ensure the adequate use of aeronautical facilities, structures and installations on the territory, safety zones shall be established on and around the civil aviation areas as soon as they have been declared civil aviation areas in accordance with their purpose. The conditions for establishing, according to various categories of airdromes, the zones which must be cleared of obstacles (aeronautical encumbrances), shall be specified in instructions issued by the Ministry of Land, Sea and Air Transportation, to be issued in agreement with the ministries concerned. Authorization has been given to cultivate within the areas of airdromes only plants which serve to prevent erosion and maintain such areas.

Areas shall also be cleared of obstacles while they are being tested for civil aviation, for a maximum period of one year after they have been chosen.

Improvements, structures and installations, set up or maintained by agencies other than those of the Ministry of Land, Sea and Air Transportation, in disregard of the provisions of this Article may be removed or reduced as directed in presidential orders.

Art. 48. Electrical structures and installations or radio stations likely to disturb radio communications of civil aviation may be set up and used within the zones of airdromes open for public air traffic or in the neighbourhood of aeronautical installations on airways only with the approval of the Ministry of Land, Sea and Air Transportation.

New structures and radio installations for civil aviation and new civil airdromes to be equipped with radio installations shall be set up by the Ministry of Land, Sea and Air Transportation in agreement with the Ministry of Post and Telecommunications⁴ and with the State Planning Committee.

Art. 49. The use of civil airdromes and aeronautical installations

⁴ See note 3 *supra*.

within the territory of the Romanian People's Republic shall be transferred, terminated, or their purpose changed in accordance with the legal provisions in force and with the approval of the Ministry of Land, Sea and Air Transportation.

If a central administration of civil aviation ceases to use aeronautical installations on airdromes or contiguous to airdromes, without transferring them to other central administrations of civil aviation, such installations shall be handed over for use to the Ministry of Land, Sea and Air Transportation.

Art. 50. The areas of civil airdromes open for public air traffic (airports), together with all their buildings, shall be handed over to the Ministry of Land, Sea and Air Transportation.

Art. 51. The People's Councils, the ministries, institutions, organizations and enterprises concerned with the planning and urban development of towns in the Romanian People's Republic shall submit for the approval of the Ministry of Land, Sea and Air Transportation all their plans regarding the setting up, equipment, clearing of obstacles and organization of areas for civil aviation in the Romanian People's Republic before finally deciding on them.

Art. 52. The provisions of this Code which refer to civil aviation areas shall apply, by analogy, also to civil seaplane terminals and water landing places which can be used by civil aircraft.

CHAPTER V—AIR TRAFFIC

SECTION 1—GENERAL PROVISIONS

Art. 53. Civil aircraft, singly or in groups, may fly within the air space of the Romanian People's Republic in accordance with the provisions of this Code and with the technical standards established by the Ministry of Land, Sea and Air Transportation, as well as according to the decisions of the Council of Ministers and the regulations concerning flight within the air space of the Romanian People's Republic, established on the basis of these decisions.

The regulations concerning flight within the air space of the Romanian People's Republic shall be established by the ministries to be indicated by decisions of the Council of Ministers.

Civil seaplanes while on the water shall be subject to the legal provisions which apply to sea or river vessels.

Art. 54. Flights of civil aircraft within the air space of the Romanian People's Republic shall be determined according to:

- a) the weather and visibility conditions;
- b) the distance which an aircraft is flying, calculated from the airport from which it takes off;
- c) its regularity.

According to weather and visibility conditions the flights shall be classified as follows: flights with visibility (or visual navigation) and instrument flights (flights with reduced visibility).

Night flights and flights over the sea outside territorial waters shall be considered instrument flights. Flight by night shall be understood to be the flight of a civil aircraft between sunset and sunrise (according to the official time of the territory over which the aircraft is flying).

Flights shall be classified according to the distance which the aircraft flies calculated from the airport from which it takes off:

a) flights within the airport area, *i.e.*, over the airport and within the surrounding area established for each airport separately;

b) flights outside the airport area.

According to their regularity, flights shall be classified as follows:

a) scheduled flights according to time-table and itineraries established in advance;

b) non-scheduled flights, according to demand or necessity on any itinerary authorized within the air space (air routes).

Flights outside the airport area, scheduled or non-scheduled, may be domestic or international.

To ensure the safety of flights outside the airport areas, a system of air routes, along which permanent radio protection of aircraft is to be established, shall be set up in the Romanian People's Republic on the flight routes normally used by aircraft. Domestic and international air routes of the Romanian People's Republic shall be established by the rules and regulations of flying within the airspace of the Romanian People's Republic.

Scheduled flights by all civil aircraft in the Romanian People's Republic, regardless of their kind and nationality, must follow the air routes.

Art. 55. All flights within the air routes, outside the areas of air fields, may be carried out only in accordance with a flight plan, regardless of the purpose of the flights or the conditions under which they are to be carried out.

Such flight plan shall be drawn up by the captain of the aircraft and approved by the airport commander.

Art. 56. No aircraft may take off without the authorization of the airfield commander, granted after inspection of the aircraft documents and compliance with the conditions established in the certificate of airworthiness with respect to the cargo and its distribution in the aircraft. For special transports, as provided for in Art. 80(c), the airport commander may approve the takeoff of aircraft on [the basis] of a simple statement by the captain of the aircraft concerning its mission and cargo without verifying it; the captain shall, in this case, be alone responsible for the accuracy of his statement.

During flights outside of airfield areas the captain of the aircraft shall enter in the aircraft log-book all events that happen on board or are observed from aboard the aircraft while carrying out his mission, and he shall be held responsible for the accuracy of his entries. These entries shall represent official evidence before all authorities in establishing the respective acts and facts.

Art. 57. Within the air routes civil aircraft which carry no radio aboard shall fly only under visual flight rules.

In flights under visual flight rules the captain of the aircraft (the pilot-captain on board) shall have the initiative as regards piloting his aircraft, in accordance with the rules and regulations for air traffic. Within the airfield areas the captain of the aircraft (the pilot-captain on board) shall observe, in regard to taking off and landing, the instructions of the airfield commander or of his deputies, and he shall be responsible for their application.

In instrument flights the captain of the aircraft (the pilot-captain on board) shall strictly follow the instructions of the agencies in charge of air traffic safety and he shall be responsible for the strict application thereof. In case of interruption or the impossibility of establishing air-ground communications, the captain of the aircraft shall observe the flight instructions until the first airport indicated for a landing is reached.

The captain of the aircraft may not deviate from the rules and regulations for air traffic during flight or while on the ground except in cases of exceptional weather or technical conditions or in order to avoid an imminent danger; in such cases he shall communicate his deviation without delay by radio and justify his decision when the mission is accomplished.

Technical test flights or tests for official acceptance and certification of aircraft, engines or board installations, and the movements of aircraft with a view to their repair, shall be carried out within the air routes with the approval of the Ministry of Land, Sea and Air Transportation.

Performance and training gliders which carry on testing flights in the clouds shall be exempt from the provisions of Paragraph 1 of this Article, and their flight under instrument rules shall be regulated by special provisions in respect to the safety of air navigation.

Art. 58. During flights over populated areas or crowded places (gatherings, open-air theatres, etc.) civil aircraft shall maintain an altitude which makes possible power-off landings on airfields or outside populated areas without risk.

Safe altitudes, both over populated areas or crowded places, and along the route, shall be established by the rules and regulations for air traffic.

Art. 59. During flights, any action or manoeuvre on board which might endanger the situation of the aircraft, its passengers and cargo or of persons and property on the ground, and which is not caused by an imminent danger to the safety of the flight, shall be prohibited. Air acrobatics within the air routes without the permission of the Ministry of Land, Sea and Air Transportation shall be prohibited.

Unless permitted by the Ministry of Land, Sea and Air Transportation or by the central authority of civil aviation to which the aircraft belong it shall be prohibited to jettison any object from civil aircraft, with the exception of ballast, as provided for in Article 30, or where necessary for the navigation of free balloons, as established by the rules and regulations in regard to the traffic for balloons and parachutes, to tow another aircraft or object of any kind (panels, posters, etc.), or to jettison or pick up in flight objects of any kind not mentioned in the board documents of the aircraft.

The jettisoning or the falling of objects of any kind from aboard aircraft shall give a right to compensation for the damage caused on the ground, regardless of the causes which determined such jettisoning or falling.

Art. 60. Regardless of the authorities to which it belongs or the nature of its flying activities, any aircraft may take off and land on civil airfields open to public air traffic (airports) or on areas designated for air freight transports, according to the capacity of such areas. With a view to ensuring adequate takeoff the landing for

aircraft on airfields open to public air traffic, special takeoff and landing conditions may be established for the air crew, according to their training or experience.

The takeoff and landing of civil aircraft on airfields open to public air traffic (airports) shall be carried out in the order of priority established by the Ministry of Land, Sea and Air Transportation.

On the other areas of civil aviation the takeoff and landing of aircraft shall be carried out under the conditions established by the agencies which have jurisdiction over such areas, observing the provisions of this Code.

In areas designated for air freight transport, marked for flying but where no air crew is employed, the responsibility of the captain of the aircraft on landing shall be established by the rules and regulations for air circulation for landing on unknown ground.

Aircraft which fulfil missions of rapid assistance, combating calamities, special State missions or aeronautical control may land on any civil aviation area.

Authorities [having jurisdiction over] civil aviation areas in the Romanian People's Republic shall give assistance to any aircraft landing in their areas at the demand of the captains of such aircraft. Similarly, throughout the territory of the Romanian People's Republic, the local authorities, at the demand of the captains of aircraft, shall give assistance to any aircraft which have to land because of situations mentioned in Article 42, Paragraph 5 of this Code.

SECTION II—PROTECTION OF AIR TRAFFIC

Art. 61. The security, discipline, and regularity of planes in flight and on the ground shall be insured, within the air traffic space of the Romanian People's Republic, by the working systems for the protection of civil air traffic.

The protection of air traffic, as provided for in Paragraph 1, shall be achieved:

a) on the ground, by taking all necessary operative measures for the guidance, radio direction, or discipline and coordination of air traffic, through central, regional, and airport dispatch systems;

b) by organizing the reception and transmission of weather information through the Meteorological System of the Central Institute of Meteorology;

c) by organizing the reception and transmission of communications to pilots, through the Ministry of Land, Sea and Air Transportation.

Art. 62. The organization, direction, coordination, and control of the activities of air traffic protection within the air traffic space shall be constantly ensured by the Ministry of Land, Sea and Air Transportation, which shall establish the necessary rules and regulations in accordance with international technical agreements.

The Ministry of Land, Sea and Air Transportation shall provide uniform coordination of the radio-telegraph guidance in cases where, on the basis of special permission or international conventions, such [radio-telegraph guidance] is totally or partially ensured by other civil aviation authorities or transport enterprises.

No air route may be opened for air traffic until the necessary radio equipment for guiding aircraft along the entire route has been installed.

Art. 63. The Ministry of Land, Sea and Air Transportation shall keep in the register of radio stations of civil aviation a record of all radio installations on board any aircraft and on the ground designated for civil aviation activity in the Romanian People's Republic; after such installations have been recorded in the register, the owners thereof must communicate to the Ministry of Land, Sea and Air Transportation any transfer or change which might modify the organization and functioning of the dispatch services for the protection of air traffic.

Art. 64. Meteorological information shall be given to civil aircraft free of charge by the Central Institute of Meteorology according to the technical conditions established in agreement with the Ministry of Land, Sea and Air Transportation.

Weather forecasts for flights shall be given to any aircraft before it takes off, for each airport marked for landing on the flight plan and for auxiliary airfields on which meteorological stations are installed.

The Ministry of Land, Sea and Air Transportation shall establish the location and category of meteorological stations for civil aviation. As regards their functioning in respect to the protection of air circulation, meteorological stations set up on airfields shall be subordinate to the dispatch services.

The captain (pilot-captain on board) of an aircraft with a radio on board shall transmit observed meteorological phenomena to the dispatch services with which he is in touch.

Art. 65. The central administrations of civil aviation which exercise control within the space of air traffic, the civil aviation areas or seaplane landing areas, and commanders of all civil airports or seaplane landing areas of the Romanian People's Republic shall communicate to the Ministry of Land, Sea and Air Transportation information of any kind necessary for the transmission of "communications to air navigators" in order to achieve flight safety.

Art. 66. Within the space of air traffic the Ministry of Land, Sea and Air Transportation may establish special conditions and flight restrictions in certain areas of intense traffic in order to achieve flight safety.

In order to achieve the safety of air traffic, airport commanders may temporarily suspend activities at the airports they control, observing the rules and regulations established by the Ministry of Land, Sea and Air Transportation.

SECTION III—INTERNATIONAL FLIGHTS

Art. 67. Any flight of a civil aircraft registered in the Romanian People's Republic which crosses the borders of the Romanian People's Republic and any flight of a civil aircraft not registered in the Romanian People's Republic, whether landing or not within the air space of the Romanian People's Republic, shall be considered as an international flight.

International flights carried out according to timetables and pre-established itineraries (scheduled flights) shall be confined to the air space of the Romanian People's Republic on the basis of bilateral air

agreements and multilateral air conventions, concluded by the Romanian People's Republic.

International flights of Romanian civil aircraft not provided for in bilateral air agreements or multilateral air conventions concluded by the Romanian People's Republic shall be approved by the Ministry of Foreign Affairs in accordance with the proposal of the Ministry of Land, Sea and Air Transportation as regards all flights, and as regards sports flights or flights of sporting interest after proposal by the central administration of sporting aviation.

International flights of civil aircraft not registered in the Romanian People's Republic within the air space of the Romanian People's Republic which are not provided for by bilateral air agreements or multilateral air conventions concluded by the Romanian People's Republic (occasional flights) shall be made only on the basis of a permit, issued according to [individual] circumstances, called "transit permits."

Transit permits shall be issued by the Ministry of Foreign Affairs.

After consultation with the Ministry of Land, Sea and Air Transportation, the Ministry of Foreign Affairs may reduce the transit formalities for aircraft not registered in the Romanian People's Republic which make non-scheduled transit flights or which have to land for technical reasons, and for aircraft which make sports or record flights within the air space of the Romanian People's Republic.

Art. 68. In non-scheduled flights the aircraft documents and the board documents of civil aircraft not registered in the Romanian People's Republic shall be taken into consideration within the air space of the Romanian People's Republic through the fact that a transit permit has been issued.

In non-scheduled flights the transit permit of civil aircraft of any category and nationality shall constitute a compulsory aircraft document, and in case it is impossible to issue such a document on taking off, the transit permit shall be entered in the log book by the commander of the home airfield.

If, during an international flight, the aircraft documents, with the exception of the transit permit, of an aircraft not registered in the Romanian People's Republic are lost or their validity expires while the aircraft is within the air space of the Romanian People's Republic, the Ministry of Land, Sea and Air Transportation, at the request of the competent civil aviation agency of the country where the aircraft is registered, may authorize the takeoff and flight of the aircraft until it leaves the air space of the Romanian People's Republic under conditions established between the two state agencies.

If, during an international flight, a civil aircraft of any category or nationality does not have an aircraft document and a health certificate, the health data required by international health conventions shall be entered in the log book.

For gliders or free balloons not registered in the Romanian People's Republic which enter the air space of the Romanian People's Republic without a transit permit, on the occasion of a performance flight, the Ministry of Land, Sea and Air Transportation, in agreement with the central administration of sporting aviation, shall establish, according to each case, the technical conditions under which the respective aircraft may take off again.

Art. 69. A civil aircraft of any category or nationality which, during an international flight, enters the space of the air traffic of the Romanian People's Republic, must make the first landing in the Romanian People's Republic at a customs airport. Likewise, for civil aircraft which leave the territory of the Romanian People's Republic, the last takeoff must be from a customs airport. By customs airport shall be understood any airfield open for international public air traffic on which the customs agencies of the Romanian People's Republic are functioning. Sanitary and health controls shall also be set up at customs air ports; all civil aircraft which make international flights must pass through this control.

If, during an international flight, a civil aircraft of any category or nationality has to make a forced landing outside the customs airports, the airfield shall, by any means [possible], get in touch with the Ministry of Land, Sea and Air Transportation and with the local authorities which must ensure customs control of the aircraft, cargo and passengers. Expenses incurred for this special control shall be paid by the authorities or persons to whom the respective aircraft belong.

Art. 70. Civil aircraft not registered in the Romanian People's Republic which land on an airfield open to public air traffic (airport) shall observe the rules and regulations concerning taxes, landing, hangaring and maintenance. Sporting aircraft which make international flights for contests, races or performances shall be exempt from taxes for landing and hangaring.

Art. 71. Before continuing its flight, any civil aircraft not registered in the Romanian People's Republic may be tested by the technical agencies of the Ministry of Land, Sea and Air Transportation if the aircraft has suffered an accident and has been repaired in the Romanian People's Republic, or if technical defects have been found which might reduce the safety of air circulation.

Art. 72. Regulations concerning international flight of civil aircraft not registered in the Romanian People's Republic and any changes thereof shall be communicated to air navigators by special notice issued by the Ministry of Land, Sea, and Air Transportation.

CHAPTER VI—SEARCH AND RESCUE OF CIVIL AIRCRAFT IN DISTRESS

Handling of flight accidents or incidents

Art. 73. The ministry of Land, Sea and Air Transportation shall organize and direct all operations for the search or rescue of, and assistance to civil aircraft in danger or in distress within the air space and on the territory of the Romanian People's Republic.

Each central agency of civil aviation must be equipped with adequate means for search and rescue so as to be able, if necessary, to participate in the collective effort for the search and rescue of civil aircraft in danger or in distress.

Art. 74. The captain of a civil aircraft who receives a distress signal from another aircraft or from a vessel, and a captain who discovers an aircraft which has suffered an accident or any other disaster, must, if circumstances permit, go to its assistance without, however, endangering the safety of his own aircraft or of the passengers on board. If

he is unable to rescue those in distress, the captain must maintain constant radio contact with them; he must determine the place of distress and must give information by radio, or at the first airdrome, as to the situation found by him.

Art. 75. Accidents which occur in the air or on the ground caused by flight activities of civil air personnel and which result in the serious injury or death of one or more persons, or in the damage of a civil aircraft which cannot be repaired by normal means, shall be considered "flight accidents."

Damage to, or breakdowns of civil aircraft which do not cause serious injuries to persons or damage to the structure of the aircraft and which can be repaired by normal means shall be considered "flight incidents."

All flight accidents which occur within the space of air circulation shall be investigated by the Ministry of Land, Sea and Air Transportation with the participation in such investigation commission of a delegate of the agency to which the aircraft belongs.

Accidents of civil aircraft which occur within the zones reserved for the formation of the central authorities of civil aviation shall be investigated by the respective central authority of civil aviation under the same conditions as those which occur within the space of air circulation.

Incidents of flight shall be subject to investigation by the operators of the respective aircraft.

Art. 76. Operators of civil aircraft must communicate to the Ministry of Land, Sea and Air Transportation, without delay and in any manner possible, all flight accidents occurring in their activity, with a view to centralizing and keeping records thereof and in order to gain useful experience in the achievement of flight safety.

The details of handling any flight accidents or incidents shall be established by instructions issued by the Ministry of Land, Sea and Air Transportation.

Art. 77. If a civil aircraft is damaged or is unable to continue its flight owing to the death, injury or sickness of members of the crew, the local authorities must give the necessary assistance, take over the protection of the aircraft and communicate the incident without delay and by the quickest means available to the nearest agency of civil aviation. This agency, without delay, must get in touch with the central authority of civil aviation to which the aircraft, which has suffered the accident, belongs.

Any person who observes or finds a civil aircraft in distress or the wreckage thereof on the ground or at sea must, without delay, inform the local authorities and the Ministry of Land, Sea and Air Transportation.

Art. 78. The assistance to, and rescue of civil aircraft at sea shall be carried out on the basis of the rules for assistance to, and rescue of maritime vessels.

Art. 79. In case of disaster or if immediate help or exceptional participation of civil aircraft is needed, the Ministry of Land, Sea and Air Transportation may mobilize any civil aircraft registered in the Rumanian People's Republic for participation in such action.

CHAPTER VII—CIVIL AIR TRANSPORTATION

SECTION I—DOMESTIC AIR TRANSPORTATION

Art. 80

Air transportation shall be carried out in the Romanian People's Republic for the following purposes:

a) to serve the carriage of passengers and goods (luggage, goods, postal deliveries and any other objects which may be included in public air transportation) by scheduled or non-scheduled public air flights;

b) to serve public utility missions (in the service of industry, agriculture, forestry, the people's health, scientific research, etc.) in the form of freight air transportation;

c) to serve higher State interests (internal air couriers, diplomatic couriers, etc.) or the public order, in the form of special transports;

d) to serve the requirements of the civil aviation authorities.

Scheduled public air transportation may be supplemented, within no more than 2 hours from the last scheduled flight, if 50% of the respective cargo has remained on the ground. Supplementary flights shall be subject to the same rules as scheduled flights.

Art. 81.

Public civil air transportation, air freight transportation or special transportation may only be carried out by the central authorities of civil aviation authorised by their laws of organisation to carry out such transportation. Public air transport enterprises may only function within the framework of the Ministry of Land, Sea and Air Transportation, under the supervision of this Ministry or on the basis of international conventions.

Art. 82.

Scheduled public air transportation shall be carried out according to schedule by commercial air lines established by the Ministry of Land, Sea and Air Transportation.

Commercial air lines may only be organized for exploitation by air transport enterprises after setting up of the respective air routes, in accordance with the provisions of Article 54, Paragraph 5, and Article 62, Paragraph 3, of this Code, and after they have been approved or taken over by the Ministry of Land, Sea and Air Transportation.

Art. 83.

Public civil air and freight transportation shall be carried out on the basis of schedules, at the proposal of the Ministry of Land, Sea and Air Transportation.

Art. 84.

Public transportation of passengers and goods by air shall be carried out by the air transport enterprises on the basis of contracts, by which the respective enterprise undertakes to transport the passengers and goods to their destination by air, and the passengers or the consignors of the goods undertake to pay to the enterprise the cost of the transport according to tariff. The contract for air transport shall be considered concluded as soon as the enterprise has issued the transportation documents to the respective passenger or shipper of the goods.

Postal air transportation in the Rumanian People's Republic shall be carried out on the basis of contracts concluded between the Ministry of Post and Telecommunications⁵ and the air transport enterprises, with the advice of the Ministry of Land, Sea and Air Transportation. Air transportation carried out exclusively for the distribution of newspapers in regions which are not easily accessible by other means of transportation, shall be considered air freight transportation.

Air freight transportation shall be carried out either on the basis of contracts concluded between the parties concerned and the air transport enterprises, or on the basis of agreements concluded between the agencies of the State administration, institution, organisation or enterprise concerned and the central authorities of civil aviation who, by virtue of their laws of organisation, are entitled to carry out such transportation by their own means, or by service transport carried out by the central authorities of civil aviation for their own needs.

Service transportation shall be free of charge and may only be carried out by [aircraft owned by the authority]. Flight of civil aircraft undertaken in accordance with Article 9, Paragraph 2, shall always be considered service transportation.

Art. 85.

Tariffs and tariff provisions for public air and freight air transports carried out by air transport enterprises shall be established in accordance with the laws in force.

Art. 86.

The cost of service rendered in connection with air freight transportation may be established by contracts concluded for this purpose; the respective calculation may represent the total or partial value of the service, according to the general interests of the state authorities which have required such service.

Art. 87. The duration of passenger air transportation shall be calculated from the time when the passenger has been supplied with the necessary transportation documents and is admitted to the place of departure by the agents of the carrier, either at the airport or by the means of transportation which the carrier has placed at his disposal for going to the airport, until the time at the place of destination when the passenger leaves the airport or the means of transportation placed at his disposal by the carrier.

The duration of air freight transportation shall be calculated from the time of [the freight's] registration and actual receipt at the place of departure by the carrier or by his agents until delivery on arrival, either to the addressee in domestic transportation or to the customs agencies in international transportation or to the postal agencies in postal transportation of any kind.

Art. 88. Air transportation enterprises or the central authorities of civil aviation which, by virtue of their laws or organization, are entitled to carry out public air or freight transportation may refuse carriage:

- a) if the carriage is cancelled or suspended as a result of legal or administrative provisions or owing to exceptional or unforeseen technical or meteorological conditions;

⁵ See note 3 *supra*.

b) if the persons booked for the flight are within the categories of persons who are not permitted to travel by air (persons under the influence of liquor or in abnormal physical condition, persons with contagious diseases or open wounds, or persons who are unwilling to observe the compulsory provisions in respect to passengers during flight), and other situations established by the regulations;

c) if the objects to be carried are forbidden, either because they are prohibited by legal or administrative provisions, or because they represent a danger for the safety of the flight or for the carriage of passengers and cargo (arms, munitions, explosives, radio transmitters, easily inflammable, corrosive or toxic materials, etc.).

d) if no means of transportation are available or if the conditions established for air transportation in respect to the description, weight and size of the cargo have not been fulfilled, or if the cargo has not been completed in accordance with the provisions of the certificate of airworthiness;

e) if the carriage refers to a cargo which is the monopoly of another means of transportation.

Signalling devices (signal flares, guns for flares, etc.) and radio installations on board which are used for the direction and safety of a flight, shall not be considered objects prohibited for air transportation. Photographic and cinematographic apparatus, radio receivers and hunting weapons shall be permitted for air transportation if they are packed with the other objects.

Valuables and precious metals shall be permitted for air transportation if they are insured.

Art. 89.

The insurance of passengers in civil air transportation shall be compulsory. In public air transportation the insurance shall be combined with the contract, and in air freight transportation, special transportation, or service transportation it shall be made either directly by the traveller, or by the authorities of the State administration, institution, organisation or enterprise for which the flight is carried out.

Travellers who do not fulfill the conditions of this article shall be prohibited from flying.

Art. 90.

Travellers and shippers of goods must observe the provisions of this Code and the rules of air transportation which were communicated to them by the contract of public air transportation or by the agreement for air freight transportation. If such provisions and rules are not observed, the carrier, irrespective of the application of the provisions of Article 100, shall have the right to cancel the respective contract or agreement, without refunding the amount paid by the traveller or by the shipper of the goods.

Art. 91.

In order to ensure that debts derived from a contract of public air transportation or from an agreement of air freight transportation are paid, the carrier shall have, on the shipment, the rights of a creditor who holds securities as a guarantee. These rights shall cease as soon as the shipment has been delivered to the addressee in domestic air transportation, or to the customs agency in international air transportation.

The shipper may dispose of his goods until they have been delivered to the addressee in domestic air transportation, or to the customs agency in international air transportation.

Art. 92.

If the flight is cancelled or totally suspended, the carrier must, without delay, refund at the demand of the respective traveller or shipper of the goods, the amount which they paid under the contract for public air or freight transportation.

If the flight is interrupted the carrier must take the traveller or shipment to their destination by the quickest means of public transportation, and if the traveller or shipper refuses this means of transportation, refund to them the cost of the air transportation for the part which was not completed, [but was] provided for in the contract for public air transportation or in the agreement of air freight transportation. The cost of insurance of the passengers and goods shall not be refunded.

If travellers, at their request, or if the shipment, upon instruction by the shipper, are landed short of the destination for which the transportation document was issued, or if they have to be landed as a result of disregard of, or deviation from the rules of air transportation, the cost of the transportation shall not be refunded.

Art. 93.

If stipulated in the transportation contract or agreement, the carrier may undertake to transport the passengers and goods to the destination not only by air, but also part of the way by other means of transportation.

In the case of mixed transportation (air, land, or sea) the provisions of this Code shall apply to the part of the transportation which has been carried out by air.

Art. 94.

The general provisions concerning public and air freight transportation shall apply also to special or service air transportation, if not otherwise provided for in special provisions.

SECTION II—INTERNATIONAL AIR TRANSPORTATION

Art. 95.

The conventions concerning technical and commercial conditions of operation of international public air transportation (scheduled, non-scheduled, and occasional flights) established in accordance with bilateral agreements or multilateral aviation conventions concluded by the Romanian People's Republic shall be signed, modified or cancelled by the air transport enterprises with the approval of the Ministry of Land, Sea and Air Transportation, if not otherwise stipulated by the respective agreements or conventions.

Air transports not regulated by international agreements or conventions concluded by the Romanian People's Republic shall be subject to the provisions of Article 67, Paragraph 4, of this Code.

Art. 96.

The right to take on, or land passengers, or to load or unload any kind of cargo to be transported by air between two points of the territory of the Romanian People's Republic (domestic air service), shall be forbidden to aircraft not registered in the Romanian People's Republic except when established by international agreements or conventions concluded by the Romanian People's Republic.

CHAPTER VIII

Responsibility of operators of civil aircraft for damage caused in the air or on the ground

SECTION I—GENERAL PROVISIONS

Art. 97.

If, during its flight, a civil aircraft causes the death or injury of persons aboard it, or physical or material damage to persons who are not on board, the Ministry, institution, People's Council, organization, enterprise or persons who are engaged in the operation of the aircraft in any manner shall be responsible for all damage caused in accordance with the general rules of liability established by the laws of the Romanian People's Republic. An exception may be made if it is proved that the damage was caused intentionally or by the gross negligence of the person who suffered the damage or in cases regulated by other provisions of this Code. By flight of a civil aircraft shall be understood any activity carried out from the time the aircraft is prepared for flight until it is stored in the hangar.

If damage is caused by a glider train the responsibility shall be borne by the party who operates the towing plane, if it has not been proved that the damage was caused by another aircraft in the train.

The liability of the operators of a civil aircraft for the damage caused by the collision of two or more aircraft in the air or on the ground shall be established according to the fault of the captains of the aircraft. If none of the captains of the aircraft is responsible for the collision or if such responsibility cannot be established, each of the parties who operate the respective aircraft shall be liable for the damage caused to his own aircraft, the crew, the cargo and third parties. The provisions of this paragraph shall apply also to accidents caused to aircraft in flight or on the ground by another aircraft by obstructing its flight or its normal take-off, without an actual collision.

SECTION II—RESPONSIBILITY FOR THE DAMAGE CAUSED DURING AN AIR TRANSPORT

Art. 98.

Operators of civil aircraft for air transportation of any kind shall be liable under the conditions established by this Code, for the bodily or pecuniary damage caused to passengers and cargo, for the duration of the carriage, as specified in Article 87.

In freight transportation, compensation shall be paid by the carrier for the loss of, or damage caused to the cargo, and shall be established as follows:

- 1) for the loss of goods the value of which has been declared, the compensation shall amount to the declared value of the goods on their delivery for shipment, such value not to exceed the real value;
- 2) for the loss of goods the value of which has not been declared on delivery, the compensation shall amount to the real value at the moment of the loss;
- 3) for the loss of registered luggage received for shipment without a declared value the compensation shall be established on the basis of, and within the limits indicated in the Instructions of the Ministry of Land, Sea and Air Transportation;

4) for damage caused to cargo the compensation shall amount to the value of the actual loss;

5) as regards international flights the provisions of the international conventions to which the Rumanian People's Republic has adhered, shall apply.

In air transportation the carrier shall not be responsible for hand luggage which has not been entrusted to it.

In the cases provided for in Article 92, Paragraphs 1 and 2, if the shipper no longer uses air transportation for his goods, the carrier shall be responsible until the actual return of the goods to the shipper.

Art. 99.

In air carriage the carrier shall not be responsible for loss or damage to the cargo if this is caused:

1) intentionally or through the negligence of the shipper or addressee, especially if the shipper disregards the rules of air carriage established by the Ministry of Land, Sea and Air Transportation;

2) by an act of God if the loss or damage was caused during flight;

3) By certain attributes of the transported goods which caused breaking, corrosion, fire, explosion, deterioration, etc.;

4) by the absence of, or inadequate or faulty packing of goods where such packing is compulsory;

5) by the normal reduction of the transported goods within the limits established by the Ministry of Land, Sea and Air Transportation;

6) by steps taken by the captain of the aircraft, the airport controller, the military authorities or the fiscal customs authorities for the application of legal provisions by which the transporting of some object is forbidden or subject to certain conditions, or because of the passengers' disregard of such provisions.

Art. 100.

Passengers or shippers who cause damage in any form to aircraft, vehicles, installations or other property belonging to persons carrying out the transportation shall, on demand, compensate the owner for the value of the damage caused.

Art. 101.

Air transport enterprises or the central authorities of civil aviation, authorized by their laws of organization to carry out public or freight air transportation may be held liable for not carrying out on time the transports agreed upon with the travellers and the shippers of the goods. They shall not be liable when

a) the delay is due to factors involving the public interest;

b) the delay is due to an act of God or for the purpose of ensuring the safety of the flight.

Art. 102.

In air transportation, any contract concluded between the carrier and a passenger or shipper which changes the liability established by the provisions of this Code shall be void.

Regarding liability for freight or postal air transportation the provision of this Code shall apply according to the specific nature of the various activities. These [provisions of the Code] may be complemented by the provisions of special agreements concluded in conformity with Article 84, Paragraphs 2 and 3.

Art. 103.

Claims for damages in regard to air transportation shall be presented to the carrier within six months, and those in regard to mixed transports (air, land, sea), within one year.

Within the same period of time the carrier shall have the right to claim damages from passengers or shippers.

Claims for damages shall be attached to transportation documents. In the absence of such documents, official prices, or, if such prices are not available, market prices shall be taken as a basis for the claims. The condition of the object at the time the damage occurred shall be taken into account.

The time limits provided for in this Article shall be as follows:

1) in the case of damage to, or partial loss of a shipment, as from the date of delivery to the addressee.

On delivery the damage or partial loss shall be established in a statement signed by the addressee and the person delivering [the shipment].

2) in the case of total loss of the shipment or if it is not delivered on time, upon the expiration of the date on which the shipment should have reached its destination;

3) in all other cases, from the date when the event which occasioned the claims, occurred.

Applications for refund of the cost of cancelled or suspended air transportation shall be submitted within no more than 15 days from the date on which the shipment was cancelled or suspended.

The carrier shall examine the claims and, within no more than thirty days from receipt thereof, inform the claimants whether their claims have been accepted or rejected if they refer to air transportation alone. For claims which refer to mixed transportation, (air, land, sea) the reply shall be sent within no more than sixty days.

If the claim has been rejected or if no answer to it has been received, the claimant shall be entitled to initiate legal action within two months from the receipt of the reply or from the date when the reply should have been received. Legal proceedings shall be instituted at the court or State Arbitration Board, whichever has jurisdiction in the district in which the carrier resides.

