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AIR LAWS AND TREATIES
OF THE WORLD

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Senator WARREN G. MAGNUSON, Chairman
OF THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE

VOLUME I

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LETTER OF TRANSMITTAL

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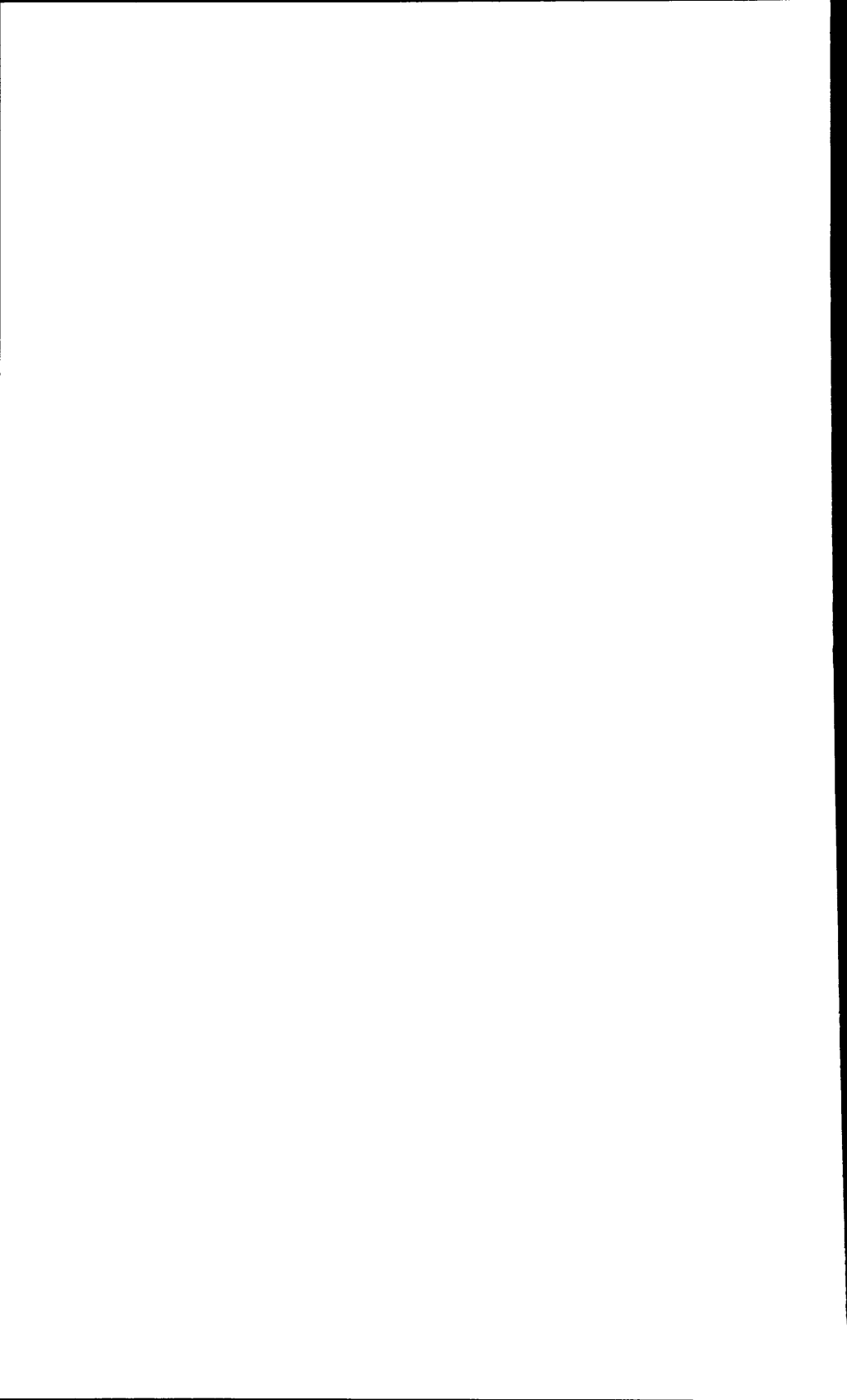
HON. WARREN C. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: In your letter of October 26, 1961, you informed me that the Committee on Commerce had authorized the publication of an additional volume of the "Air Laws and Treaties of the World." You requested that the staff of the Law Library complete the work by preparing this volume and that it include in it the basic air laws of all countries in the world and a detailed index.

This task has been accomplished. In addition to volume 2, there has now been prepared, at your subsequent request, volume 3, containing the multilateral aviation treaties in force and the bilateral air services agreements concluded by the United States. Volume 1, the first edition of which is out of print, has been completely revised to cover amendments to the laws of or new laws passed in the countries previously included. The project was carried out under the general direction of Dr. William S. Strauss, Assistant General Counsel, Library of Congress, who again served as editor-in-chief and compiler. I hope that this work, which broadens the field to worldwide coverage of the subject matter, will be a worthwhile addition to the basic sources on aviation law.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.