The right to legal action for damages in regard to air transportation shall expire after one year and in regard to mixed transportation (air, land, sea) after two years.

For damages caused by civil aircraft in the air or on the ground in circumstances other than air transportation, the claims for compensation and their settlement shall follow the provisions of the general laws.

CHAPTER IX—SPECIAL PROVISIONS CONCERNING AERONAUTICAL SPORT

Art. 104.

Sporting aviation shall be practiced in accordance with the principles and provisions of this Air Code, and the instructions and rules in respect of its application and the laws regarding sporting aviation.

The administrative authorities of sporting aviation shall provide assistance, in case of death or inability to work, for professional flight personnel and for all sportsmen instructed or trained in sporting aviation. The flight of such individuals shall be prohibited if they are not insured.

Art. 105.

Any activities of sporting aviation taking place on an airdrome open for public air traffic (airport) or within the space of air traffic shall be carried on with the approval of, and under the conditions established by the Ministry of Land, Sea and Air Transportation. Supervision of such activities shall be exercised by the organizing administration.

Art. 106.

The transportation of sporting flight personnel by civil aircraft belonging to the administration of sporting aviation, for education, training, sports activities or sports flying contests, shall be considered service transportation.

CHAPTER X—PENALTIES

Art. 107.

The obligations of all citizens in respect of discipline and safety of flights, the guarding and maintenance of the entire property of civil aviation in the Rumanian People's Republic shall be stated in instructions, establishing the acts which constitute a violation of these instructions, and the punishment which shall be imposed by administrative action within the limit of fines established by special provisions, and the agencies which establish the respective violations.

The official report which establishes such violations shall be examined or signed by the captains of aircraft, the airdrome directors, the control agencies of the Ministry of Land, Sea and Air Transportation and the control agencies of the central administration of civil aviation, according to their qualifications and competence on the basis of the provisions of this Code, of the decisions of the Council of Ministers and the orders, instructions and regulations in force. These agencies shall impose fines by a decision stating briefly the reasons for such punishment.

The person fined may contest the respective official report within fifteen days from the receipt thereof.

The fines shall be paid in accordance with the laws on official procedure.

Disregard of the provisions of this Code, shall be punished in accordance with the penal laws, if such disregard constitutes an offence.

Art. 107.1

The boarding of a civil aircraft ready to take-off, or the presence on board such an aircraft in flight, while drunk, by a member of the crew, pilot, navigator, radio operator, flight mechanic or any other person participating in the operation of the aircraft, shall be considered an offence and shall be punished with imprisonment of from one to five years and dismissal from employment.

Any person found guilty of the offense mentioned in Paragraph 1 shall have his flying license permanently revoked.

CHAPTER XI—FINAL AND TRANSITORY PROVISIONS

Art. 108.

The provisions of this Code as regards planning, authorization and control of flights within the airspace of the Romanian People's Republic shall be applied in accordance with the resolutions of the Council of Ministers and with the provisions of the law and regulations concerning flight within the airspace of the Romanian People's Republic.

Art. 109.

The Ministry of Land, Sea and Air Transportation, in collaboration with the central authorities of civil aviation shall draft the decrees and resolutions of the Council of Ministers, and the instructions and regulations for the enforcement and implementation of the provisions of the Air Code.

The instructions and regulations for the enforcement and implementation of [the provisions] of the Air Code shall be compulsory for all the agencies of government administration, institutions, public organizations, enterprises and for all citizens of the Romanian People's Republic.

Art. 110.

In order to achieve better employment of civil flight personnel, the Ministry of Land, Sea and Air Transportation, in collaboration with the central authorities of civil aviation, shall take a census of the entire civil flight personnel and ground staff in the Romanian People's Republic, irrespective of the ministries, institutions, People's Councils, enterprises or public organizations in which they are employed, and of all citizens who have done special work in aviation for at least three years, with the exception of regular serviceman in the Armed Forces of the Romanian People's Republic.

Art. 111.

The Ministry of Land, Sea and Air Transportation and the central authorities of civil aviation, in collaboration with the Ministry of Education, shall establish the conditions of organization and functioning of higher aeronautical technical education, for training staff engineers, technicians and highly qualified specialists, necessary for civil aviation in the Romanian People's Republic.

The Ministry of Land, Sea and Air Transportation and the central authorities of civil aviation, through the Academy of the Romanian People's Republic, shall organize and provide the necessary literature for study, research and experimentation in all aeronautical sectors by special branches, so that scientific aeronautical activity may rise to a higher level.

Art. 112.

The Air Code of the Romanian People's Republic shall enter into force on the date of its publication. As from the date of publication of this Code any provisions in conflict with it are repealed.

ROMANIA

Annex No. 1
Decree No. 516 of
December 30, 1953

Classification of Aircraft

Aircraft	1. Heavier than air aircraft	Not pro- pelled by a motor	{	1. Kite (of over 5 kgs.)
				2. Glider - water, motor
		Propelled by a motor	{	3. Parachute - Only those used for transportation of persons or objects for a designated purpose. Not those used for rescue.
				1. aircraft - airplane, hydroplane, amphibian plane
	2. Lighter than air aircraft	Propelled by a motor	{	2. autogiro - autogiro, watergiro, amphibian autogiro
				3. helicopter - helicopter, water helicopter, amphibian helicopter
				4. ornithopter - ornithopter, water ornithopter, amphibian ornithopter
		Not pro- pelled by a motor	{	1. Balloon
				{ Free Balloon { Spheric free balloon Non-spheric free balloon
		Propelled by a motor	{	Captive Balloon { Spheric captive balloon Non-spheric captive balloon
		Propelled by a motor	{	2. Airship
				{ Rigid airship Semi-rigid airship Non-rigid airship

ANNEX 2—DECREE NO. 516 OF DECEMBER 30, 1953

Description of Flag and Establishment of Signs of Nationality of Civil Aircraft in the Romanian People's Republic

1. The flag of civil aircraft in the Romanian People's Republic shall be established as follows:

A. Heavier-than-air craft.⁶

The flag shall be tricolor (blue, yellow and red); it shall be rectangular and its colors shall be formed of three identical vertical stripes on the two sides of the rudder, the blue stripe being placed next

⁶ In the original text the word "Aerodine" and "Aerostate" are used for A and B, respectively.

to the rudder axis. The emblem of the Romanian People's Republic shall be placed in the middle of the yellow stripe.

The center of the rectangle shall be placed halfway between the higher extremity of the rudder and the horizontal elevators.

The dimensions of the rectangle shall depend on the size of the rudder, i.e.: the upper part of the large side of the rectangle shall be as wide as the rudder and the small side of the rectangle shall be two-thirds of the large side.

Parachutes shall have no flag; they shall only bear the sign of nationality.

B. Lighter-than-air craft.

The flag shall be rectangular, similar to that described under A above, and shall be placed above the sign of nationality of the aircraft, in the technical conditions established by the Ministry of Land, Sea and Air Transportation.

2. Description of the sign of nationality of Romanian Civil Aircraft:

Civil aircraft registered in the only book of registration of civil aircraft shall bear on their fuselage, as the sign of Romanian Nationality, a group of letters established by the Ministry of Land, Sea and Air Transportation, in accordance with international conventions.

SAUDI ARABIA

ROYAL DECREE NO. 17/2/22/3481—DATED 24/9/1372H [JUNE 8, 1953]¹

With the aid of God the Almighty,
We, Abdul Aziz bin Abdul Rahman al-Faisal Al-Saud, King of
Saudi Arabia,

In accordance with what the Minister of Defense and Aviation has submitted to us, have decreed the following:

Article 1: The State has a complete and absolute sovereignty over the air space above its territory. The air space is the air layer above its lands and territorial waters.

Article 2: No aircraft is allowed to fly over or land in the territory of our Kingdom unless it has obtained permission to do so from the appropriate authority in our Kingdom and has complied with the provisions of such permission, or unless such permission is granted under a special agreement or international treaty by which our Government is bound.

Article 3: Air navigation for military, governmental and diplomatic aircraft shall be regulated by a decree. Air navigation of civil aircraft shall be regulated by decisions issued by the Minister of Defense and Aviation who has the authority to impose proper financial penalties in case of violations of their rules. These penalties shall be applied by administrative authorities of the Civil Aviation Department.

Article 4: Aircraft considered military aircraft are: aircraft belonging to military, air or naval forces. Aircraft considered governmental aircraft are: aircraft designed for public services such as customs, police, mail and similar services. Aircraft considered diplomatic are: aircraft that carry diplomatic representatives or air or military attaches.

Article 5: Representatives of Customs, Public Security, Public Health and other officials whom the Minister of Defense and Aviation may delegate have the right to order any overflying aircraft to land. They also have the right to inspect it and examine the certificates and documents aboard it and to stop it from taking off, without previously arranged action. This measure is necessary to observe the application of this Decree and the carrying out of the special rules of navigation.

These representatives have the right to detain the aircraft or any document, person or goods aboard the aircraft pending the execution of decisions taken by the appropriate authorities in such cases.

Article 6: Our Viceroy and the Minister of Defense and Aviation have put this Decree of ours into effect and act in accordance with it.

¹ English text supplied by the Government of Saudi Arabia.

MINISTERIAL DECISION CONCERNING THE PROCEDURES FOR INSPECTING
AND EXAMINING DOCUMENTS

The Minister of Defense and Aviation,
After having reviewed Article 5 of Decree No. 17/2/22/3481 dated 24/9/1372, regarding air navigation, and,

since the condition calls for the establishment of instructions which regulate the procedures of carrying out inspection and the examination of documents stated in the above-mentioned article, has decided:

Article 1: Every civil aircraft entering the territory of the Kingdom of Saudi Arabia where its flight ends will be inspected and its documents examined in the first airport it lands at, where customs authority is available, for the coming aircraft, and at the last airport it will depart from, where customs authority is available, for the outgoing aircraft.

Article 2: Inspection and documents examination of an incoming aircraft will be made after its passengers have disembarked and its cargo off loaded. Outgoing aircraft will be inspected and its documents examined before the passengers have embarked and the cargo has been loaded.

Article 3: Inspection must be made properly in the least period of time possible and should not result in any unreasonable delay.

Article 4: Before carrying out the inspection the pilot or whoever is acting for him must be asked whether or not there is anything on the aircraft not listed on the shipping documents or materials forbidden to be carried by aircraft. His answers to these questions should be taken down in writing.

Article 5: Inspection and document examination should be carried out by officials who are delegated to do it in the presence of a representative of Civil Aviation Department and a representative of the party to which the aircraft belongs. A report of the inspection and its findings should be written and signed by each one of them.

Article 6: Inspection should include all places and storage areas of the aircraft. The examination of documents should include all papers, documents and lists which the aircraft must carry. The purpose of inspection and documents examination is to observe the application of the special regulations of air navigation, customs and other local regulations in effect in the Kingdom of Saudi Arabia.

Article 7: Inspection of the passengers, their baggage and the cargo of the aircraft should be carried out after the passengers have disembarked and the cargo has been offloaded at the customs area at the airport where the aircraft lands and in accordance with customs regulations.

Article 8: Military, governmental and diplomatic aircraft are not allowed to be inspected unless high orders to this effect are issued and transmitted through the Ministry of Defense and Aviation.

Article 9: Aircraft in transit and aircraft engaged in international transport operation—from one point in the Saudi Arabian Kingdom to another point in it—are not subject to inspection unless there would be a strong suspicion based on firm proof which necessitates the carrying out of inspection.

Article 10: The Director of Civil Aviation and other Government bureaus concerned have to execute these instructions and act in accordance with them as of this date.

MINISTERIAL DECISION CONCERNING PENALTIES FOR VIOLATING THE INSTRUCTIONS FOR REGULATION OF AIR NAVIGATION FOR CIVIL AIRCRAFT

The Minister of Defense and Aviation,

After reviewing the Royal Decree No. 17/2/22/3481 of 24/9/1372 concerning air navigation,

and on the basis of the authority granted to the Minister of Defense and Aviation under Article 3 of the said Decree, and

After reviewing the instructions issued by the Minister of Defense and Aviation in order No. 403 of 25/10/1371 H,

has decided:

Article 1: Every aircraft engaged in civil air transport, as well as every special civil aircraft flying over or landing in the territory of the Kingdom of Saudi Arabia without previously arranged permission, or if it has violated the provisions of such permission, the owner will be fined two thousand Saudi riyals and its pilot will be fined five hundred Saudi riyals.

Article 2: Every foreign aircraft carrying out any transport operation in the Kingdom of Saudi Arabia without previous permission, or violates during the Haj season the special instructions of air transport from the Kingdom of Saudi Arabia, the owner will be fined one thousand Saudi riyals and its pilot will be fined two hundred Saudi riyals.

Article 3: It is prohibited for an aircraft overflying or landing in the territory of Saudi Arabia to carry persons either crews or passengers undesirable by the Saudi authorities or to transit an enemy port while coming to or going out of the country. If it does so the owner will be fined five thousand Saudi riyals and its pilot will be fined one thousand Saudi riyals. The aircraft may also be confiscated.

Article 4: A fine of one thousand Saudi riyals will be imposed on the owner of an aircraft which is engaged in transporting passengers and cargos to the Kingdom of Saudi Arabia in the following cases:

1. If he used his aircraft without obtaining the certificate of registration or a certificate of airworthiness.

2. If he did not show clearly on the aircraft the signs of its nationality and registration.

3. If he did not furnish the aircraft with all apparatus and instruments to secure the safety of the aircraft and its passengers.

4. If he did not consider international laws concerning the load capacity of the aircraft, of passengers, cargo and fuel.

5. If the number of the crew is not as required for piloting the aircraft or if they are not in possession of a certificate of fitness and other necessary certificates from the country in which the aircraft has been registered.

Article 5: The owner of the aircraft will be fined five hundred Saudi riyals if the aircraft was not carrying within its papers the following:

a) The permission granted to it (by the Government of Saudi Arabia).

b) Its registration certificate.

c) An airworthiness certificate.

d) A certificate of its crew's qualifications (fitness).

e) A license for its wireless unit.

f) A record of the aircraft's flights (Log Book).

g) A list of passengers.

h) A certificate proving the cleanness of the aircraft if it was coming from places where there is a suspicion of the existence of communicable diseases.

i) Or if the aircraft carried pilgrims who were not holding health certificates proving that they were vaccinated against the epidemic diseases, as agreed upon internationally.

Article 6: The penalty provided in Article 4 will be doubled if the owner of the aircraft puts a registration mark on the aircraft which differs from the marks shown on the aircraft airworthiness certificate or if he erased or obliterated the original marks (signs), or if he used an aircraft without the true mark or if the aircraft certificate or certificates, mentioned in Article 5 above, were false.

Article 7: The pilot of the aircraft will be fined one thousand Saudi riyals:

a) If he piloted the aircraft without a license or certificate.

b) If he destroyed the flight record or entered false statements in it.

c) If he flew over Saudi Arabia without a valid reason on air corridors other than those permitted to be used by the Saudi Arabian Government.

d) If the aircraft carried to Saudi Arabia narcotics or intoxicating liquors or materials and items prohibited (forbidden) under the country's regulations.

e) If he landed without reason at airports other than Jidda or Dhahran airports.

Article 8: In the cases mentioned in the above articles the Saudi authorities may hold the aircraft and not permit it to leave except after the execution of the penalties and provisions imposed. The aircraft may be held at the expense of and at the responsibility of its owner.

Article 9: Penalties and actions provided in this decision shall be carried out (enforced) by the Administrative authorities of the Civil Aviation Department.

Article 10: The Director of Civil Aviation Department has to put this decision into effect and act in accordance with it as of the date of its publication and announcement.

INSTRUCTIONS ISSUED BY THE MINISTRY OF DEFENSE AND AVIATION
REGULATING AIR TRANSPORT IN THE KINGDOM

1. Establishments engaged in air transport and private aircraft are not allowed to transport pilgrims or passengers during the pilgrimage season except after obtaining permission to do so through the Ministry of Foreign Affairs, and within the limits of this permission. It should be understood that permission for foreign aircraft to conduct transportation to the Kingdom of Saudi Arabia is based on the principle of reciprocity and equal rights necessitated by transport operations between the foreign and the Saudi establishments. Request for such permission should be forwarded to the Foreign Ministry by the Government or the Legation to which that establishment belongs.

2. All transport operations inside the Kingdom of Saudi Arabia is the privilege of the Saudi transport means only.

3. Aircraft carrying pilgrims should not carry undesirable persons, either crews or passengers and it should not transit enemy ports while coming in or going out of the Kingdom. If it does so it will be subject to a large fine or confiscation.

4. Every aircraft carrying passengers or goods to the Kingdom of Saudi Arabia should be in possession, among its papers, of the following:

a) The permission granted to it (by the Government of Saudi Arabia).

b) Its registration certificate.

c) Its airworthiness certificate.

d) Its crew's fitness certificate.

e) Its wireless unit license.

f) The record of its flights (Log Book).

g) Passenger manifest.

h) Bill of Lading.

i) A certificate proving the cleanness of the aircraft which is coming from places where communicable diseases exist or are suspected to exist.

5. Companies and their agents should inform the appropriate authorities of the numbers of aircraft, number of flights, number of passengers of every flight and determine the time of entrance of the aircraft into Saudi Arabian territory.

6. International rules concerning the aircraft capacity of passengers and cargo must be observed.

7. The aircraft nationality and registration marks must be shown on the aircraft.

8. No company will be permitted to transport passengers from the Kingdom of Saudi Arabia, other than those pilgrims who come on their aircraft, except by special permission.

9. The aircraft must be equipped with all instruments and apparatus which will secure the safety of the aircraft and its passengers.

10. There should be adequate number of crew aboard the aircraft and they should be in possession of their certificate of fitness together with the licenses issued to them by the appropriate authorities in the country where the aircraft is registered.

11. Aircraft enroute to Jidda should follow the following routes:

a) Aircraft coming from the north via Aqaba should follow the Red Sea coast until they reach the Jidda airport, or fly direct over the Red Sea without overflying Saudi shores.

b) Aircraft coming from the east, via Kuwait, Bahrein, etc., should follow a line which would leave Riyadh at least thirty kilometers to the left, and flying over the posts of Ramah, Marrat, Dawadmi, Dafina, Muwaih, then by a straight line to a point at the Red Sea coast which is thirty kilos north of Jidda from where it heads south to Jidda.

c) Aircraft coming from west or south via Port Sudan, Asmara or Aden should fly direct to Jidda flying over the Red Sea coast to Jidda.

12. Aircraft are not allowed to land in airports other than Jidda and Dhahran airports.

13. Air companies and their agents in the Kingdom are responsible to pay the required governmental fees for their aircraft in accord-

ance with the fixed fees under the effective local regulations. Each airlines company must appoint an agent for it, in the Kingdom, who will be responsible to pay the fees and execute the provisions stated in these instructions or included in the permission granted.

14. All these who arrive at Saudi Arabia, pilgrims and others, must be holding health certificates of vaccination against epidemic diseases agreed upon internationally, as follows:

- a) For smallpox, from 14 days to 3 years.
- b) For cholera, from 6 days to six months.
- c) For yellow fever, if the person is coming from infected or suspected to be infected countries, from 10 days to 4 years.

15. Airlines companies or their agencies must apply the text of the International Health Agreement of 1944.

16. The Saudi Arabian Government reserves the right to withdraw its permission from any of the airlines companies, or their agents in the Kingdom, in case it violates the provisions of the permission granted or if it does not observe the carrying out of the rules and regulations mentioned above. International penalties will be applied in such cases.

MINISTERIAL RESOLUTION NO. 3, DATED 23/6/1377 [JAN. 17, 1958] REGARDING FLIGHT CLEARANCE

The Minister of Defense and Aviation:

After reviewing Article 3 of the Royal Decree No. 17/2/22/3481 of 24/9/1374 [May 17, 1955] issued concerning air navigation,

and, in accordance with the authorization granted to us under that article, and since it has become necessary to put into effect a system for flight clearances rules,

We have decided the following:

Section One—Flight Clearance

Article 1: Taking into consideration the provision of Article 2 of this resolution, no aircraft is allowed to fly over or land in the territory of the Kingdom of Saudi Arabia unless it has obtained a clearance, supplied the provisions of such clearance, or unless such clearance is granted under a special agreement or international treaty in which the Saudi Government is a participant.

Article 2: Israeli aircraft and any other foreign aircraft heading for or departing from Israel, are not permitted to overfly or land in Saudi territory.

Article 3: Taking into consideration the rules of the resolution and the Kingdom's regulations pertaining to air navigation, every aircraft recorded in the Saudi records can fly over the Kingdom's territory.

Article 4: Foreigners and foreign companies are not allowed to perform air transportation operations within the territory of Saudi Arabia. Such operations are considered the privilege of Saudi citizens, unless transportation operation is for noncommercial purposes and in accordance with special permission or has been authorized by the Government.

Article 5: Clearance for flying over the Saudi territory are only granted to aircraft in possession of valid Registration Certificate,

issued by the country to which the aircraft belong, and an airworthiness certificate issued by or approved by the appropriate authority in that country.

Article 6: A clearance is granted under the following provisions:

1. The aircraft should have the signs of its nationality and registration in a prominent place, and it should carry a record indicating the name of the owner and his residence, in accordance with the procedures followed.

2. The aircraft should be equipped with all machines, installations and equipment needed for the type of flight it is making.

3. The aircraft should carry the proper documents and its flight records should be complete to the last date in the proper way and form.

4. The aircraft operating members should be adequate. They should be enjoying the known characters, in possession of certificates of fitness and commissions issued or approved properly by the appropriate authority in the country where the aircraft is registered. None of them should be an undesirable person.

The expression "aircraft operating members" covers: the commander, pilots, mechanics and others connected with its operation.

5. The aircraft must observe the provisions under which its airworthiness is issued or approved.

6. The aircraft must also consider the rules provided in the fixed aviation regulations and instructions of the country. The Minister of Defense and Aviation, however, may waive these for gliders, balloons and other similar equipment, which has no propellers, from previous provisions.

The word (fixed) in this article defines the provisions and instructions provided in the regulations and rules applied in the country where the aircraft was registered.

Article 7: The clearance granted is for the aircraft and the owner himself, and it will become void and unconsidered in case of change of ownership.

Article 8: Clearance is granted for a certain period or for a certain flight.

Article 9: In addition to the clearance indicated in the previous articles, special permission must be obtained for using a Saudi, or a foreign aircraft in the Saudi Arabian Kingdom for the following purposes:

1. Transportation of passengers and cargo against fare charges.

2. Teaching flying.

3. All other aviation operations which are made against fair charges.

Article 10: In case of technical flight test for the purpose of granting an airworthiness certificate, special permission should be obtained from the Director of Aviation Department in lieu of the clearance. The Minister of Defense and Aviation, however, may waive the provisions of Article 5 of this Resolution, in case of training flight, or a flight made for the purpose of obtaining a degree or an airworthiness certificate.

Article 11: Clearances, certificate and commissions issued or approved in accordance with the provisions of this resolution, and the

instructions for whom they were issued without the Government bearing any responsibility.

Article 12: To grant a clearance to a foreign aircraft to overfly Saudi territory, the regulations of the country to which the aircraft belong should provide Saudi aircraft overflying its territory with treatment on the basis of reciprocity.

Article 13: In case of violation of any of the provisions of this resolution the proper penalty provided in the Penalties Regulations issued under the resolution of the Minister of Defense and Aviation No. — dated — shall be applied. More strict rules provided in laws and regulations should also be considered. An aircraft, a machine, an installation or gliding equipment may be held, if a violation is proven, until clearance is granted or until the owner of the aircraft removes the causes of violation. Application of penalty shall be carried out by the administrative authority of the Civil Aviation Department. Holding of an aircraft shall be at the expense of the owner and under his responsibility.

Article 14: In case of applying the penalty for the violation of the rules of this resolution, the Minister of Defense and Aviation has the right to suspend or withdraw any clearance, certificate of airworthiness, or a commission which he might have issued to any of the crew members, and to cancel the authentication which he might have given to certificates of aircraft or crew's commissions. The Minister has the right also to suspend, for a limited period, or withdraw any clearance if he sees it is necessary, in the common interest.

Section Two—Procedures for Applying for a Flight Clearance

Article 15: The application for the clearance provided in Article 1 of this resolution has to be submitted to the Director of Civil Aviation Department. The period of clearance should not exceed the validity period of the airworthiness certificate and it should be in accordance with the provisions stated in Articles 4 and 5.

Article 16: Taking into consideration the provisions of Article 2 of this resolution, the types of clearance that may be granted to foreign aircraft overflying Saudi territory are as follows:

1. Private foreign aircraft:

a) A clearance to transit Saudi territory for a period not exceeding six months.

b) A clearance to overfly Saudi territory for a period not exceeding six months.

2. Foreign aircraft engaged in commercial transportation:

a) A clearance for an incidental flight to the Kingdom or for transiting Saudi territory.

b) A clearance for regular flights to Saudi territory, or transiting it without landing.

3. Foreign military; governmental and diplomatic aircraft:

a) Clearance for entering the Kingdom or transiting its territory without landing.

Article 17: The owner of a foreign aircraft or anyone acting for him should submit the request for clearance indicating in it the type of clearance requested, as provided in Article 16, the period of stay in the Kingdom, and the route of the aircraft, and stating that the air-

craft meets the conditions provided in the proper regulations of the Kingdom.

Article 18: In case of a clearance request for technical test flight, the Director of Aviation Department has the right to issue a special permission granting the clearance under the provisions which he may deem necessary.

Article 19: Taking into consideration the provision of Article 21 of this resolution, clearance requests for foreign aircraft to overfly Saudi territory should be submitted to the Aviation Department or through consular channels. Such requests should be submitted in adequate time, prior to the starting of flight, for sending the reply by mail. In urgent cases telegraphic reply may be made at the expense of the clearance applicant.

Article 20: With regard to the establishment of regular flight lines of foreign commercial transport aircraft to or through the Kingdom's territory, the Minister of Defense only can grant the clearance for such flights.

Article 21: Clearance applications for foreign military, governmental or diplomatic aircraft to overfly or land in Saudi territory should be forwarded to the Foreign Ministry by diplomatic channel.

Article 22: When a clearance for a foreign aircraft is requested, the permission granted to it, to enter into or leave the Saudi territory, should not be made valid for more than six months. In such clearances the number of flights allowed shall be indicated, provided that the validity of the clearance should not exceed the validity period of the aircraft airworthiness certificate.

Article 23: The tariff of fees to be levied for all types of clearances shall be determined under a ministerial resolution.

Article 24: Clearance granted under this resolution should specify the details of the flight, date issued and period of validity of the clearance. Such clearances may be amended without additional payment of fees in the two following cases:

1. If the clearance expires before the flight authorized was started or completed.

2. In case of amending the original program of the flight.

Article 25: The application form for clearance and the clearance form should agree with the forms approved and authorized by us.

Article 26: The rules of this resolution cancel all instructions issued previously, which are contracting it.

Article 27: The Director of Aviation Department must carry out this regulation and circulate it among the authorities and parties concerned. He should act in accordance with it as of the date of its publication in the official gazette.

MINISTERIAL RESOLUTION NO. 4 DATED 23/8/1377 A.H. REGARDING THE
GENERAL RULES FOR AVIATION IN SAUDI ARABIA

The Minister of Defense and Aviation:

After having reviewed Article 3 of Royal Decree No. 17/2/22/3481 issued on 24/9/1374 A.H., concerning air navigation, and,

in accordance with the authority invested in us under the said article, and, after having reviewed the instructions previously issued by the Ministry of Defense and Aviation on 19/8/1369, under No. (4-3),

and the instructions issued on 18/11/1373 concerning certain rules to be considered in air navigation in the region of the Kingdom, and, since it is necessary to put general rules for air navigation over the Kingdom which will agree with the international rules applied in this respect, and the new development of aviation, we have decided the following:

Section One—General Rules for aviation in the Kingdom's Region

Article 1: Every aircraft flying over the region of the Kingdom must carry the following documents:

1. The clearance granted to it (by the Government of Saudi Arabia).
2. Its registration certificate.
3. Its airworthiness certificate.
4. A record of its flights (Log Book).
5. The commissions and qualification certificates of its crew members.
6. The license of the wireless set, if it has such a set.
7. A list of passengers, if it is engaged in commercial transportation or international flights.
8. Air freight manifest, if it is engaged in commercial transportation or international flights.
9. The aircraft safety certificate.
10. A statement of the method of cargo distribution if the aircraft is engaged in air transportation activity.
11. A special permission to transport certain types of goods, when necessary.

Flight clearance, registration and airworthiness certificates, and the wireless set license must be kept in the pocket of the flight record.

Article 2: Papers carried by a foreign aircraft and its crew members must have been issued by the appropriate authority in the country where the aircraft is registered, or by the appropriate Saudi authority.

Article 3: Saudi aircraft are waived from the condition of carrying the papers indicated in part 5 of Article 1 of this resolution in case the flight was for the purpose of training or obtaining certificates or commission, provided that the aircraft shall not fly more than 5 kilometers away from the airport limit, unless its flight was authorized within an area determined by the Civil Aviation Department for such purposes. In such cases, the student pilot should have passed the proper medical examination.

Article 4: Any person must not put false statements in the applications he submits, for the purpose of obtaining a commission or a certificate, or in the records delivered to him. He should not use a commission or a certificate which he has no right to use, and should not make changes on the commissions and certificates issued to him. He must not, as well, make changes whatsoever in the statement of a certificate or a record delivered to him.

Article 5: No aircraft registered in the Kingdom shall fly unless the Civil Aviation Department issues a certificate of airworthiness for it. Such a certificate is valid for a certain period or for a certain number of hours which should be shown on the certificate itself. The validity

of the certificate should not exceed twelve months in any case, and it shall not be extended for a further period unless a complete overhaul has been conducted under the supervision of an authorized person.

Article 6: Aircraft registered in the Kingdom and engaged in commercial transport must meet the following conditions:

1. Such aircraft are not allowed to fly before examination to ensure its safety within the twenty-four hours that proceed its taking off, in accordance with the previous article of this resolution. If the aircraft was affected by damage which obliges it to make emergency landing and none of its crew members is authorized to make the necessary repairs, it shall not be allowed to continue its flight unless it is re-examined after the repair and a new safety certificate is issued to it.

If, for any reason other than the damage stated above, the aircraft is unable to complete the flight within the twenty-four hours of the safety certificate, it may continue its flight to the destination it was supposed to reach within the twenty-four hours time of the safety certificate.

If the twenty-four hours elapsed and the aircraft was still flying, it may proceed on its flight, to its destination. The twenty-four hours time shall be counted from the time the examination of the aircraft is completed.

2. The above-mentioned examination must be conducted by a mechanic who is in possession of a mechanic's license for the type of aircraft he is required to examine and he should be authorized to handle this job. If the aircraft is found safe, the mechanic shall issue a certificate to this fact, in the style stated in the previous article of this resolution.

3. The twenty-four hours time mentioned above shall be counted from the time the examination was completed in accordance with the details stated in the certificate.

4. This certificate must be forwarded whenever the concerned representative asks for it.

Article 7: The safety report provided in the previous article should be in the following form and wording:

AIRCRAFT SAFETY REPORT

Type of aircraft: -----

Nationality and registration marks: -----

1. I hereby certify that I have examined the aircraft described hereabove (as well as the special instruments and equipment other than its propeller and the apparatus and installations connected to it), and have ascertained the safety of the aircraft if the conditions for loading capacity and cargo distribution stated in the aircraft's airworthiness certificate are observed. The examination was completed at: -----

Date: -----

Signature of Mechanic and his
License No. -----

2. I hereby certify that I have inspected the engines of the aircraft described hereabove and all installations (fittings) and instruments connecting to these engines, and have ascertained that they are satisfactory.

A fee of one hundred Saudi riyals shall be levied for both safety certificates.

Article 8: The Civil Aviation Department has the right to cancel or suspend the airworthiness certificate of any aircraft if a mere doubt in the safety of the aircraft exists.

Article 9: The appropriate mechanic of the Department is allowed to withdraw or suspend the certificate of airworthiness of an aircraft if upon examining it he finds it not safe.

Article 10: The following information must be written on every aircraft that obtains a valid airworthiness certificate:

1. Its net weight.
2. Maximum weight when loaded.

Article 11: No person under 17 years of age is allowed to operate an aircraft alone by himself, but persons under 15 years of age are allowed to operate gliders.

Article 12: No person is allowed to teach flying unless he meets the following conditions.

1. He must be in possession of a flying license valid in the type of aircraft he uses for teaching.

2. He must be in possession of permission from the Civil Aviation Department to teach flying in accordance with the provisions stated on the permit.

Article 13: No one is allowed to operate an aircraft engaged in commercial transportation unless he is in possession of a license for commercial transport flights of the same type of aircraft he is operating.

Article 14: If the crew group consists of a number of persons, one of them must be recorded on the aircraft flight record as being the pilot in charge.

Article 15: Every aircraft that should have a wireless set in accordance with the regulations in force, must have a wireless set operator who is in possession of a license issued by the appropriate authority and approved by the appropriate aviation authority in the country where the aircraft is registered, unless the aircraft is flying in areas where wireless communications cannot be made.

Article 16: The Civil Aviation Department shall bear no responsibility for any loss or damage which an aircraft may encounter on the ground at its airports whether the aircraft was in or out of the hangars.

Article 17: The responsible pilot of any Saudi or foreign aircraft within the boundaries of the Kingdom must, before taking off, ascertain of the following:

1. That the aircraft contains all necessary and supplementary instruments and equipment, and that the aircraft and all those instruments and equipment are in good condition to make the planned flight.

2. That the tonnage and cargo distribution (inside the aircraft) agree with what is stated in the aircraft airworthiness certificate.

3. That no dyes, damage or sediment affects the windows and screens the vision of the pilot.

4. That there is fuel, oil and water in the aircraft enough to complete the planned flight.

Article 18: Every aircraft flying over a city or a village must fly at a sufficient level to enable it to land away from the city or village if its operation facilities were damaged.

This article is not applicable to such aircraft that takes off and land at airports which are not more than 2 kilometers from the nearest point of the airport limits.

Article 19: No aircraft is allowed to fly at a low level or in a way which may endanger the people, animals or properties, or which may frighten the people.

Article 20: No aircraft flying over the territory of the Kingdom is allowed to carry any person on its wings or on any part of it other than the places designed for passengers except in the following cases:

1. To conduct repairs on the aircraft or its equipment, or to perform any necessary work for the safety of the aircraft, its passengers or cargo.

2. To reach to the cargo storage place or the store of the aircraft if there is no other way.

3. If such person is in possession of a written permission from the Aviation Department which permits him to carry out certain work on the aircraft that cannot be done through other means.

Article 21: No aircraft is allowed to pull, or to be pulled by, other aircraft unless its airworthiness certificate permits it to do so, provided that it observes the conditions stated in this certificate and unless it obtains a written permission from Aviation Department.

Article 22: No commercial transport aircraft, which is registered in the Kingdom and carrying passengers on regular flights, is allowed to fly over the sea or over internal waters unless it would be able to reach land if any of its engines gets out of operation. Seaplanes are excepted.

Article 23: No aircraft flying over the territory of the Kingdom is allowed to make acrobatic or dangerous maneuvers, for the sake of show, over a city, a village or a populated area without a special permission from the Aviation Department.

No flying contest or show in any form can be arranged or held except under a written permission by the Aviation Department.

Article 24: No aircraft equipped with a multi-control system is allowed to fly with only one person in one of the two cockpits if he has no commission to fly, or if he is learning to fly, or if either of the control systems has been separated from the other so that it cannot be used as part of it.

Article 25: An unauthorized person is not allowed to interfere in the operations of any of the control crew, stop him from performing his duties, play with any part of the plane or its equipment, or do anything that may peril the safety of the aircraft, its crew or passengers.

Article 26: Unless in emergency cases, nothing can be thrown out of the aircraft other than the soft sand and water, which were loaded on the aircraft to give it weight, smoke generating equipment and other materials which the Aviation Department authorizes to be thrown out in the cases defined by it. All precautions must be taken to avoid carelessness which may result in the falling of anything from the aircraft.

Article 27: Smoking is absolutely forbidden inside the aircraft in places other than those appropriate for it. The owner of the aircraft must post notices in prominent places inside the aircraft indicating the areas where smoking is allowed.

Unless the place for smoking is indicated on the aircraft's airworthiness certificate, no place should be appropriate for such purpose except under a written permission by the Aviation Department. If a place for this purpose is arranged notices to this effect must be prominently exhibited inside the aircraft and in the place itself.

Article 28: Any aircraft on any flight must be equipped with the following:

1. First aid kit.
2. At least one fire extinguishing unit in the control group cabin.
3. At least one fire extinguishing unit in each passenger cabin if they are separated from the pilot or the co-pilot cabins and far from their reach.
4. Passengers should be given the following information precisely:
 - a) When to fasten seat belts.
 - b) When and how to use the oxygen sets (if they are necessary to carry).
 - c) When to stop smoking.
 - d) Where to find and how to use the safety belts.
 - e) Whereabout and how to open the emergency windows.

Article 29: The pilot or any of the crew members of an aircraft must not be in such condition which unables him to do his work, as a result of drinking or using alcoholic drinks, narcotics, stimulant, sedative or any other drug which may make him unfit to fly. No person who seems to be drunk is allowed to enter into or stay in the aircraft.

Article 30: Commercial transport aircraft must not put any sort of obstacles in the exit outlets and such outlets should not be tightly closed in a way that it would be difficult to open quickly when necessary. Notices indicating the emergency exits and how to use them must be maintained in prominent places inside the aircraft.

Article 31: Parachutes are not to be used except in emergency cases or under a written permission from the Aviation Department on which conditions and instructions to be followed are shown.

Article 32: One engine aircraft, or aircraft which have no wireless sets or other similar apparatus by which contact can be made with aircraft, are not allowed to fly over unpopulated areas unless it follows the authorized air corridors or have had obtained a permission to this effect from the Aviation Department.

Section Two—Rules for controlling air navigation

Article 33: The regulation, rules and instructions which are in effect concerning the entry of persons to the Kingdom, their exit from it, importation or exportation of goods via sea or land freight are applicable in the entry and exit by air of persons, importation and exportation of goods.

Article 34: In accordance with article 5 of Royal Decree No. 17/2/22/3481 issued on 24/9/1372 concerning air navigation regulations, the representatives of the Civil Aviation Department, Customs, Public Security, Health and Quarantine have the right to order any overflying aircraft to land. They have the right also to inspect it and examine the certificates and documents it carries, without making previous arrangements, and to stop it from continuing its flight in order to observe the application of the provisions of that decree and other air navigation regulations and instructions. Furthermore, these representatives have the right to detain the aircraft, any document, person or item on the aircraft pending the execution of the actions determined by the appropriate authorities, and the fulfilment of the official procedures. The application to order the landing of an aircraft is to be submitted in writing to the appropriate authorities of the Aviation Department and under the responsibility of the applicant.

Article 35: Every aircraft must observe the general rules of air traffic, and the rules and instructions concerning lights, daylight signs and signals.

Article 36: Every aircraft must observe the rules of public security and the safety of inhabitants and properties.

Article 37: No wireless set is to be installed in an aircraft except under a special license issued by the appropriate authority in the country where the aircraft is registered.

This set is not to be used except for the purposes of air navigation and for the safety of the aircraft. It is to be used by the aircraft crew who have special commissions to do so issued by the appropriate authority in the country where the aircraft is registered.

Article 38: The following items are not to be transported on any aircraft, coming to or departing, from the Kingdom, except under permission of the Minister of Defense and Aviation:

1. Explosives, except those required for the aircraft operation or for giving customary signals.
2. Arms or ammunitions.
3. Pigeons.
4. Messages, transportation of which is the privilege of Post Office.
5. All other items issued in a ministerial resolution.

Article 39: Every pilot and every crew member of an aircraft must submit, if asked, to the representative of the Aviation Department, any certificate, record of flights or license belonging to him or to the aircraft which he must be in possession of in accordance with the regulations and instructions in force.

Article 40: No person is allowed to carry and use a still or movie camera to take pictures from an aircraft flying over Saudi territory as well as its territorial waters.

Article 41: Photographic and cinematographic equipment which the aircraft carry during its flights over the territory of the Kingdom must be stamped. With regards to photographic and cinematographic equipment carried by passengers or the crew members, the pilot must either take all steps to keep them in a special place under his custody, or take the necessary precautions to secure the non-use of such equipment in taking pictures from the aircraft.

Article 42: The prohibition provided in the above two articles does not apply to photographic and cinematographic equipment which are being transported by the aircraft as commercial goods, provided that they are transported in parcels well packed in a way that it would be impossible to use them during the flight.

Article 43: All incidents which may happen, from the time the passengers board the aircraft for the purpose of flying, to the time the last passenger disembarks from it, which results in:

1. The injury of, any person, whether or not this injury is fatal,
2. A fire in the aircraft, or the existence of a suspect of fire in it,
3. A damage or breaking of any of the aircraft's principal part of its engine,
4. Any damage or loss in other property, and
5. All incidents of emergency landings without exception of any, whether the aircraft made a safe landing or injury of persons or damage of property was involved, must be reported.

Article 44: In case of the occurrence of any of the incidents mentioned hereabove in the previous article, the pilot of the aircraft, or anyone acting for him, must report the accident immediately to the nearest airport which has customs authority and to the nearest Public Security office.

Article 45: Reporting the incident must be made through the fastest means of wire or wireless communications system, or other transportation means, provided that it covers the following information:

1. Nationality and registration numbers of the aircraft.
2. Place where the accident occurred.
3. Date and time of accident.
4. Number of passengers and crew.
5. Kind of accident and the extent of damage and loss occurred.
6. Number and names of persons killed and injured if there were any.
7. Name of the owner of the aircraft.
8. Name of the pilot.

Article 46: The aircraft must be left in the same position and place where the accident occurred, and none of the luggage or parts should be moved before investigation is carried out by the appropriate parties to find the causes.

Article 47: The pilot of the aircraft is required to take all possible precautions to prevent any person from getting near the aircraft, its passengers or any part of it. He should also prevent the destruction of the traces of the accident.

Article 48: The pilot should, if possible, not leave the area of accident until the representatives of the Public Security arrive to guard the plane.

Article 49: The pilot is required to submit a full report to the nearest airport commander in which he explains the causes and the circumstances of the accident and all damages and losses resulted.

Article 50: In case a Saudi plane is involved in accident outside Saudi territory, the pilot is required to inform the Department of Civil Aviation accordingly through the fastest means of communication, provided that includes all information prescribed in Article 45. He is also required to send a full detailed report of the accident, as

provided in Article 49, to the Department of Civil Aviation as soon as possible.

Article 51: The aircraft or its wreckage should not be moved except under an order from the Director of Civil Aviation Department.

Article 52: For the safety of the flight, the pilots, upon entering the region of the Kingdom, must send reports about their positions to either one of the flight information regions in Jidda or in Dhahran, according to circumstances, then give such information once every thirty minutes. Pilots of outgoing aircraft must send reports about their position half an hour after they take off then once every half hour. Position reports must include the following information:

1. Nationality and registration number of the aircraft.
2. Position (indicated by longitude and latitude).
3. Time when giving the position reported.
4. Height.
5. Flying condition, whether above, under or through clouds, and visibility range.
6. True track.
7. Ground speed.
8. Estimated time of arrival at boundary of the control region or the airport of destination.
9. Endurance in hours and minutes.

The term "track" indicates the projection of the progress of the aircraft over the earth surface, and its direction in any point, indicated by degrees starting from the (true or magnetic) north lines.

The term "visibility" is intended to mean the ability to see and spot clear things (not luminated during day or night time), under the prevailing weather conditions.

Air visibility is the average extent of visibility in front of the pilot in his cabin while flying. Surface visibility is the visibility range which an authorized official in an airport gives to an aircraft.

Article 53: If an aircraft flies over restricted areas in the Kingdom, it will be fired upon immediately and without previous notice. The responsibility of what may happen to the aircraft or what actions may be taken against it will fall upon the shoulder of the pilot.

Article 54: The following actions shall be taken against the aircraft which flies over restricted areas in the Kingdom:

1. The aircraft shall be retained as soon as it lands in any airport and the crew members shall be investigated.
2. If the airport belongs to a company, the subject of forbidding any of the company's aircraft from overflying Saudi territory thereafter shall be considered.

Article 55: The purpose of the air traffic system control is to prevent collisions between:

1. The aircraft themselves.
2. The aircraft and the barriers in the airport area.
3. The speed and air traffic system.

Air Traffic control services include the following services:

1. Air traffic control services for flights at the entrance of control areas.
2. Air traffic control services for departure or arrival of aircraft.
3. Air traffic control services for the airport traffic.

Article 56: The pilot of any aircraft entering into or departing from the Kingdom's territory is required to follow the rules pertaining to air traffic as well as the instructions issued by the air traffic control (Office), unless there are forcing circumstances which obliges him not to follow such rules and instructions. In case he violates such rules and instructions he shall be held responsible for any damage or harm that may fall on persons, aircraft or property of others.

Article 57: The Aviation Department shall issue the proper rules and instructions relative to air traffic control (system) and in accordance with the rules and instructions applied internationally in this connection.

Article 58: Every aircraft, which the appropriate authority order, through the customary means, to land must land at the nearest airport. Furthermore it should, upon receiving the order to land, reduce its speed and come down to a lower level, otherwise it shall be forced to do so.

In emergency landing at the territory of the Kingdom previous clearance or permission is not required. Every aircraft, knowing that there is another aircraft which is obliged to make an emergency landing, should immediately give way to the other aircraft.

Article 59: Anyone who violates the provisions of this decision, and the rules and instructions referred to in Article 57 shall be penalized with a fine not less than two hundred riyals and does not exceed one thousand riyals unless the Penalties Regulation issued under the Ministerial Resolution No. — specifies a harder penalty. Penalties and measures specified in this decision shall be applied by the administrative authorities of the Civil Aviation Department.

Article 60: The Director of Aviation Department is required to apply this decision, circulate it among concerned authorities and act in accordance with it as of the date of its publication in the official gazette.

MINISTERIAL RESOLUTION NO. 5 DATED 23/5/1377 REGARDING AIRCRAFT
REGISTRATION

The Minister of Defense and Aviation,

Having reviewed Article 3 of Royal Decree No. 17/2/22/3481 concerning air navigation, and

On the basis of the authorization granted to us under the said article, and since it has become necessary to establish a regulation for aircraft registration, have decided:

Article 1: The Civil Aviation Department shall maintain a Saudi Registration Log Book to record aircraft.

Article 2: Aircraft registered in the said Registration Log Book should not be registered in another country, and should be owned completely by Saudi subjects or by a company whose share holders are all Saudi citizens.

Article 3: Every aircraft which is registered in the Saudi Registration Log Book bears the Saudi nationality.

Article 4: Aircraft shall be crossed out of the Registration Log Book in the following cases:

1. If the conditions provided in article 2 of this decision has not been fulfilled.

2. In case of the change or death of owner or dissolution of the company which owns the aircraft.

3. In case of destruction or loss of the aircraft or its being unfit for use.

Article 5: The owner of the aircraft or his heirs are required to inform the Aviation Department of any change in the ownership of the aircraft or his share in it. They are required to inform the said Department if the aircraft is destroyed or lost or becomes unfit for use. Such notification must be made within fifteen days at most from the date of the death of the owner, the loss of the aircraft or the date the aircraft proved to be unfit for use.

Article 6: Aircraft registered in the Saudi Registration Log Book are not allowed to trespass the Saudi borders except under a previous permission obtained from the Minister of Defense and Aviation.

Article 7: Characteristic features of Saudi aircraft are:

- a) Nationality mark.
- b) Registration mark.

1. Three English letters designed by the Aviation Department for motor driven aircraft.

2. Three English letters designed by the Aviation Department for gliders.

Nationality mark must be written above the registration mark, and they should be separated by a dash.

Article 8: The characteristic feature letters should be in the largest size, all in the same size, and should not come to the edge of the board. The letters should not be openface or decorated and should be all in one color different from the color of the surface on which they are written. The letters should also be clean all times so that they can be read easily, and they should be written on the upper and lower surface of the aircraft wings. In case of bodyless aircraft such marks should be made on both sides of the cockpit and passengers cabin.

Article 9: Under a resolution of the Council of Ministers aircraft owned by foreigners who are residing in the Saudi Arabian Kingdom may be registered in the special Registration Log Book for foreign aircraft though they may not be registered in another country. Such registration is for the purpose of using the aircraft within the territory of the Kingdom.

Article 10: Aircraft owned by foreigners who are residing in the Kingdom which are registered in the foreign aircraft Registration Log Book in accordance with the previous article, is not required to bear the nationality mark but showing the registration mark is enough.

Article 11: The Minister of Defense and Aviation may, if circumstances relative to public interest necessitate, refuse to register any aircraft in the Saudi Registration Log Book. He may also order that any aircraft be crossed out of the said Registration Log Book.

In this case, the owner of the aircraft must stop its operations at most within a fifteen days period from the date he has been informed of such decision.

Article 12: Saudi subjects and Saudi companies who own aircraft which are already engaged or which they desire to engage in air navigation should submit applications to have their aircraft registered in the Saudi Registration Log Book within fifteen days period at most from the date of publication of this decision in the official gazette.

Application for registration should be made on the special forms and be submitted to the Aviation Department.

Article 13: Foreigners who are residing in the Kingdom and who are desiring to register their aircraft in the special Registration Log Book of foreign aircraft should submit their application, stating on it the reasons justifying such registration as well as all necessary information, to the Ministry of Defense and Aviation who in turn shall submit it together with its remarks to the Council of Ministers.

Article 14: Any one who submits an application for aircraft registration to the Aviation Department must attach with it the documents proving its ownership, nationality of the applicant and all other information required by regulations and instructions, together with the registration fee which amounts to one thousand riyals. The fee will be returned to applicant if registration request is denied.

Article 15: The Registration Log Book for Saudi aircraft and the Registration Log Book for aircraft owned by foreigners who are residing in the Kingdom as well as the registration application form must be in accordance with the forms approved under a decision issued by us.

Article 16: The Registration Log Book and the registration certificate cover the following statements:

1. Registration marks.
2. Date of registration.
3. Description of the aircraft (Name of manufacturer, number of type and serial number.)
4. Name and place of residence of the owner.
5. Number of registration.
6. Name of the original port of the aircraft.

Article 17: In addition to the statements indicated in the above article the Registration Log Book should cover the following:

1. Every change in the characteristics of the aircraft.
2. Transfer of ownership of the aircraft.
3. In case the aircraft is chartered, such information should be entered in the Registration Log Book indicating date and validity of charter contract and name and nationality of charterer.
4. Erasure of aircraft registration.

Article 18: A file for each aircraft registration of which is requested should be maintained. The serial number and the registration letters are to be written on the top of the file by the concerned employee. Such file should include the following:

1. Statements prescribed in the previous article.
2. Statement pertaining to the changes that happen to the ownership of the aircraft, its characteristics and information concerning its being chartered, lost or gone out of use.

Article 19: The concerned person shall be given a certificate of registration in accordance with the form attached herewith.

Article 20: The Director General of the Aviation Department is required to carry out this decision, circulate it among concerned authorities and parties and act in accordance with it as of the date of its publication in the Official Gazette.

ROYAL DECREE NO. 7/7/15 2559 ON 1ST. RABI' AWWAL, 1372

[NOV. 19, 1952]

Regulations for the landing and overflight of foreign military and governmental and diplomatic aircraft, in the territory of the Kingdom of Saudi Arabia and their exemption from payment of fees

Relying on God the Almighty,

We, Abdul Aziz bin Abdul Rahman Al Faisal Al Saudi, King of the Kingdom of Saudi Arabia,

In accordance with what the Minister of Defense and Aviation has submitted to us, and since it has been necessary to establish a regulation concerning the landing and overflight of the friendly military aircraft and the foreign governmental aircraft and diplomatic aircraft in the territory of the Kingdom of Saudi Arabia and their exemption from the payment of fees in accordance with the rules prescribed in the General International Law,

have ordered the following:

Article 1: The rules of sections 1 and 2 of this Decree is to be applied on the aircraft of the following categories:

- a) Foreign Military aircraft belonging to Military, Air or Navy forces.
- b) Foreign governmental aircraft designed for public service such as Customs, Police, mail and the like.
- c) Diplomatic aircraft which carry foreign diplomatic representatives and attachés.

Section One—Air Navigation

Article 2: Taking into consideration the provision of Article 3 and 4, the categories of aircraft prescribed in Article 1 are not allowed to fly over the territory of our Kingdom or land in it unless they have obtained permission to do so from the Foreign Ministry which is approved by the Ministry of Defense and Aviation, or unless such permission is granted under a special agreement or in accordance with an international treaty in which the Saudi Government is a party, and unless they comply with the conditions provided in the permission.

Article 3: Aircraft shall not be allowed to fly over the territory of our Kingdom except via the corridors and over the places where flying is permitted.

Article 4: The Government may, when necessary and in spite of the permission referred to in Article 2 hereabove, prevent or restrict immediately and temporarily the flights over its territory or part of it.

Article 5: The Government has the right, in conditions and under terms it provides, to order any aircraft which may have entered any of the areas referred to in Article 3 and 4, to land as soon as possible in the airport which it indicates within its territory.

Article 6: Ammunitions and military supplies are forbidden to be transported in aircraft flying over the territory of the Kingdom or landing in it. Such aircraft are also forbidden to use photographic equipments and wireless transmitting sets in or over the Kingdom's

territory except under a special permission and in accordance with the provisions of such permission. The permission is issued by the Foreign Minister after the approval of the Ministry of Defense and Aviation. In case of violation of the restriction provided in this article the rule of Article 5 shall be applied in addition to the possibility of confiscation of the ammunitions, military supplies and equipments subject of the violation.

Section Two—Exemptions

Article 7: The categories of aircraft prescribed in Article 1, on the basis of reciprocity, are exempted from the following fees:

1. Landing fees at the Kingdom's airports.
2. Night stopping fees at the Kingdom's airports if the visits of the aircraft is incidental, provided that there is room for it and provided that such room is not reserved for another aircraft which is expected to arrive.
3. Customs duties on:
 - a) Fuels and oils supplied to the aircraft.
 - b) Equipment used for the necessary maintenance and repair of the aircraft.
 - c) The cargo existing on the aircraft provided that none of which is discharged on land or territorial waters of the Kingdom. Rules of customs regulation shall be applied if any of such cargo is unloaded. Goods prohibited to enter the Kingdom under the country's regulations such as beverages, intoxicating materials and weapons are, however, completely forbidden to unload.

Article 8: The exemption granted in article 7 is under the provision that the aircraft carries no ordinary passengers who pay for their tickets or cargo transporting charges are paid.

Article 9: Complete fees shall be collected from civil aircraft carrying diplomats who have paid for their tickets.

Article 10: The Ministry of Foreign Affairs, the Ministry of Defense and Aviation and the Ministry of Finance are required to carry out this decree, each in his field of concern, and act in accordance with it.

Issued at our Royal Palace in Riyadh on the first day of Rabi' al-Thani, in the year 1372 H.

ROYAL DECREE NO. 7/7/1/3456 REGARDING THE CONSTRUCTION OF AIRPORTS
IN THE KINGDOM OF SAUDI ARABIA

Relying on God the Almighty,

We, Abdul Aziz bin Abdul Rahman al-Faisal Al Saud, King of the Kingdom of Saudi Arabia,

in accordance with what has been submitted to us by the Minister of Defense and Aviation, and since it has become necessary to establish a regulation for the construction of airport in the territory of our Kingdom in accordance with the internationally prescribed rules in connection with such constructions, we have ordered the following:

Article 1: The construction of airports in the Kingdom of Saudi Arabia is the privilege of the Government and no one is allowed to

establish or prepare any land for the landing or taking off of any aircraft except under the supervision or permission of the Ministry of Defense and Aviation.

Article 2: The Minister of Defense and Aviation may issue ministerial resolutions establishing an area around each airport called "danger zone" which does not exceed 400 meters in width.

Article 3: It is not allowed to establish any buildings, poles, wires or any other thing that is considered an obstacle for aviation in the danger zone except under a previous permission from the Ministry of Defense and Aviation.

Article 4: The Minister of Defense and Aviation may allow the establishment of buildings or constructions in the danger zone, which are not higher than one twentieth of the distance between it and the area designed for the aircraft landing.

Article 5: In the areas around the danger zone the height of buildings, trees and constructions must not exceed one twentieth of the distance between such buildings and the airport border.

Article 6: It is not allowed to install near any airport lights which may dazzle the sight or confuse the lights and signals of air navigation.

The Ministry of Defense and Aviation is required to carry out this Decree and act in accordance with it.

SWITZERLAND

FEDERAL LAW ON AIR NAVIGATION OF DECEMBER 21, 1948 ¹

The Federal Assembly of the Swiss Federation, in view of Articles 37 ter and 36 of the Constitution, and of the Message of the Federal Council of March 23, 1945 ² decrees as follows:

FIRST PART—BASIC PROVISIONS OF AIR NAVIGATION

FIRST TITLE—AIR SPACE AND SURFACE OF THE EARTH

CHAPTER I—SOVEREIGNTY OVER AIRSPACE AND ITS EFFECTS

Article 1

I. Use of Swiss airspace. 1. Principle. The use of the airspace over Switzerland by any aircraft shall be permitted within the limits established by this law and the federal laws in general.

Article 2

2. Aircraft permitted to fly. Any of the following [aircraft] may fly within the Swiss airspace provided it is airworthy:

- a. Aircraft belonging to the Swiss State;
- b. Aircraft registered in the Swiss Register in accordance with Article 52 and possessing the certificates provided for in Article 56;
- c. Aircraft which may use the Swiss airspace by virtue of international agreements;
- d. Aircraft which may use the Swiss airspace by virtue of a special ruling of the Federal Air Office.

Article 3

II. Supervision by the Federal Government. 1. Federal Agencies. The Federal Council shall have supervision of air navigation over the whole territory of the Federation. It shall exercise it through the Department of the Post Office and Railroads.

For the purpose of exercising immediate supervision, a special division of the Department of the Post Office and Railroads shall be established.

The Federal Council shall make more detailed regulations, particularly in regard to fees to be levied.

¹ Published in *Recueil des Lois Fédérales*, No. 19, of June 6, 1950, p. 491.

² In *Feuille Fédérale*, 1945, Vol. I, p. 325.

Article 4

2. Delegation. Particular powers of supervision may be delegated to the Cantons and, upon consultation with the Cantonal Governments, to the local authorities, to the airport authorities and to private organizations suitable to exercise them.

Article 5

3. Commission for air navigation. The Federal Council shall appoint a Commission for Air Navigation, consisting of at least seven members, which shall give advice on important questions concerning air navigation.

The membership, jurisdiction and methods of operation of such commission shall be specified in an ordinance.

Article 6

4. Appeal. An appeal from any decision made under Articles 8, 9, 14, second paragraph, and Articles 27, 33, 35, 37 and 93 may be brought in the usual manner to the Federal Council as the highest resort.

The Department of the Post Office and Railroads shall render final decisions in all appeals brought under the present law in the following cases:

- a. First decisions rendered by the Federal Air Office.
- b. Rulings of that office concerning appeals from decisions of the supervisory authorities provided for in Article 4.

The provisions of Article 49 shall not thereby be affected.

Article 7

III. Restrictions on air navigation. 1. Prohibition to fly. In the interest of public order and safety or for military reasons, the Federal Council may, as a temporary or permanent measure, prohibit or restrict the use of the Swiss airspace or the flight over certain areas.

Article 8

2. Air routes and airports. The Federal Air Office may prescribe air routes which must be followed and designate airports which must be used by aircraft.

Article 9

3. Customs airports. Any aircraft leaving for, or arriving from, a foreign country must take off from, or land on, a customs airport.

In exceptional cases, the Director General of the Customs, with the consent of the Federal Air Office, may authorize the use of another place.

Article 10

4. Crossing the border. The Federal Air Office, with the consent of the Director General of the Customs, may determine the points between which the border may not be crossed.

Article 11

IV. Applicable laws. The airspace over Switzerland shall be subject to the Swiss laws.

The provisions of international agreements and recognized rules of public and private international law shall not thereby be affected.

CHAPTER II—USE OF THE AIR SPACE

Article 12

I. Police regulations. 1. Jurisdiction. The Federal Council shall make police regulations for the use of the air space.

Article 13

2. Permissions. The Federal Council may declare that parachute jumps, flights of captive balloons, public air shows, acrobatic flights and acrobatic exhibitions of aircraft shall depend on specific permission by the Federal Air Office.

Article 14

3. Prohibitions. Except as determined by the Federal Council, it shall be prohibited to throw any object from an aircraft in flight.

The Federal Council may prohibit, or declare dependent on permission by the Federal Air Office, the taking of aerial photographs and the publication thereof and the transportation by air of certain objects.

Article 15

4. Special safety measures. When necessary, special safety measures shall be ordered by the Federal Air Office either in the course of one of the permissions provided for in Articles 13 or 14, or in the form of a separate decision.

Article 16

5. Inspection. The supervisory authorities shall always have the right to inspect aircraft and their contents, and to verify all documents which they must possess.

Article 17

6. Landing outside authorized airports. When an aircraft lands outside an authorized airport, the commander or, if there be none, the pilot, must request instructions from the air police through the local authorities. Until such instructions arrive, the aircraft, its occupants and its contents shall remain under the supervision of the local authorities.

This provision shall also apply to non-dirigible aircraft.

The Federal Air Office may make exceptions for flights for purposes of instruction, for flights of balloons, glider flight and aeronautical exhibitions.

Article 18

II. Duty to land. Any aircraft may be ordered to land for reasons of public order and safety. It must immediately obey the signals ordering it to land.

Any aircraft which unlawfully uses the Swiss airspace must land on the nearest customs airport in order to be put under the control of the authorities of jurisdiction. It shall remain impounded until permission for it to fly is given by the Federal Air Office.

Article 19

III. Signal service. The Federal Air Office shall prescribe rules concerning the signal service.

Article 20

IV. Navigation on, and above, waterways. The Department of the Post Office and Railroads shall prescribe special rules for the use of Swiss waterways and the airspace above them by aircraft, with due consideration of the interests of shipping. The Cantonal governments concerned shall be heard in advance.

Article 21

V. Exercise of air police power. The exercise of air police power shall belong to the authorities designated by the Federal Council.

The general police powers of the Federal Government and of those of the Cantons over airports and other areas of the land used for air navigation shall not thereby be affected.

Article 22

VI. Accidents of aircraft. 1. Rescue service. The Federal Air Office may prescribe rules for the organization of the rescue service in case of accidents of aircraft.

Article 23

2. First measures. The local authorities and the air police authorities shall inform the Federal Air Office of accidents of aircraft by the fastest means available.

The local authorities shall ascertain that, except for measures necessary in the rescue, no change is made at the place of accident that may hinder the investigation.

Article 24

3. Administrative investigation of the causes of the accident. The administrative investigation in case of an accident shall be conducted by the Federal Air Office, in cooperation with the Cantonal authority of jurisdiction at the place of the accident. The officials charged with the investigation shall have the right to take all measures that are useful for the determination of the causes of the accident, including a hearing for the purpose of obtaining information from the victims and other persons.

The powers of the Cantons in regard to civil and criminal proceedings shall not thereby be affected.

Article 25

4. Commission of investigation. a. Membership. The Federal Commission of Investigation shall consist of a chairman appointed by the Federal Court, of a representative of the Federal Air Office, and of a representative of the Canton where the accident occurred.

Article 26

b. Procedure. The reports of the Federal Air Office and the Cantonal authorities concerning the causes of the accident must be transmitted without delay to the Federal Commission of Investigation. The latter shall have the right to complete the investigation; to that end, it shall have the power granted to the officials provided for in Article 24, first paragraph. It may call experts if special circumstances of the accident so require.

The Commission shall submit a report to the Department of the Post Office and railroads; it shall publish the result of its findings.

Article 27

VII. Commercial air navigation. 1. License. a. Duty. The commercial transportation of persons and goods by scheduled air lines shall be subject to a license.

Article 28

b. Jurisdiction and procedure. The license shall be granted by the Department of the Post Office and Railroads. An application therefor shall be submitted to it, together with supporting documents and other documentation required in the Regulations.³

Before a decision on an application for a license is made, the governments of the Cantons concerned and the public transportation enterprises whose interests are affected by the project must be consulted.

Article 29

c. Contents of the license. The license must contain, in particular, provisions concerning its duration, location of the enterprise, kinds of activities, and, further, in the case of Swiss enterprises, concerning measures of insurance for the benefit of its employees, the status of its reserves and conditions of possible purchase by the Federal Government.

Article 30

d. Duties of the licensees. Duty to provide transportation shall exist for the licensees only within the limits of the license.

³ In the original French, the term "l'ordonnance d'exécution" is used. (This term must refer to Articles 139 to 142 of the "Règlement d'Exécution" of June 5, 1950, which deals with applications for a license. The "Ordonnance" of the same date deals only with the commission on navigation.)

Licensees must submit to the Federal Air Office for approval the technical and economic facts necessary for the exercise of supervision, as well as their timetables and rates.

Article 31

e. Purchase by the Federal Government. The Federal Government shall have the right to purchase for a consideration and under conditions which must be stated in the license, any Swiss enterprise of air transportation that is the beneficiary of a license.

In case of disagreement on the amount of the consideration, the Federal Court shall decide as the court of sole jurisdiction.

Article 32

f. Transfer of license. The transfer of a license to another shall be subject to the approval of the Department of the Post Office and Railroads; it shall have legal validity only after such approval.

The same shall apply in regard to the transfer of certain rights and duties of the licensee. The licensee shall remain liable for the fulfillment of the duties arising from the license.

Before giving its approval, the Department of the Post Office and Railroads shall consult the Cantonal governments concerned.

Article 33

2. Permissions. Commercial flights of any kind other than provided for in Article 27 may be made, and schools for the training of flight personnel may be conducted only by virtue of a special permission from the Federal Air Office.

Article 34

3. Domestic carriage.⁴ Commercial transportation of persons and goods by aircraft between two points in Swiss territory shall, in principle, be reserved to Swiss enterprises.

Article 35

4. Foreign enterprises. Reciprocity. In regard to foreign enterprises, the permissions provided for in Article 33 and the exceptions to the rule established in Article 34 may be made subject to the condition that the foreign state grant reciprocity.

CHAPTER III—GROUND INSTALLATIONS

Article 36

I. Airports. 1. Jurisdiction. The Federal Council shall make detailed rules concerning the establishment and operation of airports for airplanes and seaplanes.

⁴ In the original French, the term "cabotage", usually meaning "coastwise trade" is used.

Article 37

2. License and authorization for airports. Airports open to public navigation may be established and operated only by virtue of a license which shall be granted by the Department of the Post Office and Railroads.

For the establishment and operation of all other airports, authorization by the Federal Air Office shall be required.

The governments of the Cantons concerned shall be heard before the granting of a license or the delivery of an authorization.

A responsible supervisor shall be designated for each airport.

Article 38

3. Right of use. To the extent that military interests permit, airports belonging to the Federal Government shall also be open to civil aviation.

Aircraft in the service of the army, the customs and the police may use, without payment of a fee, civil airports supported by the Federal Government when no disturbance of civil aviation results therefrom.

Special arrangements regulating the exercise of the rights mentioned in paragraphs 1 and 2 shall not thereby be affected.

Article 39

4. Airport fees. Airport fees shall be submitted for the approval of the Federal Air Office.

Article 40

II. Service of air safety. The Federal Air Office shall organize a service of air safety.

This service shall include in particular the transmission of messages, traffic control, aids to navigation, aeronautical weather services and the marking of flight obstructions.

Article 41

III. Flight obstructions. The Federal Council may prescribe rules to prevent the creation of flight obstructions, to remove such obstructions, or to adapt them to the requirements of the safety of air navigation.

The federal laws on expropriation shall apply to complete or partial removal of flight obstructions that existed before these provisions were enacted.

Article 42

IV. Restrictions on realty. 1. Use without compensation. The Federal Government and the grantees of an airport license shall have the right to gratuitous use of public or private property for installations of the safety service, provided the normal use of such real property, such building or such installations, is not hampered.

However, any damage resulting from the construction and maintenance of installations of the safety service must be repaired.

Article 43

2. Restriction on the right to build. a. Public airports. The Federal Council shall be authorized to provide in an ordinance that no buildings may be erected or other installations be established within a determined area around airports or installations of the safety service or at a determined distance from air routes except when they constitute no danger to air navigation and when the Federal Air Office, in agreement with the other agencies concerned, has approved the plans in advance.

Before application of the ordinance, the plans showing the extent of the restrictions on the right to build imposed for the benefit of an airport, of an installation of the safety service, or of an air route, must be publicly deposited, and a time limit must be fixed within which objections may be entered.

The Federal Laws on Expropriation shall apply to deposit of the plans, to opposition proceedings, and to indemnity claims of the interested parties.

Article 44

b. Private airports. Article 43 shall not apply to private airports. When the Federal Air Office considers a safety zone necessary, its creation shall be accomplished by the purchase of land and by the imposition of servitudes of the kind used in private law. Authorization to operate an airport must be refused when no solution that is completely satisfactory from the point of view of air safety can be arrived at in this manner.

Article 45

V. Sharing of costs. 1. Operator of an airport. Except as provided in Article 101, the operator of an airport shall bear the cost of establishing, operating and maintaining the airport.

Furthermore, the following shall be at his expense insofar as there is any relationship to the use of the airport by aircraft:

a. The cost of installations for the safety service and of their use;

b. The cost of eliminating flight obstructions or of adapting them;

c. Compensation due for restrictions imposed on the right to build in order to facilitate use of an airport.

Article 46

2. Enterprises of air transportation. Unusual costs for the safety service caused by the operation of particular airlines may also be charged to the enterprises of air transportation concerned.

Article 47

3. Third parties. If third parties subsequently build any installations, they shall bear the whole expense incurred in adapting such installations to the necessities of the safety of air navigation, except as provided in Article 101, second paragraph.

Article 48

4. Federal Government. Other costs of the safety service and the elimination or adaptation of flight obstructions shall be borne by the Federal Government.

Article 49

VI. Jurisdiction and procedure. The Federal Council shall designate the authorities of jurisdiction and regulate the procedure:

a. For adjudication of actions relating to gratuitous use of real property under Article 42, first paragraph;

b. For adjudication of actions for damage payments under Article 42, second paragraph;

c. For adjudication of actions relating to sharing expenses under Articles 45 to 48

Judgments rendered by the highest appeals authorities designated by the Federal Council may be brought before the Federal Court by way of an administrative appeal.

Article 50

VII. Expropriation. For the establishment and operation of airports, the Federal Council may exercise, or confer upon third parties, the right of expropriation in accordance with the Federal Law on Expropriation.

The right of expropriation may also be exercised, or conferred for, installations of the safety service when the rights provided for in Articles 42 and 43 are insufficient.

SECOND TITLE—AIRCRAFT AND AIR PERSONNEL

CHAPTER I—AIRCRAFT

Article 51

I. Classification. The Federal Council shall make rules for the classification of aircraft.

In particular, it shall define aircraft which shall be deemed Swiss State aircraft.

Article 52

II. Register. 1. General conditions for registration. The Federal Air Office shall keep the Swiss register.

Except as provided in Articles 53 and 54, an aircraft may be registered in the Swiss register only:

a. When it is recognized as airworthy by an official inspection agency;

b. When it is not registered in the register of another State;

c. When it is the property of Swiss nationals, of Swiss corporations or coöperatives, of Swiss associations, or of Swiss public institutions or establishments.

The Federal Council shall make detailed rules concerning conditions, contents, changes in, and cancellation of registrations.

Article 53

2. Aircraft belonging to Swiss corporations and associations. Any aircraft belonging to Swiss corporations and cooperatives may be registered in the Swiss register only:

a. When the corporation or cooperative is registered in the commercial register in Switzerland;

b. When all stockholders or association members who are personally liable, and at least two-thirds of the others, are Swiss citizens;

c. When the president and two-thirds of the members of the board and of the directors of the corporation are Swiss citizens and domiciled in Switzerland.

Any aircraft that belongs to an association may be registered only when two-thirds of its members are Swiss citizens and when the president and two-thirds of the members of the committee are Swiss citizens and domiciled in Switzerland.

Article 54

3. Foreign aircraft. Any aircraft which is the property of a national of a foreign state may be registered in the Swiss Register when it has its home port in Switzerland and when its owner is domiciled in Switzerland.

Article 55

4. Legal consequences. Any aircraft registered in the Swiss Register shall be deemed Swiss.

Article 56

III. Certificates. For all aircraft registered in the Swiss Register the Federal Air Office shall deliver certificates attesting their registration, their airworthiness, and their clearance for flight. Such certificates must contain all information necessary to establish the identity of the aircraft.

Certificates of clearance for flight may be given to applicants only when they prove that the guarantee required by this law for coverage of civil liability has been furnished.

The Federal Council shall make rules concerning the duration of the validity of the certificates, their renewal and their withdrawal.

Article 57

IV. Crew and equipment. The Federal Air Office shall make rules concerning the members of the crew and the equipment of aircraft flying in Switzerland, and concerning the flight papers which such aircraft must carry.

International agreements shall not thereby be affected.

Article 58

V. Inspection for airworthiness. All aircraft must be inspected for airworthiness:

a. Before registration in the Swiss Register;

b. After a period of time fixed by the Federal Air Office;

c. When certain circumstances, such as, for example, an accident or serious damage, make an inspection advisable.

The Federal Air Office may also subject foreign aircraft to a technical inspection whenever it is in doubt about its airworthiness.

The Federal Air Office shall determine the nature and the extent of the inspection for airworthiness. The operator of the aircraft shall bear the expense of the inspection.

Article 59

VI. Markings. All aircraft flying in the Swiss airspace must bear distinctive and clearly visible markings.

The Federal Air Office shall determine the kind of markings if it is not regulated in international agreements.

CHAPTER II—AIR PERSONNEL

Article 60

I. Licenses. Aircraft pilots and other personnel, indispensable for the operation of an aircraft, especially navigators, flight radio operators and engineers, and persons training as air personnel, must possess, and periodically renew, a license from the Federal Air Office, in order to carry out their functions.

The Federal Council shall determine other categories of the air personnel for whom the possession of a license is required.

It shall make rules for the granting, the renewal and the withdrawal of the licenses.

Article 61

II. Student licenses. Any person who wants to train for a function for which a license is obligatory under Article 60, must have a student license delivered by the Federal Air Office.

The Federal Air Office shall make provisions regulating the granting, the withdrawal, and the validity of such student license.

Article 62

III. Foreign certificates. The Federal Air Office shall rule on the validity of foreign certificates unless international agreements are applicable.

It shall have the right to refuse recognition for flight in the Swiss airspace to certificates delivered to a Swiss national by a foreign state.

Article 63

IV. Rights and duties of air personnel. The Federal Council shall determine, in the ordinance for the application [of this law] or in special regulations, what the rights and duties of air personnel are within the limits of international agreements and of the federal laws. Working conditions shall be regulated by contract.

SECOND PART—LEGAL RELATIONSHIPS RESULTING FROM THE PRACTICE OF
AIR NAVIGATION

FIRST TITLE—CIVIL LIABILITY TOWARD THIRD PERSONS

Article 64

I. Extent of damage payments. 1. Principles. The damage caused by an aircraft in flight to persons and property on the ground shall give rise to a right to damages against the operator of the aircraft if it is established that the damage has occurred and that it has been caused by the aircraft.

In this provision shall be included:

a. Damage caused by an object of any kind falling from the aircraft, even in the case of jettisoning of prescribed ballast or jettisoning in an emergency;

b. Damage caused by any person whatever on board an aircraft. The operator shall be liable only up to the amount of the guarantee which he must furnish in application of Articles 70 and 71, if such person is not part of the crew.

The aircraft shall be deemed in flight from the beginning of take-off operations until the end of the operations of arrival.

Article 65

2. Unlawful use. Any person who makes use of an aircraft without the consent of the operator shall be liable for the damage caused. The operator shall also be liable but only up to the amount of the guarantee which he must furnish in application of Articles 70 and 71.

Article 66

3. Collision. In the case of damage caused on the ground by the collision of two or more aircraft, the operators of such aircraft shall be jointly liable to third persons who have suffered damage.

Article 67

II. Venue. Venue in actions for payment of damages shall be, at the choice of the plaintiff:

in the court of the domicile of the defendant or, in the court at the place where the damage has been caused.

Article 68

III. Statute of limitations. No such actions shall be maintained after one year counting from the date when the damage occurred. When the injured person proves that he could not know either of the damage, of its extent, or of the person liable therefor, the statute of limitations shall begin to run from the day when he could have had knowledge thereof.

In all events, no action shall be maintained after three years from the date when the damage occurred.

Article 69

IV. Reservation of contractual right. The provisions of this title shall not apply to damages caused on the ground when payment therefor is subject to a contract between the injured person and the person who is liable under the provisions of this law.

Article 70

V. Guarantee to cover civil liability. 1. Duty to insure. Except as provided in Article 71, any operator of an aircraft registered in the Swiss Register shall be insured against the consequences of his liability to third persons with an insurance company that has been authorized by the Federal Council to do business in Switzerland in this kind of insurance.

The insurance must also cover the liability of the persons entrusted by the operator with the operation of the aircraft or with other flight services in regard to damages caused to third persons in the exercise of their professional activity in the service of the operator.

Article 71

2. Deposit and bond. The guarantee against losses may also consist of the deposit of securities that are easily negotiable at the public treasury or at a bank accepted by the Federal Air Office, or of a general collateral [*cautionnement solidaire*] by such a bank or insurance company authorized by the Federal Council to do insurance business in Switzerland.

The actual surety and the collateral must be replenished as soon as the amounts they represent are susceptible of being diminished by the amount of an indemnity.

Article 72

3. Aircraft of the Federal Government and the Cantons. The Federal Government and the Cantons shall not have to furnish a guarantee for their aircraft.

Article 73

4. Foreign aircraft. The duty to furnish a guarantee for foreign aircraft shall be governed by international agreements. In the absence of such agreements, the Federal Air Office may make [permission to] use Swiss airspace contingent on the prior furnishing of a guarantee.

Article 74

5. Rules for execution. The Federal Council shall make rules concerning the furnishing of guarantees, especially concerning their amount and delivery of official attestations as to the kind, amount and duration of validity of the guarantees furnished.

SECOND TITLE—THE LAW OF AIR TRANSPORTATION

Article 75

I. Regulation of air transportation. The Federal Council, after hearing the Commission for Air Navigation, shall issue regulations

for air transportation which shall govern the transportation of persons and baggage, of goods and animals, including civil liability of a carrier to passengers and to shippers. It shall take as a basis therefor the principles of the Warsaw Convention of October 12, 1929 on international transportation by air.

For domestic traffic the Federal Council may simplify the shipping formalities.

The regulations for air transportation must be approved by the Federal Assembly.

Article 76

II. Reservation of postal laws. The special provisions of the postal laws for transportation of postal shipments by air shall not thereby be affected.

THIRD TITLE—GENERAL PROVISIONS ON CIVIL LIABILITY

Article 77

I. Federal insurance in case of accidents. When the victim of an accident caused by an aircraft has been insured with the Swiss national accident insurance [*caisse nationale suisse d'assurance en cas d'accidents*], his rights shall be determined under the federal accident insurance laws. The national insurance may recoup any payments from the persons who are civilly liable and from the insurer, in accordance with Article 100 of the Law on Insurance in Cases of Sickness and Accidents.

Any more extensive rights of the victim or his survivors arising from an accident caused by an aircraft shall remain intact.

Article 78

I. Military insurance. When a person covered by military insurance is the victim of an accident caused by the use of a Swiss military aircraft, the federal laws on military insurance alone shall be applicable.

Article 79

III. Contractual rights [*droits des obligations*]. Insofar as Articles 64 to 78 and the rules issued by the Federal Council in application thereof do not provide otherwise, the provisions of the Federal Code of Obligations shall be applicable.

FOURTH TITLE—ATTACHMENT OF AIRCRAFT

Article 80

I. Definitions. In the following Articles, attachment shall mean any act, of whatever name, by which an aircraft is seized, for a private interest, for the benefit of a creditor, a proprietor or titleholder of an actual right in the aircraft, where the person making the attachment cannot produce an executory judgment, previously obtained under the regular procedure, or an equivalent writ of execution.

Article 81

II. Exemption. The following shall be exempt from attachment:

- a. Aircraft used exclusively in the service of the State;
- b. Aircraft actually in service on a scheduled public airline and necessary reserve aircraft;
- c. Any other aircraft used for transportation of persons or goods for hire, when it is ready to depart in such transportation, except in the case of a debt incurred for the trip it will undertake or of an amount that has become due in the course of the trip.

The provisions of this article shall not apply to an attachment by the proprietor of an aircraft who has been unlawfully dispossessed thereof.

Article 82

III. Avoidance of attachment by furnishing a guarantee. A sufficient guarantee shall prevent attachment or shall give the right to have it lifted immediately.

Such guarantee shall be deemed sufficient if it covers the amount of the debt and the costs, and if it is made exclusively for payment of the creditor, or if it covers the value of the aircraft in case such value is lower than the amount of the debt and the costs.

Article 83

IV. Procedure. In all cases a request for the lifting of the attachment shall be decided on by a summary and speedy procedure.

The Cantonal governments, by means of an ordinance, shall issue necessary rules in regard to procedure; such rules must be submitted to the Federal Council for its approval.

Article 84

V. Duty to make reparation for the damage caused by an unjustified attachment. When an attachment has been made of an aircraft which is non-attachable under the provisions of this law or when the debtor has had to furnish a guarantee in order to avoid the attachment or to have it lifted, the person making the attachment shall be liable under the Code of Obligations for the damage arising to the operator or the proprietor.

The same rule shall apply in the case of an attachment made without just cause.

A demand for reparation for the damage shall be submitted either to the court of the domicile of the defendant or to the court of the place where the attachment was made.

Article 85

VI. Exceptions. The preceding provisions shall not apply to preventive measures taken under the bankruptcy laws, under the administrative law, or under the criminal law.

Article 86

VII. Foreign aircraft. Articles 80 to 85 shall also be applicable to foreign aircraft when the State in whose register they are registered, assures reciprocity.

Article 87

VIII. Protection of industrial property rights. The agreements concerning industrial property rights shall not thereby be affected.

FIFTH TITLE—CRIMINAL PROVISIONS

CHAPTER I—VIOLATIONS

Article 88

I. Crimes. 1. Prohibition to fly. Any person who, in violation of a prohibition to fly issued under Article 7, intentionally enters the air space by means of flight, or leaves Switzerland in such manner, or flies over a prohibited area, shall be punished by imprisonment up to one year or by a fine up to ten thousand francs.

When the person committing the unlawful act has also violated the provisions of Article 18 concerning the duty to land, the penalty shall be imprisonment up to two years and a fine up to twenty thousand francs.

When the person committing the unlawful act has acted negligently, the penalty shall be imprisonment up to six months or a fine up to five thousand francs.

Article 89

2. Piloting an aircraft bearing false markings. Any person who intentionally pilots, or causes to be piloted, an aircraft bearing false or falsified markings, or one not bearing the markings prescribed in Article 59, shall be punished by imprisonment up to five years and by a fine up to twenty thousand francs.

In less serious cases a judge may simply levy a fine.

If the person committing the unlawful act has acted negligently, the penalty shall be imprisonment up to six months or a fine up to ten thousand francs.

A person who pilots, or causes to be piloted, outside of Switzerland, any aircraft unlawfully bearing Swiss markings, shall also be subject to punishment. Article 4, second paragraph, of the Criminal Code shall be applicable.

Article 90

3. Creating a danger by air navigation. Any person who, during a flight, as aircraft commander, member of the crew, or passenger, intentionally violates the rules of law or the recognized flight rules and thus knowingly endangers the person or the property of third parties on the ground, shall be punished by imprisonment up to three years.

If the person committing the unlawful act has acted negligently, the penalty shall be imprisonment up to six months or a fine up to ten thousand francs.

Article 91

II. Misdemeanors. Any person who violates this law, the regulations issued in application thereof, or the provisions of an agreement concerning air navigation, particularly the rules concerning air traffic, air police, ground installations, aircraft, or air personnel, shall be punished by arrest up to three months or a fine up to two thousand francs.

Article 92

III. Administrative measures. 1. General. If there is a violation of the provisions of this law or the ordinances and other rules issued for its application by the authorities of jurisdiction or of the provisions of agreements concerning air navigation, the Federal Air Office may, independent of the institution and the outcome of any criminal proceedings, pronounce the following:

a. Temporary or permanent withdrawal of authorizations, licenses and certificates, or the restriction of their extent;

b. Impounding of aircraft whose further use would endanger public safety, or whose misuse may be expected.

Article 93

2. Withdrawal of licenses. A license accorded under Articles 27 or 37 may be withdrawn at any time without compensation in the case of a serious or repeated violation of his duties by the grantee.

Article 94

IV. Legal persons and corporations. When punishable acts are committed in the administration of a legal person or a corporation, the criminal provisions shall apply to the persons who acted or should have acted on its behalf, and the legal person or corporation shall be jointly liable for the payment of the fine and the costs.

Article 95

V. Criminal Code. The provisions of the Criminal Code shall be additionally applicable.

CHAPTER II—APPLICATION AND CRIMINAL PROCEEDINGS

Article 96

I. Applicability of the criminal provisions as to place. 1. Principle. Except for Articles 89, fourth paragraph, and 97, or Articles 4 to 6 of the Criminal Code, the criminal provisions shall be applicable only to a person who has committed a punishable act in Switzerland.

Article 97

2. Aircraft outside Switzerland. The provisions of the Swiss criminal law shall apply to acts committed outside Switzerland on board a Swiss aircraft employed in commercial traffic, when the per-

son who committed the act is in Switzerland and has not been extradited or when he has been extradited to the Federal Government because of such act.

This rule shall also apply to violations of provisions of an agreement concerning air navigation concluded by Switzerland, when the aircraft is not employed in commercial traffic.

The members of the crew of a Swiss aircraft employed in commercial traffic shall always be subject to the Swiss criminal law when they have committed such act on board the aircraft or in the accomplishment of their professional functions.

Article 4, second paragraph, of the Criminal Code shall apply.

Article 98

II. Jurisdiction. Crimes and felonies committed on board an aircraft shall be subject to the criminal jurisdiction of the Federal Government.

Misdemeanors mentioned in Article 91 shall be prosecuted and adjudged by the Federal Air Office in accordance with the provisions of the fifth part of the Federal Law on Criminal Procedure of June 15, 1934.

When punishable acts have been committed on board a foreign aircraft over Switzerland or on board a Swiss aircraft outside Switzerland, the authority that has jurisdiction under the Federal Law on Criminal Procedure may forego the institution of criminal proceedings.

Article 99

III. Powers of the Commander. When a crime or a felony is committed in Switzerland or outside Switzerland on board a Swiss aircraft employed in commercial traffic, the commander must obtain and assure proof thereof.

Until the arrival of the authority of jurisdiction, he shall undertake to make all inquiries that should not suffer any delay, and, if necessary, shall temporarily arrest the suspects, search the passengers and members of the crew and impound any objects that may serve as proof. Articles 62 to 64, 65, 69, and 74 to 85 of the Federal Law on Criminal Procedure of June 15, 1934 pertaining to temporary arrest, impounding, securing of papers and interrogation of witnesses shall be applicable by analogy.

When, after the facts have been established, the aircraft lands abroad, the Swiss consul at the locality of the place of landing must be informed; and instructions shall be asked of him.

After the end of the trip, the commander shall submit a written report to the Federal Air Office concerning the facts and the investigation.

Article 100

IV. Compulsory information. All police or judicial authorities shall inform the Federal Air Office of any punishable fact that may lead to withdrawal of authorizations, licenses and certificates in the sense of Article 92.

THIRD PART—DEVELOPMENT OF AIR NAVIGATION

Article 101

I. Payments by the Federal Government. Insofar as Switzerland or a considerable part thereof is interested therein, the Federal Government may support air navigation by subsidies and loans, in particular:

- a. The operation of scheduled air lines;
- b. The creation and operation of airports, of installations of air safety, and the application of all other measures of air safety;
- c. The training of air personnel, including that of the service of air safety.

When new and necessary installations cannot be adapted to the safety of air navigation in accordance with Article 47 without additional expenditures, the Federal Government may, in exceptional cases, alleviate such expenditures by a subsidy.

In all cases, the financial status of the beneficiary of federal payments shall be taken into consideration.

Article 102

II. Holding of shares. The Federal Government may own shares in enterprises operating airports and in enterprises of air transportation provided this is in the general interest.

Article 103

III. Mixed corporations. The domestic, continental, or intercontinental air service which is declared of general interest by the Department of the Post Office and Railroads, shall be operated by a Swiss air transportation company of mixed character, in which the Federal Government has a financial interest. The cantons and communities may also own shares in such an enterprise. The charter of such corporation shall be submitted to the Federal Council for its approval.

FOURTH PART—APPLICATION AND FINAL PROVISIONS

Article 104

I. Reservation of laws on telegraph and telephone. Radioelectric stations may not be established and operated without a license from the Administration of the Post Office, Telegraph and Telephones.

Radioelectric stations may be used only by persons to whom the administration of the Post Office, Telegraphs and Telephones has granted a certificate of fitness in accordance with the provisions of law.

Article 105

II. Reservation of customs laws. The provisions of the customs law shall be reserved.

The operators of airports shall provide the office facilities necessary for customs formalities.

Article 106

III. Application of the law to military aircraft. 1. General. The Federal Government shall be liable only under Articles 64 to 74, and 77 to 79, for damages caused by a Swiss military aircraft to persons and property on the ground.

Otherwise this law shall apply to military aircraft only to the extent that it has expressly been declared applicable to them by the Federal Council.

Article 107

Rules for flight safety and ordinance concerning signals. The service concerned within the military department, in agreement with the Federal Air Office, shall take the measures necessary for the observation by use of military aircraft of the rules issued in the interest of flight safety and of those which concern signals. When these rules are determined by international agreements concluded by Switzerland, they shall fully apply to such military use.

Article 108

IV. Special rules. The Federal Council may declare that certain provisions of this law shall not apply:

- a. To aircraft of the State that are not military aircraft;
- b. To private aircraft that are not airplanes.

If the circumstances warrant, it may establish special rules for such categories of aircraft. However, measures of the Federal Council may not be in derogation of the provisions concerning civil liability and of the criminal provisions of this law.

Article 109

V. Application of international agreements and adaptation to technical developments. Prior to regulation by law, the Federal Council shall be authorized to take any measures providing for:

- a. The application of international agreements relating to air navigation that have been approved by the Federal Congress;
- b. The application of the rules contained in such agreements to air flight in Switzerland;
- c. The application of technical innovations in the field of air navigation.

Article 110

VI. Repealing clause. All conflicting provisions shall be repealed as of the date when this law takes effect, particularly:

- a. The order of the Federal Council of January 27, 1920 concerning the regulation of air flight in Switzerland and the provisions for application thereof issued by the Department of the Post Office and Railroads and the Air Office;
- b. The regulations of the Federal Council of January 24, 1921 concerning flight of aircraft above, and on, water.

Article 111

VII. Effective date; application. The Federal Council shall set the date when this law will take effect; it shall be in charge of its application.⁵

⁵ On June 5, 1950, the Federal Council issued regulations concerning the application of the Law on Air Navigation (Règlement d'exécution de la loi sur la navigation aérienne), also published in *Recueil des Lois Fédérales*, No. 19, June 6, 1950, p. 517. The chapters of these Regulations are entitled as follows: A. Aircraft; B. Air personnel; C. Ground installations; D. Police regulations; E. Commercial air navigation; F. Liability to third persons on the ground; G. Administrative provisions; H. Transitory and final provisions. The Regulations took effect on June 15, 1950. These regulations were amended by Resolution of the Federal Council of December 2, 1960, published in *Sammlung der eidgenössischen Gesetze*, No. 51, December 15, 1960.—On October 7, 1959, the Federal Law concerning the Aircraft Register was passed. It is published in *Sammlung*, etc., No. 44, November 8, 1960.

In addition, there is an ordinance concerning the Commission for Air Navigation of June 5, 1950, establishing and determining the jurisdiction of that commission. The effective date is also June 15, 1950.

The Mortgage Convention was ratified by Switzerland with effect of January 1, 1961. See *Sammlung*, etc., No. 44, November 8, 1960, p. 1258.

TAIWAN (FORMOSA)

CIVIL AERONAUTICS ACT

Proclaimed by order of the President on May 30th, in the 42nd year of the Republic of China (1953 A.D.)¹

CHAPTER I—DEFINITIONS

For the purposes of this Act:

Article 1

“Aircraft” shall mean an airplane, airship, balloon, and any other craft used for flight and navigation in the air.

Article 2

“Aviation enterprise” shall mean any undertaking engaged in the construction, operation or management of an aviation activity.

Article 3

“Landing field” shall mean any locality, on land or water, which is used for the takeoff and landing of aircraft. “Airdrome” shall mean a landing field and its adjoining facilities for the shelter, repair, and maintenance of aircraft, and for the loading and discharging of passengers and cargo.

Article 4

“Aviation personnel” shall include aircraft pilots, navigators, flight radio operators, flight mechanics and others engaged in maintenance of aircraft engines, air traffic control or aircraft dispatching.

Article 5

“Flight” shall mean the takeoff, the travel through the air, the landing and the taxiing on the landing field of an aircraft.

Article 6

“Civil air transport enterprise” shall mean any undertaking engaged directly in the transportation by air of mail, passengers and cargo.

Article 7

“Approach area” shall mean that area at each end of the runway of a landing area on water or land that has been designated as such

¹ Laws of the Republic of China (Taipeh, Taiwan, 1958), vol. 2, p. 2201.

by the Ministry of Communications in accordance with the length of the respective runway.

Article 8

“Flight routes” shall mean the airspace designated by the Ministry of Communications as being suitable for the navigation of aircraft.

Article 9

“Air navigation facilities” shall include air communications, meteorological services, and any other kind of service intended to guide and help aircraft in the navigable airspace and for flight safety.

Article 10

“Prohibited area” shall mean any designated area over which the flight of aircraft is forbidden.

If the prohibition is based on reasons of a military nature the said area shall be designated by the Ministry of Defense. If the prohibition is based on reasons of flight safety, the said area shall be designated by the Ministry of Communications.

Article 11

“Flight control” shall mean the operation of guiding and directing an aircraft in flight.

Article 12

“Approach flight control zone” shall mean the area, and the airspace above it extending upwards to a specified height, of the landing field and a determined area surrounding it. The said area and its airspace shall be determined by the Ministry of Communications.

Article 13

The definitions in, and the application of this Act shall be limited to civil aviation.

CHAPTER II—GENERAL PROVISIONS

Article 14

The Ministry of Communications shall establish a Civil Aeronautics Bureau to manage and control civil aviation enterprises. The organization of this Bureau shall be defined in another Act.

Article 15

No foreigner shall engage in any aviation enterprise or own any private aircraft within the territory of the Republic of China except as provided by Article 17 of this Act.

Article 16

No foreign civil aircraft shall fly over, or land in the territory of the Republic of China without obtaining special permission from the Ministry of Communications.

Article 17

This Act shall apply to foreign civil aircraft and foreign civil air transport enterprises of a State which has concluded a bilateral agreement with the Republic of China regulating the rights of flight over, and the loading and unloading of passengers and cargo in certain designated districts of the territory of the Republic of China. Any such flight which does not come within the scope of this Act may be regulated in accordance with applicable international civil aviation treaties or agreements.

CHAPTER III—AIRCRAFT

Article 18

Any citizen, and the government and official organizations of the Republic of China may own private aircraft.

Article 19

The owner of an aircraft shall apply to the Ministry of Communications for registration. After investigation and approval, a certificate of registration shall be granted. Unless a certificate of registration has been cancelled the owner of a registered aircraft shall not apply to another State for registration. No aircraft registered in another State shall be registered in the Republic of China until the cancellation of the original registration is effected.

Article 20

The owner of an aircraft holding a certificate of registration shall apply to the Ministry of Communications for an examination of his aircraft; if the conclusion of the examination is satisfactory a certificate of airworthiness shall be issued.

Article 21

Any aircraft coming within the terms of one of the following paragraphs shall be deemed to be the aircraft of the Republic of China:

- a) when it belongs to a citizen of the Republic of China;
- b) when it belongs to the central or local government agencies of the Republic of China;
- c) when it belongs to a juridical person that has been established in accordance with the law of the Republic of China and which has its main office in the Republic of China. Such juridical person shall comply with one of the following provisions:
 - i. in the case of an unlimited company, all the shareholders shall be citizens of the Republic of China;

ii. in the case of a mixed liability company or a mixed joint stock company, all the unlimited liability shareholders shall be citizens of the Republic of China;

iii. in the case of a limited joint stock company, the chairman of the board of directors or the general manager and over two thirds of the board of directors shall be citizens of the Republic of China;

iv. all the representatives of any other kind of juridical person shall be citizens of the Republic of China.

Any aircraft not belonging to the Republic of China shall not be entitled to registration in the Republic of China.

Article 22

After the registration of an aircraft, the nationality mark of the Republic of China and the registration number shall be placed on the aircraft in an easily visible position.

Article 23

The certificate of registration shall become invalid when one of the following events occurs:

- a) the right of ownership in the aircraft is transferred;
- b) the aircraft is destroyed or damaged;
- c) the aircraft is dismantled or abandoned;
- d) the aircraft loses its nationality.

Article 24

The certificate of airworthiness shall become invalid when one of the following events occurs:

- a) the date of expiration has passed;
- b) the certificate of registration becomes invalid;
- c) the aircraft does not comply with the conditions of flight safety.

Article 25

The Ministry of Communications shall announce the invalidation of the certificate of registration and of the certificate of airworthiness at the time of their becoming invalid; such certificates shall be returned by the holder thereof within twenty days from their invalidation.

Article 26

The Ministry of Communications shall cancel the registration of an aircraft and order the return of the certificate of registration in the event of the registered aircraft contravening the second paragraph of Article 19 or paragraphs of (a), (b) or (c) of Article 21.

Article 27

In addition to the cancellation under Articles 25 and 26 of this Act, the Ministry of Communications shall cancel the registration of an aircraft when the certificate of registration becomes invalid.

Article 28

Unless otherwise expressly provided in this Act, the law concerning movable property under the Civil Code shall apply to aircraft.

Article 29

Any aircraft may be the object of a mortgage.

Article 30

The transfer of the right of ownership in, the establishment of a mortgage over, or the lease of an aircraft shall be registered; the absence of such registration shall be a bar to any action against third parties.

Article 31

Articles 13 to 16 inclusive, and Articles 18 to 21 inclusive of the Maritime Law shall apply to co-ownership of aircraft.

Article 32

Unless otherwise expressly provided by this Act or by law, an aircraft shall not be subject to detention, seizure or provisional seizure from the time the flight begins and during the journey.

CHAPTER IV—AVIATION PERSONNEL

Article 33

Any member of the aviation personnel shall be a citizen of the Republic of China. A citizen of any friendly country, that grants reciprocity, who has obtained a pilot's license and an authorization certificate from the Chinese Government may operate in the territory of the Republic of China.

Article 34

The Ministry of Communications shall issue a pilot's license and an authorisation certificate to aviation personnel who have successfully passed the examination. Aviation personnel shall be entitled to operate only after obtaining the said certificates; the said certificates shall always be carried during operation.

Article 35

The Ministry of Communications may hold an inspection of aviation personnel at any time. In the case of a technical, physical or personal deficiency the right of the aviation personnel to operate shall be limited, suspended or revoked.

Article 36

The Ministry of Communications may cooperate with the Ministry of Education for the purpose of establishing civil aeronautical schools to train aviation personnel and to promote civil aviation enterprises.

CHAPTER V—AIRDROMES AND AIR NAVIGATION FACILITIES

Article 37

The Ministry of Communications shall be responsible for the establishment of national airdromes. Provincial and municipal airdromes may be established if approved by the Ministry of Communications. These principles shall apply in the case of the closing down of an airdrome.

No airdrome may be established without complying with the provisions of this Article.

Article 38

No citizen or juridical person coming under paragraph (c) of Article 21 of this Act shall have the right to establish or manage a landing field without obtaining the approval of the Ministry of Communications.

The manager and the operator of such landing field shall be citizens of the Republic of China.

Article 39

No airdrome or landing field shall be used without the permission of the Ministry of Communications for any purpose other than that for which it has been established.

Article 40

The closing down, transfer or lease of the management of a landing field shall be subject to the approval of the Ministry of Communications.

Article 41

Air navigation facilities within the National territory shall be planned and managed by the Ministry of Communications.

Article 42

With due regard to flight safety, the Ministry of Communications may restrict any construction within the approach area of a landing field.

Article 43

The Ministry of Communications may order the extinguishing or the concealing of any light showing in or near the navigable airspace which may endanger flying.

Article 44

The Ministry of Communications may order the owner of an obstacle within the navigable airspace which endangers flying to remove the said obstacle or to set up warning lights and markings.

Article 45

The official meteorological organization shall supply all necessary meteorological reports and other meteorological information needed for flight.

Article 46

The land needed for an airdrome or for air navigation facilities shall be acquired in accordance with the law of real property.²

Article 47

Every aircraft using a landing field, airdrome and air navigation facilities shall pay charges according to regulation. The Ministry of Communications shall regulate and make public the standard charges to be collected.

CHAPTER VI—FLIGHT SAFETY

Article 48

Every aircraft in flight shall carry the following documents:

- a) the certificate of registration;
- b) the certificate of airworthiness;
- c) the flight log book;
- d) if passengers are being carried, a list of their names;
- e) if cargo or mail is being carried, a manifest;
- f) the aircraft radio license.

Article 49

A test flight or air display of aircraft shall require the approval of the Ministry of Communications and shall be advertised in the area where such flight or display is to occur.

Article 50

Before the flight takes place, an aircraft shall be subject to an inspection by a person appointed, or an organization authorized by the Ministry of Communications. If the aircraft does not carry the documents prescribed by Article 48 of this Act or if such documents are invalid, it shall be forbidden to fly.

Article 51

No aircraft shall land or take off outside an airfield except in cases of distress or of danger to flight safety.

Article 52

Any aircraft in flight in the navigable airspace shall comply with flight control regulations and follow the directions of the control authority. The above conditions shall also apply to flights within the airspace of the approach flight control zone.

² Known as "Land Law" in Chinese law.

Article 53

Any national or foreign military or civil aircraft using a landing field shall comply with the airport control regulations and follow the directions of the airport control authority.

Article 54

Any aircraft in flight shall comply with the rules specifying the limits and altitude of the flight routes as prescribed by the flight control authority.

Article 55

In any case where it is necessary for an aircraft to land at, or use the facilities of a military airdrome, the owner of the said aircraft shall apply to the Ministry of Communications for the necessary permission and the application shall be transferred to the military aeronautics authority for approval. In the case of an emergency landing this provision shall not apply.

Any aircraft using a military landing field for takeoff or landing shall comply with the regulations and follow the directions of the said landing field.

Article 56

No aircraft shall fly over a prohibited area.

Article 57

No aircraft shall carry any weapon, cartridge, explosive, noxious gas or any other prohibited article without obtaining the approval of the Ministry of Communications.

Article 58

No object shall be thrown from an aircraft in flight. This provision shall not apply where a law provides otherwise or in the cases of flight safety or rescue work.

Article 59

The pilot-in-command shall be in charge of the aircraft while in flight and may carry out all emergency operations.

Article 60

Before takeoff and after landing an aircraft shall, in accordance with the law, be subject to an inspection by an organization concerned.

CHAPTER VII—CIVIL AIR TRANSPORT ENTERPRISES

Article 61

Anyone wishing to operate a civil air transport enterprise shall, in addition to registering the said enterprise with the local administrative authority, apply to the Ministry of Communications for approval

and a certificate of authorization. Such enterprise shall not start operating until the said certificate of authorization has been granted.

Unless the said enterprise has started operating the certificate of authorization shall become invalid after a period of six months from the date of its issue. Under special circumstances an extension of time may be granted.

Article 62

If a civil air transport enterprise is a company, it shall comply with one of the provisions of paragraph (c) of Article 21 of this Act. In the case of a limited joint stock company all stocks shall be registered and at least 51% of all stocks shall be held by citizens of the Republic of China.

Article 63

The certificate of authorization necessary to operate a civil air transport enterprise shall not be transferable.

Article 64

When a civil air transport enterprise is dissolved under the applicable law, the certificate of authorization shall become invalid from the date of the dissolution and shall be returned within 30 days for cancellation.

Article 65

When the time limit of a certificate of authorization has expired the air transport enterprise shall cease its operation unless an application for a new certificate has been filed.

Article 66

A civil air transport enterprise must obtain an air route license. The places of departure, destination and the passing and stopping places, the nature of the enterprise and the time limit shall be specified in the license.

Article 67

The air route license shall not be transferable; the holder of the license shall not be deemed to have a monopoly in the route granted.

Article 68

A civil air transport enterprise which has obtained an air route license, or any aircraft passing through the territory of the Republic of China shall carry mail under the law governing mail.

Article 69

The fee for carrying air mail shall be lower than the ordinary rate of carriage of cargo by air. The rate for carrying air parcel post shall not be higher than the ordinary air rate for cargo.

Article 70

The carriage of airmail shall have priority over the carriage of passengers and cargo.

Article 71

The Ministry of Communications shall determine the rates for carriage by air of passengers and cargo. No civil air transport enterprise shall use any means whatsoever to raise or reduce the rates without obtaining the appropriate permission. For the purpose of promoting flight safety and developing facilities, the Ministry of Communications may collect air safety and construction fees from every civil air transport enterprise but the said fee shall not exceed one-tenth of the rate for carriage by air of passengers and cargo.

Article 72

A civil air transport enterprise shall use the legal currency as the unit for determining the rate of carriage by air of passengers and cargo.

Article 73

Every year civil air transport enterprises shall submit to the Ministry of Communications reports concerning:

- a) management;
- b) financial status;
- c) operation of aircraft and flight operations;
- d) stockholders holding over 5% of the capital;

The Ministry of Communications may, whenever it deems it necessary, investigate the management and financial position and any relevant documents of a civil air transport enterprise.

Article 74

In the case of one of the following events, a civil air transport enterprise shall, in addition to complying with the applicable law, report such event to the Ministry of Communications for entry on the files for inspection:

- a) increase or reduction of capital;
- b) issue of company bonds;
- c) change of address of main facilities for operation of aircraft and flight operations;
- d) leasing, pooling or agency agreements by civil air transport enterprises or by a civil air transport enterprise and another organization;
- e) use of aircraft for purposes other than transport.

Article 75

The Ministry of Communications may in the case of public necessity order a civil air transport enterprise to operate on a specified route.

Article 76

In the case of an emergency a civil air transport enterprise shall follow the orders and carry out the transport plans of the government.

CHAPTER VIII—ACCIDENT AND LIABILITY

Article 77

The owner of an aircraft shall be liable for damage sustained in the event of the death of, or injury to any person and in the event of the destruction of, or damage to movable property or real estate resulting from the accident of an aircraft irrespective of whether there was intention, negligence or *force majeure*. The above liability shall also apply for damage sustained by an object falling or thrown from an aircraft.

Article 78

If damage covered by Article 77 occurs while the aircraft is being operated under a lease or a loan, the owner and the lessee or borrower shall be jointly liable; if the lease has been registered, the lessee shall be solely liable in the absence of fault of the owner.

Article 79

The aircraft owner, lessee or borrower shall have a recourse action against the aviation personnel or the third party causing the damage if such damage was caused intentionally or by negligence.

Article 80

The amount of compensation recoverable for damage to passengers, cargo or aviation personnel may be determined by special contract. The special contract must be in writing.

If the amount of compensation set out in the special contract has been approved by the Ministry of Communications and is set out in the ticket or the air bill of lading which has been accepted by the passenger or shipper, the ticket or air bill of lading shall be deemed to be a written contract.

Article 81

In the case of a debtor who is not able to pay the whole compensation the court may consider his position and grant an extension of time to pay or allow payment on an installment basis or reduce the amount of the compensation.

The reduction shall not amount to more than 50% of the damage recoverable.

Article 82

Prior to making an application for a certificate of registration under Article 19 of this Act the owner of an aircraft and a civil air transport enterprise prior to making an application for a certificate of authorization under Article 61 of this Act shall be insured in respect of their liability for damage by means of an insurance to the limits prescribed by the Ministry of Communications.

Article 83

The Ministry of Communications may order any foreign aircraft which has obtained a special permission to fly into the territory of

the Republic of China to deposit, prior to such flight, a sufficient cash deposit as security for any liability which may be incurred.

Article 84

A district government may detain any foreign civil aircraft and its pilot that has not deposited security for liability which may be incurred or that has not obtained a special flight permission and has been forced to land or crashes in the territory of the Republic of China. If any damage results therefrom the foreign civil aircraft shall be liable for compensation. The District government shall issue a release if the aircraft owner, lessee, borrower or pilot deposits a guaranty acceptable to the district government, unless there has been a breach of some other law or regulation.

Article 85

An action for damages may be brought at the option of the plaintiff either before the court of the defendant's domicile or before the court of the first landing place after the accident.

Article 86

The Civil Code shall apply to all cases of liability incurred by aircraft which are not covered by this Act.

Article 87

Any aircraft flying near the area of an accident shall participate in the search and rescue.

Article 88

In the event of an accident the owner, lessee or borrower of the aircraft shall immediately report the matter to the Ministry of Communications.

CHAPTER IX—PENALTIES

Article 89

Any person using fraud to apply for, and thereby obtaining a certificate of authorization for aviation personnel or a certificate of registration or of airworthiness shall be liable to imprisonment for a term not exceeding three years or to penal servitude or to a fine not exceeding the sum of two thousand dollars. In addition the certificates shall be withdrawn.

Article 90

Any person using an aircraft for flight without having obtained a certificate of airworthiness shall be liable to imprisonment for a term not exceeding five years or to penal servitude or to a fine not exceeding the sum of three thousand dollars. The same penalties shall apply when an aircraft is used for flight under an invalid certificate of airworthiness. This provision does not apply to authorized test flights.

Article 91

Any aviation personnel engaging in a flight without having obtained a license and a certificate of authorization shall be liable to imprisonment for a term not exceeding two years or to penal servitude or to a fine not exceeding the sum of two thousand dollars. The employer shall also be deemed guilty and the same penalties shall be applicable.

Article 92

Any civil air transport enterprise guilty of one of the following offenses shall be liable to penal servitude or to a fine not exceeding the sum of five hundred dollars:

- a) of not clearly marking or placing in the prescribed position the nationality mark and registration number of an aircraft;
- b) of not returning for cancellation the certificate of registration or the certificate of airworthiness or any other certificate issued under this Act, when under an obligation to do so;
- c) of operating an air transport enterprise without having obtained the necessary authorization.

Article 93

The operator or manager of a private landing field guilty of one of the following offenses shall be liable to penal servitude or to a fine not exceeding the sum of two hundred dollars:

- a) of using the landing field for other purposes without the appropriate authorization;
- b) of closing down, transferring or leasing the landing field without the appropriate permission;
- c) of not complying with the appropriate regulations when collecting the landing field charges.

Article 94

Any aviation personnel guilty of one of the following offenses shall be liable to imprisonment for a term not exceeding six months or to penal servitude or to a fine not exceeding the sum of one thousand dollars:

- a) of exceeding flight limitations prescribed by regulations;
- b) of not returning the license or the certificate of authorization for cancellation when under an obligation to do so;
- c) of not carrying the necessary documents while the aircraft is in flight;
- d) of infringing the provisions of Article 51 of this Act;
- e) of infringing the provisions of Article 54 of this Act;
- f) of after landing the aircraft not submitting to the prescribed inspection.

Article 95

Any aircraft pilot or navigator who infringes the provisions of Article 16 of this Act shall be liable to imprisonment for a term not exceeding three years or to penal servitude or to a fine not exceeding the sum of three thousand dollars.

Article 96

Anyone who sets up a private landing field without the necessary authorization or who infringes the provisions of Article 38 of this Act shall be liable to penal servitude or to a fine not exceeding the sum of three hundred dollars.

Article 97

Any person who infringes the provisions of article 56 of this Act shall be liable to imprisonment for a term not exceeding two years.

Article 98

Any person who infringes the provisions of article 57 of this Act shall be liable to imprisonment for a term not exceeding five years or to penal servitude or to a fine not exceeding the sum of two thousand dollars.

Article 99

Any aviation personnel, passenger or other person travelling in an aircraft who infringes the provisions of article 58 of this Act without a justifiable reason shall be liable to imprisonment for a term not exceeding two years or to penal servitude or to a fine not exceeding the sum of five hundred dollars.

CHAPTER X—SUPPLEMENTARY RULES

Article 100

The Ministry of Communications will issue regulations concerning civil aviation enterprise.

Article 101

This Act shall come into force on the day of its proclamation.

THAILAND

AIR NAVIGATION ACT, B.E. 2497 (1954)¹

PHUMIPHOL ADULYADEJ, REX.

Given on the 1st September, B.E. 2497;

Being the 9th year of the Present Reign.

H.M. King Phumiphol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to amend the law on air navigation;

Be it, therefore, enacted by the King, by and with the advice and consent of the Assembly of the People's Representatives, as follows:-

Section 1. This Act shall be called the "Air Navigation Act, B.E. 2497".

Section 2. This Act shall come into force after the expiration of ninety days as from the date of its publication in the Government Gazette.

Section 3.

(1) The Air Navigation Act, B.E. 2480;

(2) The Air Navigation Act (No. 2), B.E. 2490;

(3) The Air Navigation Act (No. 3), B.E. 2492; and

(4) All laws, rules and regulations insofar as they are repugnant to or inconsistent with the provisions of this Act; shall be repealed.

Section 4. In this Act:

"Aircraft" includes all machines which can derive support in the atmosphere from the reactions of the air, except objects specified in the Ministerial Regulations;

"Transport Aircraft" means an aircraft which is used or intended to be used for commercial transport of things or passengers for remuneration;

"Foreign Aircraft" means an aircraft duly registered and having nationality according to the foreign law;

"Parachute" means an umbrella-like device used for retarding by air-resistance the descent of person, thing or animal from a high place;

¹ English text supplied by the Royal Government of Thailand.

"Aerodrome" means a defined area on land or water to be used either wholly or in part, for the take-off, landing or movement of aircraft, and includes buildings, installations and equipment in the aerodrome;

"Licensed aerodrome" means an aerodrome which a person has obtained permission to establish under this Act and the aerodrome notified by the Minister;

"Air navigation facilities" means services provided for facilitating air navigation of aircraft, and includes buildings installations and equipment of such services;

"Convention" means the Convention on International Civil Aviation done at Chicago on the 7th December, 1944 including its Annexes and Amendments of the Annexes or the Convention;

"Personnel" means the pilot, navigator, engineer, radio-operator, air-traffic controller, flight operations officer and the persons performing other duties as determined in the Ministerial Regulations;

"Operator" means the person engaged in aircraft operation,

"Minister" means the Minister having charge and control of this Act.

Section 5. This Act shall not apply to the air navigation in the services of the military, police and other official units as may be determined in the Ministerial Regulations.

Section 6. The Minister of Communications shall have charge and control of this Act, and shall have the power to appoint competent officials and to issue Ministerial Regulations fixing fees not exceeding the rates hereto annexed and determining other activities for the execution of this Act.

Such Ministerial Regulations shall come into force upon publication in the Government Gazette.

CHAPTER 1

Civil Aviation Board

Section 7. There shall be a Civil Aviation Board consisting of the Minister of Communications as Chairman *ex-officio*, a Vice-Chairman and not more than seven other members appointed by the Council of Ministers.

Section 8. The Vice-Chairman and members of the Board shall hold office for a period of four years. The Vice-Chairman or members of the Board whose term of office has expired may be re-appointed as Vice-Chairman or members of the Board.

Section 9. The Vice-Chairman and members of the Board are relieved of their office before the expiration of the term upon:

- (1) Death;
- (2) Resignation;
- (3) Being retired by the Council of Ministers.

In case where vacancy occurs before the expiration of the term, a Vice-Chairman or member of the Board shall be appointed in place, as the case may be; and the person so appointed shall hold office only for the unexpired portion of his predecessor's term of office.

Section 10. When the Chairman of the Board is absent at any meeting, the Vice-Chairman shall perform the duty instead.

Section 11. At every meeting of the Civil Aviation Board, the presence of not less than half of all members shall constitute a quorum.

Section 12. All questions shall be decided by a majority of votes.

Each member shall have one vote. In case of a tie, the person presiding at the meeting shall have another vote as the casting vote.

Section 13. The Civil Aviation Board shall have the power to appoint Sub-Committees for performing any activities or examining or enquiring into any facts which are within the scope of powers and duties of the Civil Aviation Board.

For the meeting of the Sub-Committee, Sections 11 and 12 shall apply, *mutatis mutandis*.

Section 14. The Chairman, Vice-Chairman and members of the Board shall receive remunerations as may be determined by the Council of Ministers.

Section 15. The Civil Aviation Board shall have powers and duties as specified in this Act, and in the following matters:

(1) To take consultation and give advice concerning civil aviation to the Minister;

(2) To issue regulations in compliance with the provisions of this Act and Annexes to the Convention;

Such regulations shall come into force after the approval of the Minister and upon publication in the Government Gazette.

(3) To consider and authorize the rates of fare and freight of transport aircraft, and service charges for air navigation facilities, with the approval of the Minister.

CHAPTER 2

General Provisions on Aircraft

Section 16. No person shall fly any aircraft unless there are on board the following;

- (1) Certificate of registration;
- (2) Nationality and registration marks;
- (3) Certificate of airworthiness;
- (4) Journey log book;
- (5) License of each member of the personnel;
- (6) License of radio communication apparatus, if it is equipped with radio communication apparatus.

The provisions of this Section shall not apply to:

- (1) An aircraft under flight test subject to the conditions laid down by the competent official;
- (2) A foreign military aircraft.

Section 17. No aircraft shall take-off from or land at any place other than a licensed aerodrome or a licensed temporary place for take-off and landing of aircraft or a place notified by the Minister.

Section 18. An aircraft must fly along the air routes as determined in the Ministerial Regulations.

Section 19. An aircraft must comply with the Regulations of the Civil Aviation Board.

Section 20. Transport aircraft passenger fares and freight charges must be collected at the rates approved by the Civil Aviation Board.

Section 21. The owner of aircraft, operator, personnel and other persons on board an aircraft must, in the interest of safety, comply with the Regulations of the Civil Aviation Board.

Section 22. No aircraft shall fly into or over the prohibited areas or restricted air navigation areas notified by the Minister in the Government Gazette.

Section 23. No person shall, by any means whatsoever, use any photographic apparatus in or from any aircraft unless permission in writing has been obtained from the competent official.

Section 24. No person shall control or release a pilotless aircraft, or drop a parachute unless permission in writing has been obtained from the Minister, and the conditions determined by the Minister have been complied with.

Section 25. No person shall send by, or carry in, any aircraft munitions of war according to the law on the control of munitions of war unless permission in writing has been obtained from the Minister, and the conditions determined by the Minister have been complied with.

Section 26. No person shall send by, or carry in, any aircraft dangerous objects or animals determined in the Ministerial Regulations, which may endanger the safety of the aircraft or of the persons on board the aircraft unless permission in writing has been obtained from the competent official and the conditions determined by the competent official have been complied with.

Section 27. No aircraft other than foreign aircraft shall fly out of the Kingdom unless permission in writing has been obtained from the competent official.

Section 28. No foreign aircraft shall fly over or take-off or land in the Kingdom unless it has the right in accordance with the Convention or bilateral agreement or unless permission in writing has been obtained from the Minister.

Section 29. No foreign military aircraft shall fly over or take-off or land in the Kingdom unless permission in writing has been obtained from the Minister.

CHAPTER 3

Registration and Marking of Aircraft

Section 30. The application for registration and the registration of aircraft shall be in accordance with the rules determined in the Ministerial Regulations.

Section 31. The applicant for registration of aircraft, whether being an ordinary person or juristic person, must have Thai nationality.

If it is a partnership or limited company, it must be registered according to the Thai law, and must have its Head Office situated in the Kingdom, and

(1) in case of an ordinary partnership, all partners must have Thai nationality;

(2) in case of a limited partnership, all partners, who are jointly and unlimitedly liable, must have Thai nationality, and not less than seventy percent of the whole capital of the partnership must belong to persons of Thai nationality;

(3) in case of a limited company, the majority of the directors must have Thai nationality, and not less than seventy percent of the whole capital of the company must belong to ordinary persons of Thai nationality, or belong to Ministries, Thabuangs and Departments of the Government, and such company must have no regulations permitting the issuance of shares in the forms of certificates to bearers.

If it is an association, it must be registered according to Thai law, and must have its Head Office situated in the Kingdom, and its regulations have been approved by the Civil Aviation Board.

Section 32. A certificate of registration of aircraft is invalidated, when

(1) the ownership of the aircraft is changed;

(2) the aircraft comes under the possession of the person who lacks qualifications according to Section 31;

(3) it appears that the ownership of the aircraft does not conform to the statements given in the registration;

(4) the aircraft becomes so damaged that it is not fit for further use;

(5) the certificate of airworthiness of the aircraft has expired for more than 6 months;

(6) the aircraft has been lost for more than 3 months.

In cases (2) to (5), the owner of the registered aircraft shall surrender such certificate of registration to the competent official without delay.

Section 33. The marking of aircraft shall be in accordance with the Regulations of the Civil Aviation Board.

CHAPTER 4

Airworthiness and Journey Log Books

Section 34. The application for, and the issuance of the certificate of airworthiness, in connection with the prototype aircraft or the series aircraft, shall be in accordance with the rules determined in the Ministerial Regulations.

Section 35. When the competent official considers that any aircraft should be inspected or modified, he shall have the power to order its owner to have that aircraft inspected or modified on the items and within a period of time prescribed by the competent official.

Section 36. When the competent official considers that any aircraft is not safe, he shall have the power to order the suspension or the cancellation of the certificate of airworthiness of that aircraft.

During the suspension of the certificate of airworthiness under the preceding paragraph, such aircraft is prohibited to fly unless permission in writing has been obtained from the competent official, and the conditions determined by the competent official have been complied with.

Section 37. When the Civil Aviation Board considers that aircraft of any type is not safe, it shall have the power to order the suspension or the cancellation of the certificate of airworthiness of all aircraft of that type.

During the suspension of the certificate of airworthiness under the preceding paragraph, any aircraft of such type is prohibited to fly unless permission in writing has been obtained from the Civil Aviation Board, and the conditions determined by the Civil Aviation Board have been complied with.

Section 38. Aircraft already provided with certificate of airworthiness shall be overhauled according to the Regulations of the Civil Aviation Board.

Section 39. The certificate of airworthiness shall be valid for the period of time specified therein but not exceeding one year as from the date of issue.

Section 40. The certificate of airworthiness of any aircraft is invalidated in the following cases:—

(1) When a modification or alteration which may affect the safety of that aircraft has been carried out without the approval of the competent official;

(2) When that aircraft has sustained damage or is out of order which, in normal aeronautical engineering practice, cannot be repaired by the personnel;

(3) When there is violation of, or failure to comply with, the order of the competent official given under Section 35;

(4) When there is violation of Section 38.

Section 41. The Journey log book shall be in accordance with the Regulations of the Civil Aviation Board.

CHAPTER 5

Personnel

Section 42. No person shall be personnel unless he has obtained permission from the competent official according to this Act, or has the personnel license issued by any contracting State to the Convention or by the State which has entered into an agreement with Thailand, provided that the personnel of the aircraft registered according to the Thai law obtain permission from the competent official according to this Act.

If the holder of the personnel license issued by any contracting State to the Convention or by the State which has entered into an agreement with Thailand, brings that license to be authorized by the competent official, he shall be regarded as having obtained permission from the competent official according to this Act.

Section 43. The application for, the issuance of and the authorization of personnel licenses shall be in accordance with the rules determined in the Ministerial Regulations.

Section 44. A person applying for permission to be personnel must have the following qualifications:

- (1) having Thai nationality;
- (2) being of good conduct;
- (3) having the age, medical fitness, knowledge and experience as determined in the Regulations of the Civil Aviation Board.

When there is necessity or special cause for any particular case, the Minister shall have the power to exempt the qualifications as determined in this Section.

Section 45. The personnel has the right to perform functions as determined in the Regulations of the Civil Aviation Board.

Section 46. The personnel license shall be valid for the period of time determined in the Ministerial Regulations.

Section 47. When it is considered that any personnel has become deficient in the qualification under Section 44 (3) concerning the medical fitness, knowledge or experience, the competent official has the power to order that personnel to undergo a medical examination, theoretical examination, or practical test.

Section 48. When it appears that any personnel lacks qualifications under Section 44, or fails to comply with the order of the competent official according to Section 47, or violates the provisions of this Act, or is sentenced by a judgment to imprisonment according to other laws except for petty offences, offences having punishment on the level of petty or offences committed by negligence, the competent official has the power to order the suspension or the cancellation of the license of that personnel.

Section 49. The personnel must comply with the discipline determined in the Regulations of the Civil Aviation Board.

Section 50. No personnel on board any aircraft shall perform his duties whilst he is suffering from illness or receives injury which may impair his efficiency in performing those duties. If the illness or the suffering from the injury lasts from 14 days upwards, the personnel is prohibited to perform his duties until the physician designated by the competent official shall have examined and issued a certificate stating that personnel has recovered from the illness or the injury, and the competent official has permitted him to resume his duties.

CHAPTER 6

Aerodromes and Air Navigation Facilities

Section 51. No person shall establish an aerodrome or air navigation facilities unless permission has been obtained from the competent official with the approval of the Minister.

Section 52. The application for, and the issuance of license for establishing aerodrome or air navigation facilities shall be in accordance with the rules determined in the Ministerial Regulations.

Section 53. No person shall establish any temporary place for take-off and landing of aircraft unless permission has been obtained from the competent official.

The licenses under this Section must comply with the procedures and conditions stipulated by the competent official.

Section 54. When it appears that any licensee for establishing aerodrome, air navigation facilities or temporary place for take-off and landing of aircraft fails to comply with the Ministerial Regulations or procedures and conditions prescribed therefor by the competent official, the competent official shall have the power to order the suspension or the cancellation of his license.

Section 55. The Minister shall have the power to issue a notification determining any place, on land or water, as licensed aerodrome or temporary place for take-off and landing of aircraft.

Section 56. The fee for landing and take-off and the fee for storage of aircraft at a licensed aerodrome or temporary place for take-off and landing of aircraft shall be charged at the rates prescribed in the Regulations of the Civil Aviation Board, which must not exceed the rates at the end of this Act.

Section 57. The service charges for air navigation facilities may be charged at the rates approved by the Civil Aviation Board.

Section 58. The Minister shall have the power to designate in the Government Gazette the area adjoining the aerodrome or the site of air navigation facilities as safety zone of air navigation.

Section 59. Within the safety zone of air navigation under Section 58, no person shall construct or modify buildings or other structures, or plant trees unless permission in writing has been obtained from the competent official.

In granting permission under this Section, the competent official may determine any conditions as he thinks fit.

Section 60. If it appears that there is violation of Section 59 paragraph 1 or violation of conditions under Section 59 paragraph 2, the competent official shall have the power to order in writing the violator to demolish the buildings or structures or to cut down or remove the trees within a determined period of time.

In case where there is violation of the order of the competent official under the preceding paragraph, the competent official shall have the power to take measures in demolishing the buildings or structures or cutting down or removing the trees. The expenses incurred for this purpose shall be reimbursed by the violator.

CHAPTER 7

Accidents

Section 61. When any accident occurs to any aircraft in the Kingdom or to a Thai aircraft in a foreign country, the owner in case of Thai aircraft, or agent of the owner in case of foreign aircraft, shall inform the competent official of such accident without delay, and make a report as prescribed in the Regulations of the Civil Aviation Board.

Section 62. When any accident occurs to any aircraft in the Kingdom, the aircraft shall be under the custody of the competent official, and no person shall do anything to the aircraft or parts thereof without obtaining permission from the competent official, the administrative or police official, except in case of necessity to

- (1) save persons, mails and animals from dangers;
- (2) protect the aircraft from damage by fire or by any other cause;
- (3) prevent dangers to the public;
- (4) remove the aircraft or parts thereof so as not to become obstruction to air navigation or to other transport;
- (5) remove the aircraft or parts thereof to a place of safety when the aircraft is wrecked on the water, or
- (6) remove things or merchandise to save them from dangers, and it shall, in this case, be done under the supervision of the competent official, the administrative or police official.

Section 63. The Minister shall have the power to appoint a Committee of Inquiry for conducting an inquiry into any matter connected with the accident of aircraft in the Kingdom.

Section 64. The Committee of Inquiry appointed under Section 63 shall have the following powers:

- (1) To enter any land, house, building or structure where the aircraft or parts thereof, meeting with accident, fall or appear;
- (2) To order any person to come to give statements or send documents or any objects which are evidence in connection with the aircraft meeting with accident.

CHAPTER 8

Power to Inspect, to Seize and to Delay

Section 65. The competent official shall have the power to demand for inspection the documents under Section 16, and if it appears that there is violation of the provisions of this Act concerning any document, the competent official shall have the power to seize such documents for further proceedings.

Section 66. For the execution of this Act, the competent official shall have the power:

(1) to enter any premises of the licensed aerodrome, the temporary place for take-off and landing of aircraft or the place on which the air navigation facilities are established;

(2) to enter, during working hours, any works or premises in which aircraft or parts thereof are being manufactured, assembled, repaired, or are being inspected and overhauled, and to inspect and examine such work as well as parts thereof, and the drawings relating thereto;

(3) to get on board, inspect and search any aircraft which, he has reason to believe, contains prohibited goods or goods which are restricted under this Act or any other laws, or goods which have been imported into, or are being exported out of, the Kingdom as evading customs duties;

(4) to inspect any aircraft already provided with certificate of airworthiness, from time to time as he may deem fit;

(5) to enter and inspect any place where aircraft is stored;

(6) to seize prohibited goods or goods which are restricted under this Act or any other laws, or goods which have been imported into, or are being exported out of, the Kingdom as evading customs duties.

Section 67. When there is violation of the provisions of this Act relating to any aircraft, the competent official shall have the power to delay the departure of the aircraft.

CHAPTER 9

Penalties

Section 68. Whoever violates Section 16 or Section 62 shall be punished with fine not exceeding four thousand baht or imprisonment not exceeding six months, or both.

Section 69. Whoever, being the person in charge of an aircraft, violates Section 17, Section 18 or Section 19 shall be punished with fine not exceeding two thousand baht or imprisonment not exceeding three months, or both.

Section 70. Whoever, being the owner of an aircraft, violates Section 20, Section 32 last paragraph or Section 33 shall be punished with fine not exceeding two thousand baht.

Section 71. Whoever violates Section 21 shall be punished with fine not exceeding three thousand baht.

Section 72. Whoever, being the person in charge of an aircraft, violates Section 22 or Section 27 shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 73. Whoever violates Section 23 shall be punished with fine not exceeding one thousand baht or imprisonment not exceeding one month, or both.

Section 74. Whoever violates Section 24 shall be punished with fine not exceeding ten thousand baht or imprisonment not exceeding five years, or both.

Section 75. Whoever violates Section 25, Section 26 or Section 42 shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 76. Whoever, being the person in charge of a foreign aircraft or a foreign military aircraft, violates Section 28 or Section 29, as the case may be, shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 77. Whoever, being the person in charge of an aircraft, violates Section 36 paragraph 2 or Section 37 paragraph 2 shall be punished with fine not exceeding two thousand baht or imprisonment not exceeding three months, or both.

Section 78. Whoever, being the personnel, violates Section 49 or Section 50 shall be punished with fine not exceeding one thousand baht.

Section 79. Whoever violates Section 51 or Section 53, or violates the stipulations of the competent official under Section 53 paragraph 2 shall be punished with fine not exceeding five thousand baht or imprisonment not exceeding two years, or both.

Section 80. Whoever, being the owner of a licensed aerodrome or a temporary place for take-off and landing of aircraft, violates Section 56 shall be punished with fine not exceeding five thousand baht.

Section 81. Whoever, being the owner of air navigation facilities violates Section 57 shall be punished with fine not exceeding two thousand baht.

Section 82. Whoever, being the owner in case of Thai aircraft, or the agent of the owner in case of foreign aircraft, violates Section 61 shall be punished with fine not exceeding five thousand baht.

Section 83. Whoever obstructs the performance of the Committee of Inquiry under Section 64 (1), or fails to comply with the order of the Committee of Inquiry under Section 64 (2), shall be punished with fine not exceeding two thousand baht or imprisonment not exceeding three months, or both.

Section 84. Regarding the offences under this Act for which the punishment is fine only, the competent official shall have the power to settle the case.

Rates of Fees

1. Certificate of registration of aircraft	1,000 baht.
2. Personnel license or the authorization of personnel license issued by any contracting State to the Convention or by the State entering into an agreement with Thailand	300 baht.
3. Certificate of airworthiness	
(1) for prototype aircraft manufactured in the Kingdom	10,000 baht.
(2) for series aircraft manufactured in the Kingdom	3,000 baht.
(3) for aircraft imported into the Kingdom	5,000 baht.
4. License for establishing aerodrome	2,000 baht.
5. License for establishing air navigation facilities	1,000 baht.
6. License for establishing temporary place for take-off and landing of aircraft	500 baht.
7. Substitute of license or certificate	20 baht.
8. Fee for landing and take-off of aircraft, each time	6,000 baht.
9. Fee for storage of aircraft, per day	2,000 baht.

Published in the Government Gazette of September 14, 2497 (1954) and came into force on December 13, 2497

UNION OF SOUTH AFRICA

AVIATION ACT, 1923

(ACT NO. 16 OF 1923)

1129

Act No. 16 of 1923. (Date of commencement—1st July, 1924) ¹

ACT To enable effect to be given to the International Convention for regulating air navigation, and to make provision for the control, regulation and encouragement of flying within the Union and for other purposes incidental thereto.

(Assented to 21st May, 1923)

(Signed by the Governor-General in English)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:

ADOPTION OF INTERNATIONAL AIR CONVENTION

1. The International Convention for determining, by a common agreement between the Powers and States signatory to that Convention, certain uniform rules with respect to International Air Navigation, is, together with the additional protocol to that Convention, hereby adopted.

The terms of the Convention and additional protocol thereto, are set out in the Schedule to this Act.

POWER TO CARRY OUT AND APPLY CONVENTION

2. The Governor-General may—

(a) issue such proclamations as appear to him necessary for carrying out the Convention, and for giving effect thereto or to any of the provisions thereof;

(b) do all things necessary to ratify or cause to be ratified on behalf of the Union of South Africa, any amendments or additions to the Convention which may from time to time be made and, by proclamation in the Gazette, declare that the amendments or additions so ratified shall be observed and have the force and effect of law in the Union: Provided that copies of any amendments or additions so ratified or proclaimed shall be laid upon the Tables of both Houses of Parliament within fourteen days after their publication in the Gazette if Parliament is then in session or, if Parliament is not then in session, within fourteen days after the commencement of its next ensuing session;

(c) by proclamation in the Gazette, declare that any of the provisions of the Convention shall, with such modifications or adaptations and such consequential and supplementary provisions as may be necessary or expedient, apply also to air navigation within the limits of the Union.

¹ See Proclamation No. 140, published in Government Gazette of 27th June, 1924, supplement.

Regulations

3. (1) The Governor-General may make regulations relating to all or any of the following matters or things, namely—

(a) the carrying out of, and giving effect to, the provisions of the Convention;

(b) the safety and security of persons and property and the prohibition of flying at such heights or in such manner as is deemed to be dangerous to life and property;

(c) the licensing, inspection, and regulation of aerodromes or other places set apart for the use of aircraft; the scales of charges at licensed aerodromes or at aerodromes established and maintained under the powers of section six; the licensing or certificating of persons employed at aerodromes in the inspection or supervision of aircraft; the registers and records to be kept at such aerodromes and the manner in which they shall be kept; prohibiting or regulating the use of unlicensed aerodromes; access to aerodromes and places where aircraft have landed and access to aircraft factories for the purpose of inspecting the work therein carried on;

(d) the manner and conditions of the issue and renewal of any certificate or license required under this Act or under the Convention, including the examination and tests to be undergone and the form, custody, production, cancellation, suspension, endorsement and surrender of any such certificate or license;

(e) the keeping and form of the register of union aircraft;

(f) the conditions under which aircraft may pass, or goods or passengers may be conveyed by aircraft into, within or from the Union;

(g) the areas within which, or the aerodromes at which, aircraft coming from any place outside the Union shall land, and the areas within which or the aerodromes from which aircraft shall depart to any place outside the Union;

(h) the exemption from any of the provisions of this Act or of the Convention, of aircraft flown for experimental purposes, or any other aircraft, or any persons, where it appears unnecessary that such provisions should apply;

(i) the fees to be paid in respect of the grant of any certificate or license or otherwise for the purposes of this Act, or of the Convention;

(j) the control of aerial lighthouses and lights at or in the neighbourhood of aerodromes and aerial lighthouses;

(k) the signals which may be made by aircraft and persons carried therein;

(l) measures for preventing aircraft flying over prohibited areas or entering or leaving the Union in contravention of any provision of this Act;

(m) the prevention of nuisances arising out of air navigation or aircraft factories, aerodromes, or other aircraft establishments;

(n) the persons by whom accidents shall be notified, the procedure to be followed in notifying accidents and in holding accident enquiries;

(o) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorizing 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;

(p) authorizing or requiring the cancellation, suspension, endorsement, or surrender of any license or certificate granted under this Act where it appears on an investigation that the license ought to be cancelled, suspended, endorsed, or surrendered, and authorizing or requiring the production of any such license for the purpose of being dealt with,

and generally for the better carrying out of the objects and purposes of this Act, the generality of this provision not being limited by the particular matters provided in the preceding paragraphs of this sub-section.

(2) Any regulations made under this Act may prescribe penalties for the contravention thereof or failure to comply therewith and the mode of enforcing such penalties, and may also impose different penalties in case of a second or subsequent contravention or non-compliance, but no such penalty shall exceed the penalties mentioned in section sixteen.

APPOINTMENT AND FUNCTIONS OF CIVIL AIR BOARD

4. (1) The Governor-General may appoint a civil air board consisting of not more than seven persons, designate the chairman thereof, and make regulations for the conduct of the business of the board and other matters relating thereto.

(2) The board shall act in an advisory capacity and advise the Minister as to—

- (a) regulations to be made under this Act;
- (b) matters arising out of the application to the Union of the Convention and the rules made under the Convention;
- (c) the encouragement and development of flying in the Union;
- (d) proposals for the establishment of aerial goods, mail and passenger services within the Union and between the Union and adjoining territories;

and as to such other matters connected with flying and aeronautics as may be referred to the board by the Minister.

SPECIAL POWERS IN CASE OF EMERGENCY

5. (1) In time of war, whether imminent or actual, or within six months after a state of war has ceased to exist, or in time of great national emergency, the Governor-General may—

- (a) by proclamation in the Gazette, declare that the Union or any portion of the Union including the territorial waters thereof, shall be a restricted area for the purpose of this section;
- (b) issue orders and instructions in respect of any restricted area or part thereof—

- (i) regulating, restricting or prohibiting the navigation of all or any description of aircraft;

- (ii) providing for taking possession of and using for the purposes of the Union Defence Forces or other His Majesty's

Forces, any aerodrome or landing ground, or any aircraft, machinery, plant, material or things found therein or thereon, subject to the payment of compensation in like manner as if the possession and use had been taken under powers conferred by the South African Defence Act, 1912;

(iii) regulating, restricting or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, flying school, or landing ground, or any class or description thereof;

(c) assign to any person in respect of any restricted area any of the powers set forth in paragraph (b) of this sub-section.

(2) Any person to whom is assigned the duty of carrying out and giving effect to orders and instructions issued under this section, is hereby empowered to take all steps which are reasonable and necessary to secure compliance therewith, and no action for damages or compensation shall lie against the Government or any such person for any loss or damage sustained on account of such steps having been taken, nor, save as is otherwise in this section provided, shall any compensation be payable by reason of the operation of any order or instruction made under this section.

(3) Any person who refuses or, without good and proper cause, fails to comply with any order or instruction made or given under or by virtue of this section, or who obstructs any person charged with the duty of carrying out and giving effect to any such order or instruction, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds, or to imprisonment for one year without the option of a fine or to both such fine and imprisonment.

ESTABLISHMENT AND MAINTENANCE OF AERODROMES BY GOVERNMENT

6. The Governor-General may, out of moneys to be appropriated by Parliament for the purpose, establish and maintain aerodromes and provide and maintain roads and approaches thereto, and apparatus and equipment therefor; and may for the purpose acquire land, and interests in and rights to and over land. The provisions of section eighty-seven of Act No. 13 of 1912 shall, if necessary, apply as if the acquisition were for defence purposes.

LICENSING AND REGISTRATION OF AERODROMES

7. (1) No place or building shall be used as a public aerodrome unless it has been registered and licensed under this Act, or approved by a duly prescribed authority.

(2) For the purpose of this section, "public aerodrome" means any aerodrome at which charges are levied for the landing or housing of aircraft, or at which aircraft carrying passengers or goods for hire, land or depart.

(3) There shall be kept at every licensed aerodrome a copy of this Act, the rules made under the Convention and all regulations for the time being in force in the Union, and any person may, on application to the person in charge of the aerodrome, inspect such copy free of charge at all reasonable times.

PERMISSION TO USE PROCLAIMED LAND OR LAND HELD UNDER MINING
TITLE FOR AERODROMES

8. Notwithstanding anything contained in Chapter IX of the Precious and Base Metals Act, 1908 (Transvaal) or any other law, the Governor-General may use or permit the use of ground held under mining title, or of open proclaimed land, for the erection of aerodromes or for landing places for aircraft: Provided that such use is not, in the opinion of the Government Mining Engineer, likely to interfere with actual mining operations or purposes incidental thereto.

TRESPASS, NUISANCE, AND RESPONSIBILITY FOR DAMAGE

9. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of aircraft over any property at a height, 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 this Act and of the Convention are duly complied with; but where material damage or loss is caused by an aircraft in flight, taking off, or landing, or by any person in any such aircraft, or by any article falling from any such aircraft, to any person or property on land or water, damages may be recovered from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action, as though the same had been caused by his wilful act, neglect or default, except where the damage or loss was caused by or contributed to by the negligence or wilful act of the person by whom the same was suffered:

Provided that where any damages recovered from or paid by the owner of an aircraft under this section arose from damage or loss caused solely by the wrongful or negligent action or omission of any person other than the owner or some person in his employment, the owner shall be entitled to recover from that person the amount of such damages, and in any such proceedings against the owner, the owner may, on making such application to the court and on giving such security as to costs as may be prescribed by rules of court, join any such person as aforesaid as a defendant, but where such person is not so joined he shall not in any subsequent proceedings taken against him by the owner be precluded from disputing the reasonableness of any damages recovered from or paid by the owner.

(2) Where any aircraft has been bona fide leased or hired out for a 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 section shall have effect as though for references to the owner, there were substituted references to the person to whom the aircraft has been so leased or hired out.

INVESTIGATION OF ACCIDENTS

10. (1) In the event of any accident arising out of or in the course of air navigation and occurring in or over the Union or the territorial waters thereof, or in the case of Union aircraft wheresoever they may be, the Minister may appoint one or more persons as a board of inquiry, known as an accident inquiry board, to make an investigation

into the cause of and responsibility for the accident and report to him thereon.

(2) The accident inquiry board shall, if the accident occurred within the Union, have power to summon and examine witnesses on oath and to call for the production and grant inspection of books, logs, certificates, licences and other documents. The laws and rules governing the magistrates' courts of the Union shall *mutatis mutandis* apply to procuring the attendance of witnesses, their examination, the production of books and documents, and the like, and for that purpose the person appointed to hold the inquiry or the chairman of the accident inquiry board shall have power to sign such documents as may be necessary for the purpose of the inquiry, in the same manner as the magistrate or the clerk of the court has power to do under the rules of the magistrates' court. Any process to be served for purposes of such an inquiry shall be served by the messenger of the magistrate's court of the district in which the person upon whom service is to be made resides.

(3) Nothing in this section contained shall be construed as affecting the powers or duties conferred upon magistrates or justices of the peace by the Inquests Act, 1919; but where an accident involving loss of life is enquired into under this section by a magistrate or by a board of which a magistrate is a member, the enquiry, held under this Act may be a joint enquiry of the board and inquest of the magistrate.

POSTAL AND WIRELESS PROVISIONS

11. (1) No mails shall be carried by any aircraft without the consent in writing of the Postmaster-General and all provisions contained in any Act or in any regulations made thereunder with regard to the despatching, conveying, and delivering of mails and all incidental services relating thereto shall, with such modifications and adaptations and such consequential and supplementary provisions as may by the Governor-General be declared by proclamation in the Gazette to be expedient and necessary, apply to the despatching, conveying and delivering of mails by aircraft.

(2) No radio-telegraphic or other system of telegraphic or telephonic communication shall be installed, maintained or operated in any aircraft, or at any aerodrome or landing ground, except by the Postmaster-General or under and in accordance with licences or other authorizations in respect of either or both personnel and apparatus granted or recognized by the Postmaster-General.

CUSTOMS PROVISIONS

12. (1) The provisions of the Customs Management Act, 1913, and of any other law—

(a) prohibiting or restricting the importation into or exportation from the Union of any goods or property and penalising any contravention thereof;

(b) imposing any duty upon the importation or exportation of any goods or property, penalising any contravention thereof, and providing means for the collection and payment of such duty, shall, with the necessary modifications, apply to the importation or

exportation or attempted importation or exportation of such goods or property by aircraft.

(2) The Governor-General may, by proclamation in the Gazette, declare that any of the remaining provisions of the laws mentioned in sub-section (1) of this section and any provisions of any other law relating to customs or to the collection of customs duties now or hereafter in force shall, with the necessary modifications and with such consequential and supplementary provisions as appear necessary or expedient for the purpose, be applicable to the importation or exportation or attempted importation or exportation of goods or property by aircraft.

PROVISIONS RELATING TO IMMIGRATION

13. (1) Notwithstanding anything in this Act contained, the provisions of the Immigrants' Regulation Act, 1913, and any amendment thereof, and of the regulations made thereunder relating to the admission of persons into the Union or any province by sea or land shall, with the necessary modifications, apply to any persons seeking to enter by aircraft.

(2) For the purpose of this section, the expression "port" or "port of entry" in the Immigrants' Regulation Act, 1913, or any amendment thereof, means and includes any place within the Union at which an aircraft coming from outside the borders of the Union lands.

INFRINGEMENT OF PATENTS

14. (1) Where it is alleged by any person interested that a foreign aircraft making a passage through or over the Union infringes in itself or in any part of it any invention, design or model which is entitled to protection in the Union, any provincial or local division of the Supreme Court having jurisdiction may (pending action to be brought) order the detention of such aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this section called the deposited sum), and upon such order being complied with, the aircraft shall not, during the continuance or in the course of the passage, be subject to further detention in respect of the same cause of action.

(2) The deposited sum shall be such a sum as may be agreed between the parties interested, or in default of agreement shall be fixed by the court, and payment thereof shall be made or secured to the applicant in such manner as the parties may agree or the court may direct. In giving judgment in the action so to be brought by the claimant, the court shall grant an order as to the disposal of the deposited sum.

(3) For the purposes of this section, the expression "owner" includes the actual owner of an aircraft, and any person claiming through or under him, and the expression "passage" includes all landings and stoppages in the course or the purpose of a flight.

DETENTION OF AIRCRAFT

15. (1) If the owner, pilot or person in charge of any aircraft commits any offence under this Act, or if reasonable suspicion exists that

such an offence has been committed, or attempted, or is about to be committed or attempted, any commissioned officer of the Union Defence Forces or of the South African Police or any officer of customs may, pending the trial of the charge, detain the aircraft from or in respect of which the offence was committed. Any person who, knowing of such detention, removes, or causes to be removed any aircraft so detained, shall be liable on conviction to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding twelve months without the option of a fine or to both such fine and imprisonment: Provided that where recognisances are entered into or security deposited to the satisfaction of the authority having power to demand and receive the same, that authority may, if satisfied that the ends of justice will not thereby be prejudiced, order the release of the aircraft from further detention.

(2) No officer of the customs authorized to grant clearance to any aircraft shall grant clearance to any aircraft while detained under the provisions of this section.

PENALTIES

16. (1) Any person who is guilty of a contravention of or an offence under this Act or the Convention, or who fails to comply with any provisions of this Act or of the Convention, or of the rules made under that Convention, with which it is his duty to comply, shall, except where another penalty is specially provided, be liable on conviction to a fine not exceeding two hundred pounds or to imprisonment without the option of a fine for a period not exceeding six months or to both such imprisonment and fine.

(2) This section shall apply equally to the owner of an aircraft and to the pilot or person in charge thereof, unless the owner proves to the satisfaction of the court that the said contravention, offence or failure to comply, occurred without his order, permission or connivance.

(3) The penalties provided in this Act shall be in addition to and not in substitution for any penalties imposed under any customs law or regulation, now or hereafter in force, relating to the importation or exportation of goods, and to persons entering or leaving the Union by aircraft.

JURISDICTION

17. Any offence under this Act and any offence committed on a Union aircraft shall, for purposes in relation to jurisdiction of a court to try the offence, be deemed to have been committed in any place where the accused happens to be.

APPLICATION OF ACT

18. (1) The provisions of this Act and of the Convention shall, except where expressly excluded under this Act or by proclamation or regulation, apply to all aircraft whilst in or over any part of the Union or the territorial waters thereof.

(2) This Act shall not apply to aircraft or aerodromes belonging to, or for the time being in use exclusively by, the Union or other His Majesty's Forces or to aircraft or aerodromes belonging to or in the

service of any of His Majesty's Governments while used exclusively for naval, military or other Government purposes.

Provided that the Governor-General may, by proclamation in the Gazette, apply to any such aircraft of aerodromes, with or without modification, any of the provisions of this Act or of the Convention.

EXPENSES IN ADMINISTERING ACT

19. Any expenditure incurred in connection with the administration of this Act and the carrying out and giving effect to the provisions of the Convention, shall be defrayed out of moneys specifically appropriated by Parliament for the purpose. Such moneys shall, subject to the provisions of the Act under which they are appropriated, be expended in such manner as the Minister may determine.

INTERPRETATION OF TERMS

20. In this Act, unless inconsistent with the context—

“aerodrome” means any definite and limited ground or water area or any building used or intended to be used either wholly or in part, for the landing or departure of aircraft;

“aircraft” means and includes all flying machines, aeroplanes, seaplanes, flying boats, and other aircraft designed to be heavier than air, also all airships and balloons or other aircraft designed to be lighter than air;

“Convention” means the International Convention for the Regulation of Aerial Navigation signed at Paris on the thirteenth day of October, one thousand nine hundred and nineteen, and includes the additional protocol thereto and any additions to or amendments of the said International Convention ratified and proclaimed under the authority of section two (b) of this Act;

“Minister” means the Minister to whom the Governor-General may from time to time assign the administration of this Act, or any other Minister acting for him in his absence;

“owner” except where otherwise specially defined, means in relation to an aircraft or aerodrome the person in whose name the aircraft or aerodrome is registered, and includes any person who is or has been acting as agent in the Union for a foreign owner, or any person by whom the aircraft or aerodrome is hired at the time;

“prescribed” means prescribed by or under this Act or by or under any proclamation or regulation;

“proclamation” means any proclamation made and in force under this Act;

“regulation” means any regulation made and in force under this Act;

“this Act” includes any regulations;

“Union” includes the mandatory territory of South-West Africa;

“Union aircraft” means an aircraft registered in the Union.

SHORT TITLE AND COMMENCEMENT OF ACT

This Act may be cited for all purposes as the Aviation Act, 1923, and shall commence and come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

UNION OF SOUTH AFRICA.

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 matters incidental thereto.

Act No. 17, 1946.

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 modification, to carriage by air which is not international carriage within the meaning of the Convention; and for matters incidental thereto.

(Afrikaans Text signed by the Governor General.)
(Assented to 8th May, 1946.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. In this Act, "Union" includes the Mandated Territory of South-West Africa and the port and settlement of Walvis Bay. Definition.

2. (1) The International Convention for the unification of certain rules relating to international carriage by air, signed at Warsaw on the twelfth day of October, 1929 (hereinafter referred to as the Convention), is hereby ratified and confirmed. Ratification of
have force

(2) A translation of the Convention is set out in the Schedule to this Act.

3. (1) The provisions of the Convention 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 Act, have the force of Provisions of
Convention to
have force
of law.

law in the Union in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing the carriage.

(2) The Governor-General may from time to time by proclamation in the *Gazette* declare 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 proclamation shall, except in so far as it has been varied or superseded by a subsequent proclamation, be conclusive evidence of the matters so declared.

(3) Any reference in the said 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) Not more than one action shall be brought in the Union to enforce liability under Article seventeen of the said Schedule 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 entitled to sue for damages in respect of the death of that passenger as either are domiciled in the Union or, if not so domiciled, have indicated their desire to take the benefit of the action.

(5) Subject to the provisions of sub-section (6) the amount recovered in any such action shall be divided between the successful claimants in such manner as the court may deem just.

(6) The court in which any such action is brought may, at any stage of the proceedings—

(i) issue a rule calling upon interested parties to join in the action within a specified period;

(ii) make such order as appears to the court to be just and equitable in view of the provisions of the said Schedule limiting the liability of a carrier and of any proceedings which have been or are likely to be commenced outside the Union in respect of the death of the passenger in question.

(7) Any sum in francs mentioned in Article twenty-two of the said Schedule shall, for the purposes of any action against a carrier, be converted into Union currency at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court.

4. 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 Union in accordance with the provisions of Article twenty-eight of the Schedule to this Act, to enforce a claim in respect of carriage

Provisions as to actions against High Contracting Parties who undertake carriage by air.

undertaken by him, be deemed to have submitted to the jurisdiction of that court: Provided that nothing in this section shall authorize the issue of execution against the property of any High Contracting Party.

5. (1) The Governor-General may do all things necessary to ratify or cause to be ratified on behalf of the Union any amendments of or additions to the Convention which may from time to time be made, and by proclamation in the *Gazette* declare that the amendments or additions so ratified shall be observed and have the force of law in the Union: Provided that copies of any amendments or additions so ratified or proclaimed shall be laid upon the Tables of both Houses of Parliament within fourteen days after their publication in the *Gazette* if Parliament be then in session or, if Parliament be not then in session, within fourteen days after the commencement of its next ensuing ordinary session.

Ratification of amendments of and additions to Convention.

(2) For the purposes of this Act, any amendments or additions so ratified and proclaimed shall be deemed to be incorporated in the Schedule to this Act.

6. The Governor-General may, by Proclamation in the *Gazette* apply any of the provisions of the Schedule to this Act and any provision of section *three* to such carriage by air, not being international carriage by air as defined in the said Schedule, as may be specified in the proclamation, subject to such exceptions, adaptations and modifications, if any, as may be so specified.

Provision for applying Act and Convention to carriage by air which is not international.

7. Rules of court may be made in the manner provided in section *twenty-four* of the Administration of Justice Act, 1912 (Act No. 27 of 1912), as to—

Rules of court.

(a) the manner in which any action to enforce liability under Article seventeen of the Schedule to this Act, or under the provisions of that Article as applied under section *six*, is to be commenced and carried out, and the intervention by and addition of any party to any such action; and

(b) the manner in which any action under the said Schedule against any High Contracting Party is to be commenced and carried out.

8. The Governor-General may make regulations prescribing the procedure to be followed by a carrier in connection with the payment, before action has been brought, of claims under Article seventeen of the Schedule to this Act, in respect of the death of any passenger, and all other matters which he considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

Regulations.

9. This Act shall be called the Carriage by Air Act, 1946, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Short title.

ACT

TO

Give effect to certain Agreements relating to International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and to amend the Aviation Act, 1923.

Act No. 41, 1946.

ACT

To give effect to certain Agreements relating to International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and to amend the Aviation Act, 1923.

*(Afrikaans Text signed by the Governor-General.)
(Assented to 14th June, 1946.)*

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Definitions.

1. (1) In this Act and in the Aviation Act, 1923 (hereinafter referred to as the principal Act)—

“ the Interim Agreement ” means the Interim Agreement on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944 ;

“ the Transit Agreement ” means the International Air Services Transit Agreement drawn up at Chicago on the seventh day of December, 1944.

(2) Any reference in the principal Act to “ the Convention ” shall be deemed to include a reference to the Interim Agreement and to the Transit Agreement, together with any additions to or amendments of either of those agreements ratified and proclaimed under the authority of paragraph (b) of section two of the principal Act, which shall be construed accordingly.

Adoption of certain international Agreements.

2. (1) The Interim Agreement on International Civil Aviation and the International Air Services Transit Agreement, both drawn up at Chicago on the seventh day of December, 1944, and accepted by the Government of the Union as obligations binding upon it, are hereby adopted.

(2) The terms of the Interim Agreement and of the Transit Agreement are set forth in the First and Second Schedules respectively, to this Act.

Amendment of section 3 of Act 16 of 1923.

3. (1) Section three of the principal Act is hereby amended by the insertion in sub-section (1)—

(a) of the following new paragraph after paragraph (f) :

“ (f)*bis*. the conditions (including provision for compulsory insurance against claims arising out of the death of or injury to passengers or crew, or loss of or damage to goods transported) which shall be complied with by any air carrier or by any particular class of air carrier in or in connection with the operation of a commercial air service or of a particular class of commercial air service, within the Union ; ” ;

(b) of the following new paragraph after paragraph (g) :

“ (i)*bis*. prohibiting or regulating the erection or the coming into existence of any obstruction exceeding

a prescribed height within a prescribed distance from any aerodrome ;” ;

(c) of the following new paragraph after paragraph (p) :

“(g) prohibiting or regulating, for the purpose of ensuring the safe operation of aircraft, the use in aircraft or aero engines, of spare parts, instruments, accessories or other materials which do not conform to prescribed specifications or standards of quality or manufacture.”.

(2) Any regulation made under the principal Act prior to the commencement of this Act which could have been validly made under sub-section (1) of section *three* of the principal Act, as amended by this Act, shall be deemed to have been made under the provisions of the said sub-section as so amended.

4. The following section is hereby inserted after section *three* of the principal Act :—

Insertion of
new section
3bis in Act
16 of 1923.

“Appointment and functions of Civil Aviation Council.

3bis. (1) The Governor-General may appoint a body to be styled the Civil Aviation Council (hereinafter referred to as the Council) which shall consist of not more than five members, one of whom the Governor-General shall designate as Chairman.

(2) The members of the Council, who may include one or more persons in Government service, shall be appointed for such periods as the Governor-General may determine when making any such appointment, and on such conditions as to remuneration and otherwise as may be determined by the Minister in consultation with the Minister of Finance.

(3) The Council shall conduct its deliberations and discharge its functions in accordance with such procedure as the Minister may from time to time prescribe.

(4) The Council shall, subject to the control and direction of the Minister, be responsible for the carrying out of the provisions of this Act and of the Convention, and every person appointed under this Act or concerned with the carrying out of the provisions thereof, shall perform his functions and exercise any discretion expressly or impliedly vested in him, subject to the directions and approval of the Council. With the written consent of the Council, any person in whom any discretion is vested as aforesaid, may delegate the power to exercise such discretion on his behalf to any other specified person.”

5. The following section is hereby substituted for section *four* of the principal Act :

Replacement of
section 4 of
Act 16 of 1923.

“Appointment and functions of Civil Aviation Advisory Committee.

4. (1) The Governor-General may appoint a body to be styled the Civil Aviation Advisory Committee (hereinafter referred to as the Committee), designate the Chairman thereof, and make regulations for the conduct of the business of the Committee and other matters relating thereto.

- (2) (a) In appointing the members of the Committee, the Governor-General may include one or more persons in Government service, and shall include such number of persons, nominated by public bodies or associations recognized by him as representative of the different civil aviation interests in the Union, as will ensure that the interests represented by such bodies or associations are adequately represented on the Committee.
- (b) The members of the Committee shall be appointed for such periods as the Governor-General may determine when making any such appointment, and on such conditions as to remuneration and otherwise as may be determined by the Minister in consultation with the Minister of Finance.
- (3) The Committee shall act in an advisory capacity and advise the Minister as to—
- (a) regulations to be made under this Act ;
- (b) matters arising out of the application to the Union of the Convention and of the rules made under the Convention ;
- (c) the encouragement and development of flying in the Union ;
- (d) proposals for the establishment of aerial goods, mail and passenger services within the Union and between the Union and adjoining territories,
- and as to such other matters connected with flying and aeronautics as may be referred to the Committee by the Minister."

(4) The Committee shall, as soon as may be after the thirtieth day of November in each year, prepare and present to the Minister a report dealing with all matters within the sphere of its functions and activities. The Minister shall lay every such annual report upon the Tables of both Houses of Parliament within twenty-one days after the receipt thereof if Parliament be then in session, or if Parliament be not then in session, within twenty-one days after the commencement of its next ensuing ordinary session.

**Amendment of
section 6 of
Act 16 of 1928.**

6. Section six of the principal Act is hereby amended by the addition thereto of the following new sub-section, the existing section becoming sub-section (1) :

"(2) The Governor-General may, in like manner, for the purpose of ensuring that proper effect may be given to the provisions of any regulation made or deemed to have been made under paragraph (i)*bis* of sub-section (1) of section three, acquire land, and interests in and rights to and over land, adjoining or adjacent to any land in use as, or set aside for use as, an aerodrome in respect of which a licence under the regulations has been or is to be issued."

7. Section *twenty* of the principal Act is hereby amended—

**Amendment of
section 20 of
Act 16 of 1923.**

- (a) by the insertion, after the definition of the expression “aerodrome”, of the following definition :

“ ‘ air carrier ’ means any person who operates a commercial air service ; ” ;

- (b) by the insertion, after the definition of the expression ‘ aircraft ’, of the following definition :

“ ‘ commercial air service ’ means any undertaking for—

(i) the transport by air of passengers, mails or goods ; or

(ii) the provision of the use of aircraft for the performance of any type of aerial work, for hire or reward ; ”.

8. This Act shall be called the Aviation Amendment Act, 1946.

Short title.

ACT

TO

**Amend the Aviation Act, 1923, and the Aviation
Amendment Act, 1946.**

Act No. 42, 1947.

ACT

To amend the Aviation Act, 1923, and the Aviation Amendment Act, 1946.

(Afrikaans Text signed by the Governor-General.)
(Assented to 3rd June, 1947.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Substitution of
new section for
section 1 of
Act 16 of 1923.

1. Section one of the Aviation Act, 1923, which, as amended, is hereinafter referred to as the principal Act, is hereby repealed and the following section substituted therefor :

"Adoption
of Conven-
tion on
Internat-
ional
Civil
Aviation.

1. (1) The Convention on International Civil Aviation, drawn up at Chicago on the seventh day of December, 1944, and ratified by the Government of the Union on the first day of March, 1947, is hereby adopted.

(2) The terms of the said Convention are set out in the Schedule to this Act."

Insertion of
section 14bis in
Act 16 of 1923.

2. The following section is hereby inserted after section fourteen of the principal Act :

"Exemp-
tion of
certain
aircraft
and parts
thereof
from seizure
on patent
claims.

14bis. (1) Any lawful entry into the Union or any lawful transit across the Union, 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 other interference therewith by or on behalf of any person in the Union 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.

(2) The importation into, and storage in, the Union 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 Union 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 sub-section shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the Union or are exported from the Union for sale or distribution.

(3) This section applies 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 the Governor-General by proclamation in the *Gazette*, with a view to the fulfilment of the provisions of the Convention to which this section relates, that the benefits of those provisions apply to that country or territory,

and to such other aircraft as the Governor-General may by proclamation specify.

(4) The provisions of section *fourteen* shall not apply to or in relation to an aircraft to which this section applies."

3. Section *twenty* of the principal Act is hereby amended by the substitution of the following definition for the definition of the word "Convention":

" 'Convention' means the Convention on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, and includes any Annex thereto adopted in accordance with the said Convention, and any additions to or amendments of the said Convention or any such Annex ratified and proclaimed in accordance with paragraph (b) of section *two*; "

Amendment of section 20 of Act 16 of 1923, as amended by section 7 of Act 41 of 1946.

4. The provisions set forth in the Schedule to this Act are hereby substituted for those set forth in the Schedule to the principal Act.

Replacement of Schedule to Act 16 of 1923.

5. The title to the principal Act is hereby amended by the substitution for the word "the" where it occurs for the first time, of the word "an".

Amendment of title to Act 16 of 1923.

6. Section *one* of the Aviation Amendment Act, 1946, is hereby amended—

Amendment of section 1 of Act 41 of 1946.

(a) by the deletion, in sub-section (1), of the definition of the expression "the Interim Agreement";

(b) by the deletion, in sub-section (2), of the words "to the Interim Agreement and" and by the substitution for the words "either of those Agreements", of the words "that agreement".

7. Section *two* of the Aviation Amendment Act, 1946, is hereby amended—

Amendment of section 2 of Act 41 of 1946.

(a) by the deletion, in sub-section (1), of the words "Interim Agreement on International Civil Aviation and the", the deletion of the word "both", the substitution for the word "obligations" of the words "an obligation", and the substitution for the word "are" of the word "is";

(b) by the deletion, in sub-section (2), of the words "the Interim Agreement and of", and the substitution for the words "First and Second Schedules respectively", of the words "Second Schedule".

8. The First Schedule to the Aviation Amendment Act, 1946, is hereby repealed.

Repeal of First Schedule to Act 41 of 1946.

9. Notwithstanding the provisions of section *four*, any proclamation issued under the provisions of section *two* of the principal Act prior to the commencement of this Act, and any regulation issued under the provisions of section *three* of the principal Act for the carrying out of, or giving effect to, the Convention replaced by section *four* of this Act, or for dealing with any other matter relating to or arising out of that Convention, shall, except in so far as such proclamation or regulation is repugnant to the provisions of the Convention on International Civil Aviation drawn up at Chicago on the seventh day of December, 1944, remain in force until it is superseded by a proclamation or regulation, as the case may be, issued or made under section *two* or *three* of the principal Act after the commencement of this Act.

Certain proclamations and regulations to remain in force until superseded.

10. This Act shall be called the Aviation Amendment Act, 1947.

Short title.

ACT

TO

Provide for the establishment of a National Transport Commission and an Advisory Committee on roads, and to define the functions of the said commission and committee; to abolish the Civil Aviation Council established under the Aviation Act, 1923, the Central Road Transportation Board established under the Motor Carrier Transportation Act, 1930, and the National Road Board established under the National Roads Act, 1935; to amend the said Acts; and to provide for other incidental matters.

Act No. 44, 1948.

ACT

To provide for the establishment of a National Transport Commission and an Advisory Committee on roads, and to define the functions of the said commission and committee; to abolish the Civil Aviation Council established under the Aviation Act, 1923, the Central Road Transportation Board established under the Motor Carrier Transportation Act, 1930, and the National Road Board established under the National Roads Act, 1935; to amend the said Acts; and to provide for other incidental matters.

(English text signed by the Governor-General.)
(Assented to 2d October, 1948.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. The laws mentioned in the Schedule to this Act are hereby amended to the extent set out in the third column of the Schedule.

Amendment of
certain laws.

2. In this Act, unless the context indicates otherwise—
 “Administrator” means the Administrator of a province acting with the consent of the Executive Committee thereof;

Definitions.

“Commission” means the National Transport Commission established under section *three*;

“contract of service” means a contract of service entered into in terms of paragraph 6 of the regulations framed under the National Roads Act, 1935 (Act No. 42 of 1935) and published under Government Notice No. 1787 of the 27th October, 1944, paragraph 7 whereof shall be deemed to form part of such a contract;

"declared road" has the meaning assigned to that expression in section *one* of the National Roads Act, 1935;

"Fund" has the meaning assigned to that expression in section *one* of the National Roads Act, 1935;

"Minister" means the Minister of Transport;

"motor carrier transportation" has the meaning assigned to that expression in section *one* of the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930);

"Pensions Act" means the Government Service Pensions Act, 1936 (Act No. 32 of 1936);

"Pension Fund" means the Union Public Service Pension Fund established under section *three* of the Pensions Act;

"prescribed" means prescribed by this Act or by regulation;

"public service" means the public service according to the provisions of section *one* of the Public Service Act, 1923 (Act No. 27 of 1923);

"regulation" means a regulation made under this Act;

"Treasury" means the Minister of Finance or any officer in the Department of Finance authorized by the said Minister to perform the functions assigned to the Treasury by this Act.

Establishment
of National
Transport
Commission.

3. (1) The Governor-General shall appoint a body to be known as the National Transport Commission which shall consist of not more than seven members one of whom the Governor-General shall designate as chairman.

(2) Not more than three members of the Commission may be persons who are members of the public service.

(3) The Governor-General shall appoint as members of the Commission—

(i) The Secretary for Transport;

(ii) one member whom he shall designate as Commissioner for Road Transportation; and

(iii) one member whom he shall designate as Commissioner for Civil Aviation.

(4) The remaining members shall be persons who possess wide experience of and have shown ability in transport, or aviation, or industrial, commercial or financial matters or in the conduct of public affairs.

(5) Of the members referred to in sub-section (4)—

(a) one shall be appointed from among four persons nominated by the Administrators of the four Provinces jointly and shall be a person who, in the opinion of the Governor-General, possesses a thorough knowledge of the requirements of the Union in respect of roads; and

(b) one shall be appointed after consultation with the Civil Aviation Advisory Committee referred to

in section *four* of the Aviation Act, 1923, and shall be a person who, in the opinion of the Governor-General, possesses a thorough knowledge of matters relating to aviation.

(6) The members of the Commission other than those who are members of the public service shall be appointed for a period not exceeding five years and not less than two years and, subject to the succeeding provisions of this Act, shall hold office upon such conditions as the Governor-General may determine when making the appointments: Provided that any member of the Commission shall be eligible for re-appointment upon expiry of his term of office, and provided further that individual member of the Commission may be appointed for different periods and upon different conditions.

(7) The member designated as chairman in terms of sub-section (1) shall hold that office for a period of five years as from the date upon which he is designated as such, unless his period of office as a member of the Commission sooner expires or unless for any other reason he sooner ceases to be a member of the Commission.

(8) The Governor-General may, notwithstanding the provisions of sub-sections (1) and (2) but subject to the provisions of sub-section (6) and sections *four* and *five*, appoint as an additional member of the Commission, a person nominated by the Minister of Defence. Such member shall have the right to take part in the proceedings of the Commission but shall not have the right to vote.

4. (1) No person shall be appointed a member of the Commission—

(a) if he is an unrehabilitated insolvent; or
(b) if he has been convicted of an offence and sentenced to imprisonment without the option of a fine; or

(c) if he is a servant of the Railway Administration; or

(d) if he or any of his near relations is financially interested in any business of motor carrier transportation or is engaged in any activity connected with motor carrier transportation which, in the opinion of the Governor-General, is calculated to interfere with the impartial discharge by the member of the duties of his office; or

(e) if he or any of his near relations is financially interested in any business of manufacturing or selling aircraft or in the operation of an air service or is engaged in any activity connected with such business or air service, which, in the opinion of the Governor-General is calculated to interfere with the impartial discharge by the member of the duties of his office.

Disqualifications for appointment, termination of membership and acting chairman.

(2) Notwithstanding anything contained in sub-section (1) no act, direction or decision of the Commission shall be invalid solely by reason of the fact that any member of the Commission was by virtue of the said sub-section disqualified from serving on the Commission.

(3) A member of the Commission shall vacate his office—

(a) if he becomes subject to any of the disqualifications for appointment mentioned in sub-section (1);

(b) if he resigns by notice in writing addressed to the Minister.

(4) The Governor-General may remove from his office any member of the Commission—

(a) who has failed to comply with a condition of his appointment; or

(b) who has, in the opinion of the Governor-General, been guilty of improper conduct or habitually neglected his duties as a member of the Commission; or

(c) who is, in the opinion of the Governor-General, unable to perform efficiently his duties as a member of the Commission.

(5) If a member of the Commission dies, or vacates his office in pursuance of the provisions of sub-section (3), or is removed therefrom in terms of sub-section (4), the Governor-General may, subject to the provisions of section three, appoint a person as successor to such member.

(6) If the chairman of the Commission dies, or vacates his office as a member of the Commission in pursuance of the provisions of sub-section (3), or is removed therefrom in terms of sub-section (4), the Governor-General shall designate as chairman of the Commission one of the remaining members of the Commission or the person appointed to succeed the former chairman.

(7) Whenever the office of chairman of the Commission becomes vacant, or if the chairman of the Commission is temporarily unable to perform his functions as chairman, the Minister may designate any member of the Commission as acting chairman until a member of the Commission has been designated as chairman thereof in terms of sub-section (6), or until the chairman resumes his duties as such.

Remuneration
of members
of the Com-
mission.

5. (1) Subject to the provision of sub-section (2) of this section and of section *ninety-two* of the Public Service Act, 1923 (Act No. 27 of 1923), a member of the Commission shall be paid such remuneration and such allowances from the Consolidated Revenue Fund as may in each case be determined by the Minister in consultation with the Minister of Finance: Provided that if the Minister has, in terms of sub-section (7) of section four,

designated any member of the Commission as acting chairman, he may authorize the payment from the aforesaid Fund to the acting chairman of such additional remuneration as he may determine, but not exceeding an amount which, together with the acting chairman's remuneration as an ordinary member of the Commission, equals the remuneration of the chairman in respect of the period in question.

(2) A member of the Commission who is a member of the public service shall not, in respect of the services rendered by him as a member or as chairman or acting chairman of the Commission, be paid any remuneration in addition to his salary as a member of the public service, nor shall such member be paid any allowance in respect of subsistence and transport at a rate higher than that applicable to him as a member of the public service.

6. (1) The Commission shall hold meetings at such times and places as may from time to time be determined by the chairman or the acting chairman designated in terms of sub-section (7) of section *four*.

Meetings of the
Commission.

(2) The chairman or the acting chairman designated in terms of sub-section (7) of section *four* shall preside at every meeting of the Commission which he attends, and if neither the chairman nor the acting chairman attends a meeting, he shall designate one of the other members to preside at that meeting.

(3) Notwithstanding the provisions of sub-section (2)—

(a) the Commissioner for Road Transportation referred to in sub-section (3) of section *three* shall preside at every meeting of the Commission held for the purpose of considering applications or appeals under the Motor Carrier Transportation Act, 1930;

(b) the Commissioner for Civil Aviation referred to in sub-section (3) of section *three* shall preside at every meeting of the Commission held for the purpose of considering applications for the operation of any air services:

Provided that in the absence of the Commissioner for Road Transportation or the Commissioner for Civil Aviation, as the case may be, the chairman or the acting chairman referred to in sub-section (2) of this section shall preside or designate one of the other members of the Commission to preside at any such meeting.

(4) Three members (apart from the additional member referred to in sub-section (8) of section *three*) shall be a quorum at any meeting of the Commission: Provided that the Minister may direct that four or five members shall form a quorum at any meeting at which the Commission deals with a particular matter specified by the Minister: Provided further that there shall be

no quorum if the majority of the members present at any meeting of the Commission consists of members of public service.

(5) The decision of the majority of the members present at a meeting of the Commission, shall be deemed to be a decision of the Commission, and in the event of an equality of votes at such meeting, the person presiding at the meeting shall have a casting vote.

(6) Subject to the provisions of sub-sections (3) and (4), two meetings of the Commission may be held simultaneously at different places.

Object of the Commission.

7. The object of the Commission shall be, subject to the provisions of this Act or any other law, to promote and encourage the development of transport in the Union and, where necessary, to co-ordinate various phases of transport in order to achieve the maximum benefit and economy of transport service to the public.

Abolition of National Road Board, Central Road Transportation Board and Civil Aviation Council and transfer of their functions to the Commission.

8. (1) Notwithstanding the provisions of any other law the National Road Board, established under section *two* of the National Roads Act, 1935 (Act No. 42 of 1935), the Central Road Transportation Board, established under section *two* of the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), and the Civil Aviation Council, established under section *three bis* of the Aviation Act, 1923 (Act No. 16 of 1923), shall, upon the establishment of the Commission under section *three*, cease to exist and the powers, functions and duties of the said bodies shall thereupon be transferred to the Commission, which shall, subject to the provisions of this Act, for all purposes be deemed to be their successor.

(2) All property acquired by the National Road Board for the purposes of its functions, and all the records of that Board, shall vest in the Union Government and be made available for the use of the Commission in carrying out its functions under this Act, unless in the case of any of such property the Minister directs that it be otherwise dealt with for the benefit of the Fund.

(3) Any decision or act lawfully given or performed by any of the bodies abolished by sub-section (1) shall be deemed to have been given or performed by the Commission.

(4) Any matter which was under consideration by any of the bodies abolished by sub-section (1), but in regard to which no decision had been given or arrived at by such body at the time of its abolition, shall be considered *de novo* by the Commission.

Further functions of the Commission.

9. In addition to the powers conferred and duties imposed upon the Commission by any other law, the functions of the Commission shall be—

(i) in relation to roads—

(a) to recommend, after consultation with any Administrator affected by such recommendation, which roads shall be declared na-

tional, provincial or special roads in terms of section *four* of the National Roads Act, 1935;

(*b*) on its own initiative or by direction of the Minister to investigate, in collaboration with any Administrator affected, any question appertaining to roads in the Union, with particular reference to declared roads and to report thereon to the Minister from time to time, making such recommendations as it may deem necessary;

(*c*) to advise the Minister on road questions which may arise with Governments of neighbouring territories:

(*d*) to direct, in collaboration with the Council for Scientific and Industrial Research established under the Scientific Research Council Act, 1945 (Act No. 33 of 1945), technical research on road construction, road maintenance and materials therefor and on road safety;

(*e*) to submit to the Minister for his approval, after consultation with any Administrator affected and subject to the provisions of sub-section (4) of section *eleven*, schemes of works to be undertaken on declared roads;

(*f*) to prescribe the manner in which plans, specifications and estimates for works, the cost or part of the cost of which is to be defrayed from the Fund, shall be submitted to the Commission;

(*g*) to submit to the Minister annually for his approval estimates of expenditure to be incurred from the Fund;

(*h*) through any of its members or any officer of the Department of Transport to inspect roads and road works in collaboration with the Provincial Administration concerned;

(*i*) to maintain records of all works the cost or part of the cost whereof is being or has been defrayed from the Fund;

(*j*) to recommend to the Minister or to the Administrators the introduction of any legislation relating to roads which it considers desirable;

(*k*) with the approval of the Minister to invest any monies in the Fund which the Commission does not require immediately;

(*l*) generally, to perform any work entrusted to it by the Minister in connection with declared roads, or with roads which, in the opinion of the Minister, deserve consideration with a view to their proclamation under section *four* of the National Roads Act, 1935;

(ii) in relation to motor carrier transportation, to advise and direct local road transportation boards

appointed under section *three* of the Motor Carrier Transportation Act, 1930, in the exercise of their powers and the performance of their functions under the said Act;

(iii) in relation to civil aviation—

(a) to make recommendations regarding the proclamations to be issued and the regulations to be made under the Aviation Act, 1923 (Act No. 16 of 1923);

(b) to keep under review and promote the progress and development of civil aviation in the Union, and to promote or undertake, in collaboration with such bodies or institutions as may be concerned, research into matters pertaining to civil aviation;

(iv) generally, to promote the development of transport in the Union with a view always to securing the greatest benefit to the public, and to exercise such powers and perform such duties as may be conferred or imposed upon it by any other law.

Annual report
by Commission.

10. (1) The Commission shall, as soon as may be after the thirty-first day of March in each year, submit to the Minister a report on its work, the work of the Committee referred to in section *eleven* and the work of local road transportation boards during the twelve months which ended on the said date, and the Commission shall in such report make specific mention of any matter in connection with which any recommendation made by the Commission to the Governor-General during that year was not acted upon.

(2) Every such report shall as soon as possible after its submission to the Minister be laid by him on the Tables of both Houses of Parliament.

Establishment
and functions
of Advisory
Committee
on Roads.

11. (1) The Governor-General may appoint a committee to be known as the Advisory Committee on Roads (hereinafter referred to as the Committee), designate the chairman thereof, and make regulations, not inconsistent with the National Roads Act, 1935, or this Act, prescribing the constitution, functions and the conduct of the business of the Committee and other matters relating thereto.

(2) In appointing the members of the Committee, the Governor-General shall include at least one representative nominated by each Administrator.

(3) The members of the Committee shall be appointed for such periods and on such conditions (subject to the provisions of section *ninety-two* of the Public Service Act, 1923 (Act No. 27 of 1923)) as the Governor-General may determine when making any such appointment. The provisions of sub-section (2) of section *five* shall apply *mutatis mutandis* to a member of the Committee who is a member of the public service.

(4) The Committee shall consider all matters referred to it by the Minister or initiated by any of its members and shall make recommendations in connection therewith to the Commission. The functions to be entrusted to the Committee in terms of sub-section (1) shall include the initiation, consideration and recommendation of schemes of works to be undertaken on declared roads: Provided that the provisions of this sub-section shall not preclude the Commission from itself initiating any particular scheme of works to be undertaken on a declared road: Provided further that in the event of a difference of opinion between the Commission and the Committee on any such scheme, the Minister shall consult the Administrator affected before arriving at a decision.

12. (1) The Secretary for Transport shall, subject to the laws governing the public service, be responsible for providing all such officers as may be necessary to assist the Commission and the Committee in the performance of their functions, and all such officers shall be under the control of the Secretary for Transport. All executive and administrative work arising out of the performance of their functions by the bodies mentioned in this section, shall be undertaken by the Department of Transport.

Provision of staff required for administration of this Act, and performance of executive and administrative work.

(2) Any reference in the National Roads Act, 1935, to an officer of the National Road Board shall be deemed to be a reference to an officer of the Department of Transport.

13. (1) All persons who are in the employ of the National Road Board at the date of commencement of this Act (other than the officers of the public service referred to in section *seventeen*) shall at that date become employees of the Government, and any contract of service under which any such person is so employed shall as from that date be deemed to be a contract of service entered into between him and the Government: Provided that by mutual consent such contract may be terminated before the expiration of the period of employment provided therein.

Employees of the National Road Board to become employees of the Union Government and provision with regard to conditions of service.

(2) Subject to the succeeding provisions of this Act, the continuous employment by the National Road Board of any person referred to in subsection (1), prior to the date of commencement of this Act, shall for all purposes other than for pension purposes be deemed to be employment in the service of the Government.

(3) Unless and until they are appointed to posts in the public service in terms of sub-section (4), the conditions of service of all persons referred to in sub-section (1) shall, save as is otherwise specifically provided in this Act, be governed by the laws regulating the service of employees of the Government not being members of the public service: Provided that except with his own consent or in accordance with this Act or any other law, the salary or the scale of salary at or in accordance

with which any such person was remunerated immediately prior to the date of the commencement of this Act or his rate of progression up that scale, shall not be reduced.

(4) Notwithstanding any limitation in respect of age, educational or other qualifications, other than health, prescribed by or under the Public Service Act, 1923 (Act No. 27 of 1923), but subject otherwise to the provisions of that Act, any person referred to in sub-section (1) who is a Union National and who has not attained the prescribed age of retirement may, upon the recommendation of the Public Service Commission be appointed on probation or otherwise to a post in the public service, provided that the Public Service Commission is satisfied that such person is sufficiently proficient in the use of both official languages to enable him to discharge efficiently the duties of his post. The conditions of service of any person so appointed shall, save as is otherwise specifically provided in this Act, be governed by the laws regulating the public service.

(5) Any person appointed to the public service in terms of sub-section (4) shall be adjusted to the scale of salary applicable to the post to which he has been appointed at such notch on that scale as may be recommended by the Public Service Commission.

(6) In addition to the salary payable to any such person from time to time by virtue of his occupancy of a post in the public service, there shall be paid to him a personal allowance equal to the difference between his said salary for the time being and the higher salary (if any) to which he was, or would have been, entitled in accordance with the scale of salary applicable to him as an employee of the National Road Board immediately prior to the commencement of this Act: Provided that for the purpose of determining such person's pensionable emoluments for the purpose of the Pensions Act, regard shall not be had to any allowance payable to him in terms of this sub-section: Provided further that any such allowance shall form part of such person's salary for the purpose of the Provident Fund referred to in sub-section (1) of section *fourteen*.

Provision
for retiring
benefits.

14. (1) Subject to the succeeding provisions of this Act—

(a) every person who becomes an employee of the Government in terms of section *thirteen* and who, at the date of commencement of this Act is under sixty years of age in the case of a male, or under fifty-five years of age in the case of a female, shall retain all the rights and remain subject to all the obligations acquired or incurred by him as a member of the National Road Board Provident Fund established by the said Board for the benefit of its employees;

(b) all rights and obligations of the National Road Board, in respect of the said Provident Fund, shall, as from the date of commencement of this Act, vest in the Treasury and all policies of insurance taken out by the said Board in accordance with the regulations governing such Provident Fund shall as soon as may be thereafter be ceded to the Treasury;

(c) any contributions payable by the Treasury in terms of the said regulations as from the date of the commencement of this Act, including the repayment to the Fund of any contributions that may have been paid in advance from the Fund in respect of a period of service subsequent to such date, shall be paid out of revenue (as defined in section *eighty-three* of the Pensions Act) and all expenses incurred by the Treasury in the administration of the said National Road Board Provident Fund shall be paid out of the Consolidated Revenue Fund.

(2) Notwithstanding anything to the contrary contained in the Pensions Act, any person appointed to the public service in terms of sub-section (4) of section *thirteen* who is a member of the said National Road Board Provident Fund and who, in the case of a male is under fifty years of age or in the case of a female is under forty-five years of age at the date of his or her appointment to the public service, shall elect in writing within three months of the date upon which he is called upon by the head of his department to do so, either—

(a) to contribute to the Pension Fund as from the date of his appointment to the public service; or

(b) to retain any rights and remain subject to any obligations which he may have acquired or incurred as a member of the said National Road Board Provident Fund.

(3) A person who fails to make an election in terms of subsection (2) shall be deemed to have elected to contribute to the Pension Fund as from the date of his appointment to the public service.

(4) A person who has elected in terms of sub-section (2) or is deemed to have elected in terms of sub-section (3) to contribute to the Pension Fund as from the date of his appointment to the public service may, subject to the provisions of paragraphs (a), (c), (e) and (f) of section *sixteen* of the Pensions Act, elect in writing within one month of the date upon which he is called upon by the head of his department to do so, to contribute to the Pension Fund in respect of such portion of his continuous employment (including his continuous employment under the National Road Board) immediately prior to such appointment as may be approved by the Treasury, and if he so elects—

(a) the policy of insurance taken out in respect of him by the National Road Board shall be surrendered and realized, half the proceeds thereof being paid to him and half to the Fund, or alternatively, he may require that the policy shall be ceded to him subject to the payment by him to the Fund of an amount equal to the difference between the amount paid in respect of that policy from the said Provident Fund and the contributions paid by him to that Provident Fund; and

(b) there shall, notwithstanding anything to the contrary in this Act or in any other law contained, be paid from the Fund to revenue (as defined in section *eighty-three* of the Pensions Act) an amount equal to that payable to the Pension Fund in terms of subparagraph (a) and items (i) and (ii) of subparagraph (b) of paragraph (2) of section *thirty-one* of the Pensions Act in respect of his continuous employment under the said Board.

(5) Notwithstanding the provisions of sub-section (2), any person appointed to the public service in terms of sub-section (4) of section *thirteen* who, in the case of a male is fifty years of age or more, or in the case of a female is forty-five years of age or more at the date of his or her appointment to the public service, may within three months of the date upon which he is called upon by the head of his department to do so, elect to contribute to the Pension Fund as from the said date of appointment provided the person concerned elects and is permitted to contribute to the said Fund in accordance with the provisions of sub-section (4) in respect of his continuous employment, as approved by the Treasury, as from a date prior to the date on which such person attained the age of fifty or forty-five years, as the case may be.

(6) Any person referred to in sub-section (1) of section *thirteen* who becomes a member of the Pension Fund and has elected to contribute to that Fund in terms of sub-section (4) of this section and who, in order to enter into the employment of the National Road Board, had resigned from employment under the Government (as defined in section *one hundred and one* of the Public Service Act, 1923) may elect in writing, within a period of three months from the date upon which he is called upon by the head of his department to do so, to contribute to the Pension Fund, subject to the provisions of the Pensions Act in respect of such period of his past continuous employment under the Government as may be approved by the Treasury, and if he elects so to contribute, any period which may have elapsed between the date upon which his employment under the Government terminated and the date upon which his employment under the said National Road Board commenced shall, for the

purposes of the said Act, be regarded as special leave of absence without pay. Provided that any period so regarded as leave of absence without pay shall not be reckoned as service for pension purposes.

(7) If any person has elected or is deemed to have elected to contribute to the Pension Fund in terms of sub-section (2) or (3) but has elected not to contribute to the said Fund in terms of sub-section (4), all contributions by the Treasury in respect of that person in terms of the regulations governing the said National Road Board Provident Fund shall cease as from the date of that person's appointment to the public service and any policy of insurance which has been effected on his life in terms of the said regulations shall be ceded to him subject to the repayment by him to revenue (as defined in section *eighty-three* of the Pensions Act) of an amount equal to the difference between the amount paid from the said National Road Board Provident Fund in respect of his service as from the said date and the contributions recovered from him in terms of the said regulations in respect of his service as from the said date.

(8) When any person appointed to the public service in terms of sub-section (4) of section *thirteen* does not become a member of the Pension Fund, the provisions of section *nineteen* of the Pensions Act shall apply to such person as if he were a new member within the meaning of that Act, and in the application of the said provisions to any such person his pensionable age shall be determined in accordance with the definition of that expression in section *eighty-three* of the said Act.

15. If any person referred to in paragraph (a) of sub-section (1) of section *fourteen* is not appointed to the public service, any contributions payable by the Treasury in respect of such person in terms of the regulations governing the said National Road Board Provident Fund shall cease when that person attains the pensionable age as defined in section *eighty-three* of the Pensions Act.

16. (1) Notwithstanding anything to the contrary contained in the Pensions Act, the contributions payable—

(a) to the Pension Fund in respect of any period of employment prior to his appointment to a post in the public service; or

(b) from time to time, to the Government Employees Provident Fund established by section *sixty-three* of the said Act,

by any person referred to in section *thirteen*, shall be based on such emoluments as may be determined by the Treasury, on the recommendation of the Public Service Commission, and such emoluments shall for the purposes of that Act, be deemed to be the pensionable emoluments of the person concerned.

Cessation of Treasury's contributions to National Road Board Provident Fund.

Power of Treasury to determine certain emoluments for pension purposes.

(2) Any pension that may become payable in terms of section *thirty-nine* of the Pensions Act to a native or coloured person who becomes an employee of the Government in terms of section *thirteen* of this Act shall, notwithstanding anything to the contrary contained in the Pensions Act, be based on such emoluments as may be determined by the Treasury, on the recommendation of the Public Service Commission, and such emoluments shall for the purposes of the Pensions Act, be deemed to be the pensionable emoluments of the person concerned.

Secondment
of officers to
terminate.

17. (1) The secondment of every officer of the public service who was seconded to the service of the National Road Board shall terminate at the date of commencement of this Act.

(2) The salary and the scale of salary (including the corresponding rank and status) of every such officer as a member of the public service shall be as determined from time to time upon the recommendation of the Public Service Commission: Provided that in the making of any such determination under this sub-section, regard shall be had to the progression in salary, rank and status which such officer would have made in the public service had he not been seconded to the service of the said National Road Board: Provided further that except with his own consent or in accordance with any law, the amount (including the scale of salary upon which that amount was based) deemed to be his pensionable emoluments immediately before the commencement of this Act, shall not be reduced.

(3) If the salary to which such an officer is entitled by virtue of any determination made under sub-section (2) at any time falls short of the salary to which he was or would have been entitled in accordance with the scale of salary applicable to him while he was serving the said National Road Board, there shall be paid to him (in addition to the salary to which he is entitled as a member of the public service) a personal allowance equal to the difference. That allowance shall, if he was seconded to the service of the said Board prior the second day of December, 1935, form part of his pensionable emoluments for the purposes of the Pensions Act, but if he was so seconded on or after the second day of December, 1935, that allowance shall not form part of his pensionable emoluments for the purposes mentioned.

Short title and
commencement.

18. This Act shall be called the Transport (Co-ordination) Act, 1948, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*: Provided that the amendment of section *nine* of the National Roads Act, 1935 (Act No. 42 of 1935) as set out in the Schedule, shall be deemed to have come into operation on the first day of April, 1948.

Schedule.

LAWS AMENDED.

No. and year of Law	Title of Law	Extent of Amendment
Act No. 16, 1923.	Aviation Act, 1923.	The repeal of sub-sections (1), (2) and (3) of section <i>three bis</i> , as inserted by section <i>four</i> of Act No. 41 of 1946.
Act No. 39, 1930.	Motor Carrier Transportation Act, 1930.	The repeal of section <i>two</i> , and of sub-section (3) of section <i>five</i> as inserted by section <i>six</i> of Act No. 31 of 1932.
Act No. 42, 1935.	National Roads Act, 1935.	(a) The repeal of sections <i>two</i> , <i>three</i> , <i>fifteen</i> , and paragraphs (b), (c) and (d) of sub-section (1) of section <i>sixteen</i> as amended by Act No. 22 of 1944: (b) The deletion with effect from the first day of April, 1948, of the words "and redemption" in sub-section (1) of section <i>nine</i> .

ACT

TO

**Provide for the Licensing and Control of Air
Carriers and Air Services.**

Act No. 51, 1949.

ACT

To provide for the Licensing and Control of Air Carriers and Air Services.

(English Text signed by the Governor-General.)

(Assented to 1st July, 1949.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Definitions.

1. In this Act, unless the context indicates otherwise—
 - (i) "air carrier" means a person who operates an air service; (vi)
 - (ii) "air service" means any service performed by means of an aircraft for reward, and includes an air transport service; (v)
 - (iii) "air transport service" means a service by aircraft for the carriage of passengers or goods for reward, and includes such a service on charter terms; (vii)
 - (iv) "commission" means the National Transport Commission established under section *three* of the Transport (Co-ordination) Act, 1948; (iii)
 - (v) "international air transport service" means an air transport service which passes through the air space over the territory of the Union or of South-West Africa and at least one other State; (ii)
 - (vi) "licence" means an air carrier's licence granted under section *nine*, or deemed in terms of sub-section (4) of section *twenty* to have been so granted; (iv)
 - (vii) "person" includes the Railway Administration; (viii)
 - (viii) "prescribed" means prescribed by regulation; (x)
 - (ix) "regulation" means a regulation made under section *twenty-two*; (ix)
 - (x) "scheduled" or "non-scheduled" in relation to an air transport service, shall be construed by reference to the definitions contained in the regulations made under paragraph (g) of section *twenty-two*; (xi)
 - (xi) "this Act" includes the regulations; (i).

Air service not to be provided except under licence.

2. (1) Subject to the succeeding provisions of this section, no person shall, after a date to be notified by the Governor-General by proclamation in the *Gazette*, use an aircraft for the provision of any air service, except under and in accordance with the terms and conditions of a licence granted to that person or deemed to have been so granted.

(2) No licence shall be required in respect of a scheduled international air transport service which is being operated by an airline of another State in terms of any bilateral agreement concluded between the Government of the Union and such other State.

(3) The Governor-General may, if it appears to him expedient to do so, by proclamation in the *Gazette* exclude or modify, to such extent as to him seems desirable, the application of sub-section (1) to or in respect of visiting aircraft, registered as to nationality in another contracting State, which are engaged in the carriage of passengers, cargo or mail for remuneration or hire on other than scheduled international air services.

For the purposes of this sub-section "contracting State" means any State which is a party to the Convention on International Civil Aviation, signed at Chicago on the seventh day of December, 1944.

(4) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and liable on conviction, for a first offence, to a fine not exceeding five hundred pounds, and for every subsequent offence, to a fine not exceeding one thousand pounds.

3. (1) It shall be the function of the commission, subject to the provisions of this Act, and with due regard to the provisions of sections *seven* and *nine* of the Transport (Co-ordination) Act, 1948 (Act No. 44 of 1948), to hear and determine any application—

Functions of commission in relation to applications.

- (a) for the grant of a licence;
- (b) for the renewal, transfer, alteration, modification or amendment of a licence or the conditions thereof;
- (c) for an exemption from any of the provisions of this Act or any condition of a licence;
- (d) by or on behalf of any interested party, requesting the commission to make any order or give any direction, consent or approval which it may lawfully make or give, or with respect to any matter which by this Act or any order or direction of the commission is prohibited, sanctioned or required to be done.

(2) Every such application as is mentioned in sub-section (1) shall be addressed to the commission in the prescribed manner and form.

(3) Whenever the commission has refused any such application as is mentioned in sub-section (1) or has varied the conditions of a licence under sub-section (5) of section *nine* or cancelled or suspended a licence under section *seventeen*, the commission shall, at the written request of the applicant or the holder of the licence concerned, as the case may be, and upon payment to the Secretary for Transport of the prescribed fee, furnish to him its reasons for such refusal, variation, cancellation or suspension.

4. (1) Every person who applies for the grant of a licence shall furnish to the commission:

- (a) his full name, address and nationality, and if the applicant is a company, a copy of its memorandum and articles of association;
- (b) proof, to the satisfaction of the commission, of the availability of sufficient capital for financing the enterprise, and a statement of the amount of such capital: Provided that this paragraph shall not apply in respect of an application for a licence by the Railway Administration;
- (c) particulars of the air service which the applicant proposes to provide, and such particulars as the commission may require of the organization which the applicant has or proposes to set up for the purposes of such service;
- (d) particulars of the number of aircraft (including reserve aircraft) to be used;

Particulars to be furnished in connection with application for air carrier's licence.

- (e) such particulars as the commission may require, of the type or types of aircraft to be used;
- (f) particulars concerning the availability of spare parts and of servicing, maintenance and repair facilities at terminal and intermediate points on the route over which the applicant proposes to provide the service;
- (g) particulars concerning the personnel it is proposed to employ in connection with the air service, with particulars of the number of persons to be employed in each of the various classes of employment, the proposed rates of pay, travelling, subsistence and other allowances, benefits and privileges, normal hours of duty, and an estimate of the number of flying hours per month which each member of the crew of any aircraft will be required to complete;
- (h) particulars concerning—
 - (i) the types and classes of traffic which the applicant proposes to convey;
 - (ii) the routes and towns proposed to be served and the airports to be used;
 - (iii) the frequency and time tables of the proposed air service;
 - (iv) the proposed tariff of charges or fares;
 - (v) the period of time which the applicant anticipates will elapse before the proposed air service can be commenced;
 - (vi) the applicant's previous experience, if any, in the operation of commercial air services.

(2) An applicant for the renewal of a licence shall furnish with his application such particulars as may be prescribed in relation to the class of air service for which authorization is sought.

Publication of
particulars of
applications.

5. As soon as practicable after receipt of any application mentioned in section *three*, the commission shall cause notice of the application to be given or published in the manner prescribed, setting out—

- (a) in the case of an application for the grant or renewal of a licence—
 - (i) the name of the applicant;
 - (ii) particulars of the air service which the applicant proposes to provide;
 - (iii) the proposed tariff of charges or fares;
 - (iv) a brief general description of the aircraft to be used; and
 - (v) where a licence for the operation of a regular air transport service is applied for, particulars of the proposed routes and the frequencies of the service;
- (b) in the case of any other application, such particulars or information concerning the nature thereof as may be prescribed.

Representations
in support of or
in opposition to
application.

6. (1) Any interested person may, within twenty-one days after the date of first publication of particulars of an application in terms of section *five*, submit to the commission representations in writing in support of or in opposition to the application, and

a copy of such representations in opposition to the application shall be sent by the objector to the applicant at the same time as they are sent to the commission: Provided that where an objector has failed to give notice of objection, or to give such notice timeously, the commission may, in its discretion, and on such terms as to postponement of the hearing or as to the lodging of a deposit under sub-section (4) of section seven, as it may think fit, condone the want of due notice and hear the objection.

(2) Any allegation of fact made by a person in opposition to an application shall, if the commission so directs, be made under oath.

7. (1) For the purpose of enquiring into, considering and determining any application mentioned in section three, the commission shall hold hearings, in public at such places as it may think fit: Provided that the commission may in any particular case hold a hearing in private if it considers it to be in the public interest. The commission shall cause notice to be given in the manner prescribed to the applicant and to every person who has made representations in support of or in opposition to the application, of the day, time and place appointed for the hearing.

Consideration
and determination
of applications.

(2) An applicant or objector may appear at the hearing of an application either in person or by counsel, attorney or other duly authorized representative, but shall not, save as is provided in sub-section (5), be entitled to recover from any other party any costs incurred by him in the proceedings.

(3) If the commission is of the opinion, having regard to the nature of an application or objection or the circumstances in which it is made, that it has *prima facie* little chance of success and that its making may cause needless expense to an objector or to the applicant, as the case may be, the commission may at any time during the proceedings after the lodging of an application or objection, order such applicant or objector to deposit with the commission a sum not exceeding one hundred pounds within a stated time, and in default of such deposit may refuse the application or disallow the objection.

(4) The commission may, as a condition of condonation of any default by an applicant or objector in complying with the prescribed procedure of application or objection, or of the grant of postponement or other indulgence, require such applicant, objector or party seeking indulgence to deposit with the commission a sum not exceeding one hundred pounds within a stated time.

(5) If the commission is satisfied that the making of an application which it has refused or of an objection which it has disallowed, or the default of or grant of indulgence to an applicant or objector, has caused unnecessary expense to another party to the proceedings, the commission may in its discretion order that out of any deposit made under sub-section (3) or sub-section (4) by such applicant or objector, such sum of money as it may think fit be paid to the party so damnified in reimbursement or part reimbursement of costs incurred by him, and may order further that there be paid out of the said deposit into the Consolidated Revenue Fund such sum as it may think fit. The remainder of any sum deposited or, if no such order is made, the whole of the sum deposited, shall be returned to the depositor.

Power of
commission to
compel attendance
of witnesses
and production
of documents,
etc.

8. (1) The commission may for the purposes of any proceedings before it under this Act, by summons under the hand of the chairman or the secretary of the commission, require any person who it has reason to believe may be able to give material information concerning the subject-matter of the proceedings, or to produce any book, document or thing which has any bearing on the subject-matter of the proceedings, to appear personally before the commission, or any member of the commission designated by the commission, at a time and place stated in the summons, and to produce any such book, document or thing which he may be able to produce.

(2) A summons referred to in sub-section (1) shall be in the form prescribed, and shall be served in the same manner as a subpoena in a criminal case issued by a magistrate's court.

(3) The commission, or any member of the commission designated by the commission in terms of sub-section (1), before whom any person summoned in terms of sub-section (1) appears as a witness, may interrogate such person and require him to produce any book, document or thing mentioned in the summons which he may be able to produce, and for this purpose the chairman or, in his absence, any other member of the commission (if such person appears before the commission) or the member of the commission before whom such person appears, may administer an oath to him or require him to make affirmation of the truth of his testimony. Any book, document or thing produced by any person under this sub-section may be retained for a reasonable period for examination by or on the order of the commission.

(4) Any person who, having been duly summoned under sub-section (1), without lawful excuse fails to appear in obedience to the summons or to remain in attendance until he is excused from further attendance, or who without lawful excuse refuses to be sworn or to make affirmation or to answer any relevant question lawfully put to him or to produce any book, document or thing referred to in sub-section (1) which he may be able to produce, or who, while he is under oath or affirmation, makes any false statement before the commission or the person interrogating him, which he knows to be false, shall be guilty of an offence: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any document or thing before a court of law, shall apply.

(5) Any person who—

(a) refuses or fails to comply to the best of his ability with any reasonable requirement of the commission, or any member of the commission designated in terms of sub-section (1), in connection with the exercise of its or his functions under this section; or

(b) wilfully hinders or obstructs the commission or any such member in the exercise of those functions,
shall be guilty of an offence.

(6) Any person convicted of an offence under this section shall be liable to a fine not exceeding one hundred pounds.

Grant or
refusal of
licence. Matters
to be considered.

9. (1) The commission may in its discretion grant an application for a licence or for the renewal of a licence, subject to such conditions as may be attached to a licence under section

eleven, or may refuse such application, or may grant a licence which in respect of area or distance of operation, or in any other respect, confers a less extensive authorization than the licence sought by the applicant.

(2) In exercising its discretion the commission shall have regard to—

- (a) the need of the section of the public affected by the application, for the class of air service for which authorization is sought;
- (b) the co-ordination and development of air and other transport services generally, with the object of ensuring the most effective service to the public;
- (c) the avoidance of uneconomical overlapping and, generally, the interests of the public.

(3) Without prejudice to the generality of the considerations mentioned in sub-section (2), the commission shall, having regard to the nature of the application before it, take into consideration the following matters:

- (a) the existence of other air services in the area through or within which the proposed service is to be provided;
- (b) the possibilities of air services in that area;
- (c) the degree of efficiency and regularity of the air services, if any, already provided in that area, whether by the applicant or by other air carriers;
- (d) the period for which such services have been provided by the applicant or by other air carriers;
- (e) the extent to which it is probable that the applicant will be able to provide a safe and satisfactory air service in respect of continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency;
- (f) the financial resources of the applicant;
- (g) the suitability of the type of aircraft proposed to be used for the purposes of the air service,

and the commission shall take into consideration any representations in support of or in opposition to the application, duly made in accordance with the provisions of this Act.

(4) The commission may grant wholly or in part any application by an air carrier for the amendment or modification of his licence or the conditions thereof, if in its opinion by reason of altered circumstances or for any other good and sufficient reason, including any consideration mentioned in sub-section (2) or (3), it is desirable to do so in the public interest or in order to avoid hardship.

(5) The commission may of its own motion in like circumstances vary the conditions attached by it to a licence, or may attach further conditions thereto: Provided that the commission shall not so vary any conditions of a licence or attach thereto any further condition, which has the effect, in either case, of restricting in any respect the authorization conferred by the licence, unless at least twenty-one days notice of its intention so to do has been given to the holder and he has been given an opportunity of being heard by the commission in opposition thereto: Provided further that the holder of the licence concerned shall be allowed a reasonable time by the commission within which to comply with any such variation of the conditions of his licence or with such new condition so attached to his licence.

Protection of
air carriers
who provide
satisfactory
services.

10. Whenever an air service provided by any air carrier within any particular area or over any particular route is, in the opinion of the commission, satisfactory and sufficient to meet at a reasonable charge the need of the public for that class of air service within that area or over that route, the commission shall not grant a licence to any other person for the provision of an air service within substantially the same area or over substantially the same route, in competition with the first-mentioned air service: Provided that this sub-section shall not be deemed to prohibit the commission from granting a licence for the provision of an air transport service over a route which overlaps any segment of a route over which an air transport service is provided by any other air carrier, if the commission is satisfied that the provision of an air transport service over such first-mentioned route is necessary in order to satisfy adequately the air transportation requirements of the public.

Matters to be
specified in
licence and
conditions which
may be attached
thereto.

11. (1) No one licence shall authorize the provision of more than one of the classes of air service established by regulation, but licences to provide two or more different classes of air service so established may be granted to the same person.

(2) Every licence shall specify—

- (a) the name and address of the licensee;
- (b) the class of air service authorized by the licence;
- (c) the period of validity of the licence;
- (d) the area within or the route over or the points between which the air service may be provided.

(3) The commission may attach to a licence such of the following conditions as may be applicable in respect of the particular class of air service authorized by the licence—

- (a) a condition that the aircraft to be used shall not operate at or from a specified aerodrome or shall only operate at or from one or more specified aerodromes: Provided that no air carrier shall be required to operate at an aerodrome which is not provided with telephonic means of communication;
- (b) a condition that a certain class or description of goods other than mails shall or shall not be carried;
- (c) a condition specifying the charges or the maximum or minimum charges which may be made in connection with the air service;
- (d) a condition prohibiting the taking on or setting down of passengers or goods within a specified area or between specified points on a route;
- (e) conditions as to the provision which shall be made by the air carrier for the payment of compensation in respect of the disablement or death of any of his employees resulting from any accident arising out of and in the course of such employee's employment, in any case where the provisions of the law relating to the payment of compensation to workmen, in force in the Union or the territory of South-West Africa, do not apply in respect of the disablement or death of such employee;
- (f) a condition requiring a specified minimum frequency to be maintained on the service;
- (g) a condition stipulating that the air service may be operated by day only, or by night only;

- (h) a condition requiring the air service to be in full operation within a specified period, not exceeding two years, after the date upon which the licence is granted;
- (i) a condition requiring the air carrier to give to the commission a specified period of notice of his intention to abandon the air service;
- (j) a condition prohibiting the conveyance of mails without the authority of the Postmaster-General;
- (k) any other conditions which the commission considers desirable in the interests of public safety, or to prevent uneconomic competition.

12. (1) A licence may be granted for such period, not exceeding seven years, as the commission may in each case stipulate: Provided that every licence for the operation of a scheduled air transport service shall be granted for an initial period of seven years: Provided further that any licence may be renewed by the commission for such further period or periods, not exceeding five years at a time, as the commission may in each case deem desirable in the public interest, and subject to such conditions as are mentioned in section *eleven*.

Period of validity of licences and renewal of licences.

(2) An application for the renewal of a licence shall be submitted to the commission not later than twelve months prior to the date of expiration of the licence and if any such application is submitted to the commission not less than eighteen months prior to the date of expiration of the licence, the decision of the commission thereon shall be communicated to the applicant not less than twelve months prior to that date.

(3) The period of validity of a licence may, in the discretion of the commission, be expressed to commence as from a date subsequent to that on which the licence is actually granted.

(4) If at the date on which a licence expires, proceedings are pending on an application for the renewal of the licence, the expired licence shall be deemed to continue in force until such application has been finally determined.

13. (1) An air carrier to whom a licence for the provision of an air transport service has been granted, shall not commence such service until the commission has issued to him an operating certificate certifying that the holder is adequately equipped and able to conduct a safe air transport service over the route or within the area in respect of which the licence was granted.

Air transport service not to be commenced until operating certificate obtained.

(2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and liable on conviction to the penalties prescribed by sub-section (4) of section *two*.

14. There shall be paid to the Secretary for Transport by an air carrier in respect of each licence issued to him, and in respect of the renewal or transfer of any such licence, such fee as may be prescribed in relation to the class of licence in question.

Licence fees.

15. (1) A licence may, on the application of the holder, be transferred by the commission to another person for the remaining period of its validity, and the commission may make its consent to the transfer subject to such conditions as it may in the public interest deem desirable.

Transfer and termination of licences.

(2) If any condition subject to which the consent of the commission to the transfer of a licence was obtained, is not fulfilled

in connection with the transaction of which the transfer forms a part, or if it appears that any false information has been furnished to the commission in connection with an application for such a transfer, the commission may forthwith withdraw its consent to the transfer and thereupon the licence shall become null and void.

(3) With every application for the transfer of a licence there shall be submitted to the commission in form prescribed sworn declarations, by the holder and the proposed transferee of the licence, setting forth full particulars of the transaction of which the proposed transfer of the licence forms a part or to which it is incidental, including particulars of the full consideration passing from the transferee to the holder.

(4) A licence shall automatically lapse in the event of the sequestration of the estate of the holder or, if the holder is a company, in the event of its being wound up.

Insurance.

16. Every licensed air carrier (other than the Railway Administration) shall insure and at all times keep himself insured, in such sums or to such extent as may be prescribed in relation to the class of air service provided by such air carrier, against claims of a nature or class likewise so prescribed, which may arise out of the use of aircraft by such air carrier under the authority conveyed by his licence.

Cancellation or suspension of licences.

17. (1) The commission may, subject to the provisions of sub-sections (2) and (3), at any time cancel a licence, or suspend it for such period as the commission may think fit, or vary or add to the conditions thereof, if the holder has contravened or failed to comply with—

- (a) any provision of this Act or of any law prescribing measures of safety in connection with the use of aircraft; or
- (b) any lawful order or requirement of the commission under this Act; or
- (c) any condition of his licence; or
- (d) the terms of any exemption granted to him under this Act,

or if, in the case of an air transport service, the service provided by the holder of the licence does not meet fully and satisfactorily the air transportation requirements of the public over the route or within the area in respect of which the service was licensed.

(2) The commission shall not exercise any of its powers under sub-section (1) unless it has given the licensee reasonable notice of the action which it is proposed to take and of the grounds therefor, and has afforded the licensee an opportunity of showing cause, either in writing or by appearance in person or by a representative before the commission, why the proposed action should not be taken, and no licence shall be cancelled or suspended on the ground of failure to comply with a condition unless it appears to the commission that the failure has been repeated or persistent, or has been deliberate and serious.

(3) The temporary abandonment, suspension, diversion or interruption of an air service, necessitated or brought about by adverse weather conditions, considerations of safety, illness

or other emergency, shall not be taken to constitute a breach of any condition of the licence authorizing such service, but the commission may, in any such case, require the licensee to furnish it with a full report on the occurrence, and the licensee shall submit the report in such manner and form and within such period as the commission may direct.

18. The commission may by order in writing require air carriers or any particular class of air carrier to render to it in such manner and form and at such times as may be prescribed by the commission, such returns in relation to any class or classes of air service provided by such carriers or class of carrier, as the commission may deem necessary for the effective carrying out of its duties and functions under this Act.

Returns.

19. (1) The commission may on the application of any air carrier, exempt him from the operation of sub-section (1) of section *two* or from the operation of any other provision of this Act or any condition of his licence, if in the opinion of the commission the air carrier concerned is providing or proposes to provide an air service on a non-profit basis for charitable purposes, or for purposes incidental to social welfare, or that the granting of such exemption will assist in saving life.

Exemptions.

(2) Any exemption granted under sub-section (1) may be limited so as to apply only in respect of one or more aircraft or one or more particular routes, journeys or transactions, or may be limited as to time, area or distance, or otherwise as the commission may think fit.

(3) Whenever the commission is of opinion that the delay involved in publishing in terms of section *five* particulars of an application for exemption, would defeat the object of the application, and that non-publication of such particulars would not be detrimental to the general public interest, the commission may dispense with such publication and grant the application forthwith.

(4) Any person who uses an aircraft for the provision of an air service in contravention of the terms of an exemption granted to him under this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds.

20. (1) If any air carrier (including the Railway Administration) is, at the date of commencement of this Act, providing within any area or over any route, a scheduled air transport service in respect of which a licence referred to in sub-section (4) has not been granted to him, and if such air carrier has been providing the said service regularly as from a date not later than the eleventh day of October, 1946, the commission shall not grant a licence to any other person for a similar class of air service over substantially the same route or within substantially the same area unless such air carrier has failed to apply for a licence in respect of the service so provided by him, within three months after the commencement of this Act.

Provision with regard to existing licences and services, and services previously operated by the Railway Administration.

(2) It shall not be competent for the commission to grant to any person other than the Railway Administration, a licence for a scheduled air transport service over any route which is substantially the same as a route over which the Railway Administration was regularly providing such a service immediately prior to the sixth day of September, 1939, but over

which it has not been regularly providing such a service between the eleventh day of October, 1946, and the date of commencement of this Act, unless the Railway Administration has failed to apply within a period of three months after the commencement of this Act for a licence to provide such a service over the route in question.

(3) If an air carrier referred to in sub-section (1) has applied for a licence in respect of such a service as is described in that sub-section within a period of three months after the commencement of this Act, or if the Railway Administration has, within the said period, applied for a licence for a scheduled air transport service over any route referred to in sub-section (2), the commission shall not refuse the application, but may grant the licence applied for subject to such conditions as may be attached to a licence under section *eleven*.

(4) Any licence to provide an air transport service, granted before the commencement of this Act pursuant to the provisions of Government Notice No. 2143 dated the eleventh day of October, 1946, shall be deemed to have been granted by the commission under this Act if the formalities prescribed by that Notice were duly complied with in connection with the application for and the granting of such licence, and any conditions attached to such licence shall, in so far as they are not repugnant to any provision of this Act, be deemed to have been attached thereto under this Act.

(5) Every licence referred to in sub-section (4) shall remain in force for the period specified in the licence, but nothing in that sub-section contained shall be deemed to curtail the power of the commission under this Act to cancel or suspend or otherwise deal with such a licence as is referred to in that sub-section.

(6) If, in any licence referred to in sub-section (4), a period has been specified within which the licensee was required to commence the operation of the air service authorized by the licence, and such period has, at the date of commencement of this Act, not yet expired, it shall not be competent for the commission, during the currency of such period, to grant to any other person a licence for a similar class of service within substantially the same area or over substantially the same route as that in respect of which such first-mentioned licence was granted.

Presumptions.

21. In any proceedings under this Act—

- (a) an aircraft which is being used for the provision of an air service shall, until the contrary is proved, be presumed to be so used or caused to be so used by the person in whose name that aircraft is registered in terms of any law relating to the registration of aircraft as to nationality;
- (b) an aircraft which is registered in the name of a person who is a licensed air carrier, and which is being used for the provision of an air service otherwise than in accordance with the terms and conditions of such air carrier's licence, shall, until the contrary is proved, be presumed to be so used or caused to be so used by such air carrier;
- (c) the conveyance in an aircraft of any person in addition to the normal operating crew, or of any goods shall,

until the contrary is proved, be presumed to be a conveyance for reward;

- (d) a document purporting to be a licence issued under this Act, or a copy of any such licence certified in writing as such by the chairman or secretary of the commission or by any person acting in that capacity, shall be accepted as *prima facie* evidence of the facts stated therein;
- (e) a certificate signed by the chairman or secretary of the commission or by any person acting in that capacity, that a licence has not been granted by the commission to a specified person, shall be accepted as *prima facie* evidence of the facts stated therein.

22. The Governor-General may make regulations not inconsistent with this Act, with regard to—

Regulations.

- (a) the manner and form in which any application under this Act shall be addressed to the commission;
- (b) the nature of the particulars to be furnished with any application under this Act;
- (c) the manner of publication and the contents of any notice under section *five*;
- (d) the manner in which notice of hearings shall be given in terms of section *seven*;
- (e) the form of any licence, certificate, summons or other document to be used for the purposes of this Act;
- (f) the fees payable in respect of the issue, renewal or transfer of licences;
- (g) the establishment and definition of classification or groups of air carriers or air services;
- (h) any other matter which by this Act is required to be or may be prescribed or which it may be necessary or expedient to prescribe in order that this Act may be effectively and conveniently administered.

23. All expenditure incurred by the commission in the administration of this Act shall be defrayed from the Consolidated Revenue Fund and all moneys received under this Act shall be paid into the said Fund.

Revenue and expenditure under this Act.

24. The provisions of this Act shall apply in respect of any air services provided by the Railway Administration, and shall also apply to the Territory of South-West Africa.

This Act binds Railway Administration and applies to South-West Africa.

25. This Act shall be called the Air Services Act, 1949, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Short title and commencement.

ACT

TO

Amend the Aviation Act, 1923.

Act No. 18, 1950.

ACT

To Amend the Aviation Act, 1923.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

(English text signed by the Governor-General.)

(Assented to 1st May, 1950.)

Amendment of
section 16 of
Act 16 of 1923.

1. Sub-section (1) of section *sixteen* of the Aviation Act, 1923, is hereby amended by the addition thereto of the words—

“and, if such person is the holder of a licence, certificate or rating issued under this Act, the court convicting him may cancel, suspend for a specified period or order the endorsement of such licence, certificate or rating, or if such person is not the holder of any such licence, certificate or rating, the court may declare him to be disqualified from holding any licence, certificate or rating under this Act for such period as the court deems fit”

Short title.

2. This Act shall be called the Aviation Amendment Act, 1950.

ACT

TO

Amend the Aviation Act, 1923.

Act No.51, 1955.

ACT

To amend the Aviation Act, 1923.

(English text signed by the Governor-General.)
(Assented to 20th June, 1955.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of
section 3 of
Act 16 of 1923,
as amended by
section 3 of
Act 41 of 1946.

1. (1) Section *three* of the Aviation Act, 1923 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in sub-section (1) for the word “Governor-General” of the word “Minister”;

(b) by the insertion in paragraph (c) of sub-section (1) after the word “*six*” of the words “and exemption from payment or variation as to the payment of such charges” and by the deletion in that paragraph of the words “the licensing or certificating of persons employed at aerodromes in the inspection or supervision of aircraft”;

(c) by the insertion after paragraph (c) of sub-section (1) of the following paragraphs:

“(c)*bis* the control and management of any aerodrome established and maintained under the provisions of section *six*, including—

- (i) the prevention of damage to any runway, taxiway or other works or property connected with such aerodrome;
- (ii) the regulation or prohibition of vehicular or other traffic within such aerodrome;
- (iii) the control of aircraft on such aerodrome while such aircraft are not subject to the control of the air traffic control service operating at such aerodrome;
- (iv) the prevention of damage to aircraft on such aerodrome and the protection of freight carried by such aircraft;
- (v) the removal of aircraft hulks and aircraft wreckage likely to obstruct any runway or taxiway on such aerodrome, the imposition and recovery of charges for the right to leave an aircraft hulk or any aircraft wreckage on any such aerodrome, and the saving of life in the case of aircraft accidents;
- (vi) the granting of licences to handling, forwarding, passenger or freight agents, or other persons trading on such aerodrome, and the fees to be paid in respect of each such licence;
- (vii) the prohibition of smoking on such aerodrome or any part thereof;

- (viii) the discretionary rights and powers which may be exercised in relation to the admission of the public to, or their exclusion from, such aerodrome or any part thereof and the imposition of charges for such admission and exemption from payment or variation as to the payment of such charges;
 - (ix) the regulation or prohibition of the admission of any animal or class of animal to such aerodrome or any part thereof;
 - (x) the prevention of the commission of any nuisance in or on such aerodrome and generally the promotion and ensuring of good sanitation, cleanliness and decency therein or thereon;
 - (xi) the regulation of the handling and storing of goods at such aerodrome, the charges to be made for handling or storing goods and for their care or custody, the terms and conditions upon which they shall be received, the disposal of unclaimed goods and exemption from payment or variation as to the payment of such charges;
 - (xii) the conditions under which and the times when dangerous or offensive classes of goods may be transported or handled at such aerodrome, the prohibition of the transport or handling of those classes of goods, and provision for or sanctioning of the removal or destruction of such goods;
 - (xiii) the use of land forming part of such aerodrome for sites for the bulk storage of liquid fuel and other inflammable substances, for pipe lines, power lines and the like, and whether such lines shall be overhead or underground;
 - (xiv) the installation, maintenance and control of automatic vending, weighing, novelty and similar machines on such aerodrome and the charges to be paid in respect of each such machine;
- (c)ter the licensing or certifying of persons engaged in the construction, overhaul, maintenance, inspection or supervision of aircraft;”;
- (d) by the deletion of paragraph (f)bis of sub-section (1);
- (e) by the substitution for paragraph (j) of sub-section (1) of the following paragraphs:
- “(j) regulating the lighting or marking of any obstruction exceeding a prescribed height within a prescribed distance from any aerodrome;
- (j)bis prohibiting or regulating lights at or in the neighbourhood of aerodromes;”;

- (*f*) by the insertion after paragraph (*k*) of sub-section (1) of the following paragraph:

“(k)*bis* the prevention or minimizing of interference with the use or effectiveness of radio or electronic apparatus used as aids to safety in air navigation;”;

- (*g*) by the deletion in the English text of paragraph (*q*) of sub-section (1) of the word “spare”;

- (*h*) by the insertion after paragraph (*q*) of sub-section (1) of the following paragraph:

“(r) prescribing airworthiness requirements (including requirements as to design, performance, operation or maintenance) for aircraft, aircraft components or equipment and the specifications for materials used in, and the standards and processes which shall be observed in, the construction of aircraft, aircraft components or equipment, and such requirements, specifications, standards or processes, as the case may be, may differ in respect of different classes of aircraft or different types or models of the same class of aircraft or the same type or model of aircraft when used in different categories of operation or different classes or types of aircraft components or equipment;”;

- (*i*) by the insertion after sub-section (1) of the following sub-sections:

“(1)*bis* Different regulations may be made under paragraph (*c*)*bis* of sub-section (1) in respect of different aerodromes established and maintained under the provisions of section *six*.

(1)*ter* No fees or charges or, where applicable, exemption from payment or variation as to the payment of such charges, shall be prescribed or provided for under sub-section (1) except after consultation with the Minister of Finance.”.

- (2) Any regulations made under section *three* of the principal Act and in force at the commencement of this Act shall be deemed to have been made by the Minister under that section as amended by sub-section (1) of this section.

Amendment of section 6 of Act 16 of 1923, as amended by section 6 of Act 41 of 1946.

2. Section *six* of the principal Act is hereby amended by the addition thereto of the following sub-section:

“(3) The Governor-General may, in like manner, acquire land, and interests in and rights to and over land, for the purpose of—

- (a) the construction and maintenance of drainage works for the control and disposal of water which would otherwise gather on an aerodrome established and maintained under the provisions of sub-section (1);
- (b) the erection and maintenance of warning lights or other aids to safety in air navigation (including pipe lines or power lines or the like, whether underground or overhead, required in connection with such lights

or other aids) which are deemed necessary in connection with any aerodrome in respect of which a licence under the regulations has been or is to be issued.”.

3. The following section is hereby inserted in the principal Act after section *six*:

“Access to land or structures for certain purposes.

6bis. (1) Any person duly authorized thereto in writing by the Secretary for Transport may enter any land or structure, after notice to the occupier thereof, for the purpose of carrying out thereon or therein any such examination or survey as may be necessary to determine its suitability for any of the purposes mentioned in section *six* or of performing thereon or therein any other act which he is authorized to perform thereon or therein by this Act.

(2) Any person who hinders or obstructs any person in the exercise of his powers or the performance of his duties under sub-section (1) shall be guilty of an offence.”.

Insertion of section *6bis* in Act 16 of 1923.

4. Section *seven* of the principal Act is hereby repealed.

Repeal of section 7 of Act 16 of 1923.

5. Section *sixteen* of the principal Act is hereby amended by the insertion in sub-section (2) after the word “owner” where it occurs for the second time of the words “(except in the case of an air carrier as defined in section *one* of the Air Services Act, 1949 (Act No. 51 of 1949))”.

Amendment of section 16 of Act 16 of 1923, as amended by section 1 of Act 18 of 1950.

6. Section *seventeen* of the principal Act is hereby amended by the addition at the end thereof of the following proviso:

Amendment of section 17 of Act 16 of 1923.

“Provided that if any such offence is committed within the Union, the offence may be tried by any court having jurisdiction where the offence was committed.”.

7. Section *eighteen* of the principal Act is hereby amended—

Amendment of section 18 of Act 16 of 1923.

(a) by the addition at the end of sub-section (1) of the words “and to all Union aircraft and personnel wheresoever they may be.”; and

(b) by the insertion after sub-section (1) of the following sub-section:

“(1)*bis* For the purposes of sub-section (1) the personnel of an aircraft shall be deemed to include the pilot or other person in charge of the aircraft, and all other members of the crew of the aircraft.”.

8. Section *twenty* of the principal Act is hereby amended—

Amendment of section 20 of Act 16 of 1923, as amended by section 7 of Act 41 of 1946 and section 3 of Act 42 of 1947.

(a) by the deletion of the definition of “air carrier”;

(b) by the deletion of the definition of “commercial air service”; and

(c) by the substitution for the definition of “Minister” of the following definition:

“ ‘Minister’ means the Minister of Transport;”.

9. This Act shall be called the Aviation Amendment Act, 1955.

Short title.

UNITED STATES

The present volume contains the following U.S. laws:

The Federal Aviation Act of 1958 (Act of August 23, 1958, 72 Stat. 731).

The International Aviation Facilities Act (Act of June 16, 1948, 62 Stat. 450, as amended by Act of August 10, 1949, 63 Stat. 591, and Act of August 23, 1958 (Federal Aviation Act of 1958, *supra*)).

The National Aeronautics and Space Act of 1958 (Act of July 29, 1958, 72 Stat. 426).

The Act entitled "Crimes in Flight over the High Seas" (Provision in Title 18, U.S.C., 62 Stat. 685, Act of June 25, 1948, as amended by Act of July 12, 1952, 66 Stat. 589).

The Act entitled "Willful Damaging of Aircraft" (Act of July 14, 1956, 70 Stat. 538).

The texts of other pertinent laws, Executive Orders and multi-lateral aviation conventions to which the United States is a party, not contained herein, may be found in "Aeronautical Statutes and Related Materials," revised February 15, 1959 (with later amendments), issued by the Civil Aeronautics Board, Washington, D.C. (Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C.). The table of contents of that volume is as follows:

Federal Aviation Act of 1958.....	1
Reorganization Plan No. 13 of 1950.....	91
Sherman Act.....	92
Clayton Act.....	94
Railway Labor Act.....	105
Decision 83 of the National Labor Board.....	128
Act Relating to Public Airports.....	131
Washington National Airport, Jurisdiction.....	132
Administration of Washington National Airport.....	133
Provisions in 1940 Appropriation Act for Washington National Airport.....	137
Second Washington Airport Act.....	138
Federal Airport Act.....	141
Message from the President of the United States.....	156
Reorganization Plan No. 14 of 1950 [labor standards].....	157
Government Surplus Airports and Equipment.....	159
Alaskan Airports.....	163
Department of Interior Airports.....	165
Equipment Trust Provisions.....	167
Government Guaranty of Equipment Loans.....	168
International Aviation Facilities Act.....	170
Air Mail Act of 1934.....	175
Rate of Postage on Domestic Air Mail.....	176
Postal Rate Revision and Federal Employees Salary Act of 1948.....	177
Experimental Air Mail Act.....	178
Transportation of foreign mail by aircraft.....	180
Alaska Emergency Mail Service.....	182
Transportation of regular mail in Alaska by air.....	183
Post roads.....	185

Air Navigation in the Canal Zone.....	186
Coast Guard Aids to Navigation and Ocean Stations.....	187
Printing and distribution of aeronautical charts.....	191
Regulations Enacted for Preventing Collisions at Sea.....	193
National Aeronautics and Space Act of 1958.....	209
Loans of Army Aircraft and Equipment to Civilian Aviation Schools.....	223
Aircraft Confiscation Act.....	224
Stowaways.....	227
Crimes in flight over the high seas.....	228
Willful damaging of aircraft.....	229
Study of thunderstorms.....	232
Provision in Appropriation Act of 1950.....	233
Provisions in Defense Production Act of 1950.....	234
Provisions in Federal Trade Commission Act.....	235
Provisions in Part II of Interstate Commerce Act.....	236
Provisions in Federal Explosives Act.....	238
Provisions in Internal Revenue Code.....	239
Provisions in the Tariff Act of 1930.....	242
Provisions in the Transportation Act of 1940.....	244
Provisions in the Communications Act of 1934.....	245
Provisions in the Immigration and Nationality Act.....	246
Control of Transportation Systems in Time of War.....	247
Executive Order No. 9746 [Canal Zone].....	248
Executive Order No. 10480 [Office of Defense Mobilization].....	250
Executive Order No. 10536 [Federal Airport Act].....	251
Executive Order No. 10655 [Air Coordinating Committee].....	252
Executive Order No. 10764 [Suspension 8-hour Work Law].....	254
Executive Order No. 10786 [Transfer Functions Air. Mod. Bd. to FAA].....	255
Executive Order No. 10797 [Authority Delegated to Bureau of the Budget].....	256
Opinions of the Attorney General.....	257
Warsaw Convention (and Protocol).....	290
Convention on International Civil Aviation.....	332
Protocol to Convention on International Civil Aviation.....	364
International Air Services Transit Agreement.....	368
Convention on the International Recognition of Rights in Aircraft.....	375
Administrative Procedure Act.....	384

The regulations concerning aviation constitute Title 14 of the Code of Federal Regulations, as amended.

FEDERAL AVIATION ACT OF 1958

[Act of August 23, 1958, 72 Stat. 731]

AN ACT

To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Federal Aviation Act of 1958":

TABLE OF CONTENTS

TITLE I—GENERAL PROVISIONS

- Sec. 101. Definitions.
- Sec. 102. Declaration of policy : The Board.
- Sec. 103. Declaration of policy : The Administrator.
- Sec. 104. Public right of transit.

TITLE II—CIVIL AERONAUTICS BOARD; GENERAL POWERS OF BOARD

- Sec. 201. Continuation of existing Board.
 - (a) General.
 - (b) Qualifications of members.
 - (c) Quorum, principal office, and seal.
- Sec. 202. Miscellaneous.
 - (a) Officers and employees.
 - (b) Supergrades.
 - (c) Temporary personnel.
 - (d) Cooperation with other Federal agencies.
- Sec. 203. Authorization of expenditures and travel.
 - (a) General authority.
 - (b) Travel.
- Sec. 204. General powers and duties of the Board.
 - (a) General powers.
 - (b) Cooperation with State aeronautical agencies.
 - (c) Exchange of information.
 - (d) Publications.
- Sec. 205. Annual report.

TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR

- Sec. 301. Creation of Agency.
 - (a) General.
 - (b) Qualifications of Administrator.
 - (c) Principal office and seal.
- Sec. 302. Organization of Agency.
 - (a) Deputy Administrator.
 - (b) Qualifications and status of Deputy Administrator.
 - (c) Military participation.
 - (d) Exchange of information.
 - (e) Emergency status.
 - (f) Officers and employees.
 - (g) Study of special personnel problems.
 - (h) Scientific employees.
 - (i) Advisory committees and consultants.
 - (j) Supergrades.
 - (k) Cooperation with other agencies.

Sec. 303. Administration of the Agency.

- (a) Authorization of expenditures and travel.
- (b) Supplies and materials for overseas installations.
- (c) Acquisition and disposal of property.
- (d) Delegation of functions.

Sec. 304. Authority of President to transfer certain functions.**Sec. 305. Fostering of air commerce.****Sec. 306. National defense and civil needs.****Sec. 307. Airspace control and facilities**

- (a) Use of airspace.
- (b) Air navigation facilities.
- (c) Air traffic rules.
- (d) Applicability of Administrative Procedure Act.
- (e) Exemptions.
- (f) Exception for military emergencies.

Sec. 308. Expenditure of Federal funds for certain airports, etc.

- (a) Airports for other than military purposes.
- (b) Location of airports, landing areas, and missile and rocket sites.

Sec. 309. Other airports.**Sec. 310. Meteorological service.****Sec. 311. Collection and dissemination of information.****Sec. 312. Development planning.**

- (a) General.
- (b) Aircraft.
- (c) Research and development.

Sec. 313. Other powers and duties of Administrator.

- (a) General.
- (b) Publications.
- (c) Power to conduct hearings and investigations.
- (d) Training schools.
- (e) Annual report.

Sec. 314. Delegation of powers and duties to private persons.

- (a) Delegation by Administrator.
- (b) Application for reconsideration.

TITLE IV—AIR CARRIER ECONOMIC REGULATION**Sec. 401. Certificate of public convenience and necessity.**

- (a) Certificate required.
- (b) Application for certificate.
- (c) Notice of application.
- (d) Issuance of certificate.
- (e) Terms and conditions of certificate.
- (f) Effective date and duration of certificate.
- (g) Authority to modify, suspend, or revoke.
- (h) Transfer of certificate.
- (i) Certain rights not conferred by certificate.
- (j) Application for abandonment.
- (k) Compliance with labor legislation.
- (l) Requirement as to carriage of mail.
- (m) Application for new mail service.

Sec. 402. Permits to foreign air carriers.

- (a) Permit required.
- (b) Issuance of permit.
- (c) Application for permit.
- (d) Notice of application.
- (e) Terms and conditions of permit.
- (f) Authority to modify, suspend, or revoke.
- (g) Transfer of permit.

Sec. 403. Tariffs of air carriers.

- (a) Filing of tariffs required.
- (b) Observance of tariffs; rebating prohibited.
- (c) Notice of tariff change.
- (d) Filing of divisions of rates and charges required.

Sec. 404. Rates for carriage of persons and property.

- (a) Carrier's duty to provide service, rates, and divisions.
- (b) Discrimination.

Sec. 405. Transportation of mail.

- (a) Postal rules and regulations.
- (b) Mail schedules.
- (c) Maximum mail load.
- (d) Tender of mail.
- (e) Foreign postal arrangement.
- (f) Transportation of foreign mail.
- (g) Evidence of performance of mail service.
- (h) Emergency mail service.
- (i) Experimental airmail service.
- (j) Free travel for postal employees.

Sec. 406. Rates for transportation of mail.

- (a) Authority to fix rates.
- (b) Ratemaking elements.
- (c) Payment.
- (d) Treatment of proceeds of disposition of certain property.
- (e) Statement of Postmaster General and carrier.
- (f) Weighing of mail.
- (g) Availability of appropriations.
- (h) Payments to foreign air carriers.

Sec. 407. Accounts, records, and reports.

- (a) Filing of reports.
- (b) Disclosure of stock ownership.
- (c) Disclosure of stock ownership by officer or director.
- (d) Form of accounts.
- (e) Inspection of accounts and property.

Sec. 408. Consolidation, merger, and acquisition of control.

- (a) Acts prohibited.
- (b) Power of Board.
- (c) Interests in ground facilities.
- (d) Jurisdiction of accounts of noncarriers.
- (e) Investigation of violations.

Sec. 409. Prohibited interests.

- (a) Interlocking relationships.
- (b) Profit from transfer of securities.

Sec. 410. Loans and financial aid.**Sec. 411. Methods of competition.****Sec. 412. Pooling and other agreements.**

- (a) Filing of agreements required.
- (b) Approval by Board.

Sec. 413. Form of control.**Sec. 414. Legal restraints.****Sec. 415. Inquiry into air carrier management.****Sec. 416. Classification and exemption of carriers.**

- (a) Classification.
- (b) Exemptions.

TITLE V—NATIONALITY AND OWNERSHIP OF AIRCRAFT**Sec. 501. Registration of aircraft nationality.**

- (a) Registration required.
- (b) Eligibility for registration.
- (c) Issuance of certificate.
- (d) Applications.
- (e) Suspension or revocation.
- (f) Effect of registration.

Sec. 502. Registration of engines, propellers, and appliances.**Sec. 503. Recordation of aircraft ownership.**

- (a) Establishment of recording system.
- (b) Recording of releases.
- (c) Conveyances to be recorded.
- (d) Effect of recording.
- (e) Form of conveyances.
- (f) Index of conveyances.
- (g) Regulations.
- (h) Previously unrecorded ownership.

Sec. 504. Limitation of security owners liability.**Sec. 505. Dealers' aircraft registration certificates.**