PREFACE

The compilation entitled "Air Laws and Treaties of the World," the first of its kind, is unusual in scope and magnitude. In 3 volumes totaling over 4,500 pages, it covers the national aviation laws of 120 countries and all multilateral aviation treaties in force as well as all bilateral aviation agreements and route grants of the United States. Legal texts were translated from 27 foreign languages including Arabic, Chinese, Finnish, Icelandic, Indonesian, Korean, and Thai.

This compilation has been planned to serve as a complete and up-to-date reference and research tool for the Congress and the Government in general, as well as for the legal profession and scholars here and abroad. It provides a readily available text of all pertinent materials, and serves as a guide for drafting new air legislation. This availability of an authoritative comparative law source may lead to increasing unification of the aviation statutes of the various countries.

In May 1961, the Committee on Science and Astronautics of the House of Representatives published an initial volume bearing the same title, which contained the air laws of 30 countries and those multilateral aviation agreements to which the United States was a party. The fact that the supply of copies of the work was exhausted in short order, showed that there was a great need for information in this field, and made it clear that there would be a continuing demand for a complete compilation of air laws and treaties. Therefore, the Senate Commerce Committee authorized the work necessary to achieve worldwide coverage, and by letter of October 26, 1961, I requested Dr. L. Quincy Mumford, the Librarian of Congress, to assign Dr. William S. Strauss, Assistant General Counsel of the Library of Congress, to direct and coordinate the project. The entire legal and technical work has been done by the staff of the Law Library at the Library of Congress on a "time available" basis without any additional expense whatever.

Dr. Strauss was assisted in his difficult task by Mr. William J. Klima, Attorney Adviser, Bureau of International Affairs, Civil Aeronautics Board, who acted as associate editor, and by Dr. Ivan Sipkov, who served as assistant editor and who also prepared the comprehensive index.

I should like to express my appreciation for their wholehearted support of this project to the Librarian of Congress, Dr. L. Quincy Mumford; the former Deputy Librarian of Congress, Mr. Rutherford D. Rogers; the former Law Librarian and General Counsel, Dr. Lawrence Keitt, and his successor, Mr. Lewis C. Coffin; and the Associate Law Librarian, Mr. Francis X. Dwyer. Thanks are due to the Law Library's division chiefs for their cooperation: Mr. William Crouch (American-British); Mr. Edmund Jann (European); Mrs. Helen Clagett (Hispanic); Dr. Tao-tai Hsia (Far Eastern); and

Dr. Zuhair Jwaideh (Near Eastern and African). I also want to thank the officers of the U.S. Department of State, of the Civil Aeronautics Board and the Federal Aviation Agency, and the many foreign embassy and government officials who provided the editor with extensive information on the laws in force in the various countries.

Analyses, translations, and annotations of the laws of the countries indicated were the work of the staff members of the Law Library listed below. Timely completion of the project was due to their enthusiastic and scholarly application. These contributors are: from the European Law Division—Dr. Fran Gjupanovich (Yugoslavia); Mr. Johannes Klesment (Denmark, Finland, Iceland, Norway, Sweden); Dr. Stefan Kocvara (Czechoslovakia); Dr. Domas Krivickas (U.S.S.R.); Dr. Armins Rusis (U.S.S.R.); Dr. Peter Siekanowicz (Poland); Dr. Ivan Sipkov (Bulgaria); Dr. William Sólyom-Fekete (Hungary); Dr. Virgiliu Stoicoiu (Rumania, Luxembourg); from the Far Eastern Law Division—Dr. Sung Yoon Cho (Japan, Korea); Mr. Paul Ho (China, Taiwan); from the Hispanic Law Division—Mr. Gilberto Fusté-Conde (Portugal); from the Near Eastern and African Law Division—Mr. Kemal Aly Vokopola (Italy, Albania).

Mr. Walter Zeydel, Assistant Chief of the American-British Law Division, did the research on the laws of the United States, the British Commonwealth countries and the new English-language African nations. Mrs. Helen Clagett, jointly with Dr. Strauss, did the translation and editorial work on the Spanish and Portuguese speaking countries. Dr. Strauss made all translations from French and German, except for Luxembourg. The law of Indonesia was translated and transmitted by C. Risakotta, Legal Bureau, Ministry of Air Communications, Djakarta, Indonesia.

Mrs. Valentine Gianturco assisted in the translation of the Italian law and in the editing of other European laws. Mrs. Beatrice Jones and Mrs. Janet Briercheck were responsible for the administrative work.

Mr. Russell B. Adams, vice president of Pan American World Airways was most helpful in procuring legislative material of Panama and Peru, and Mr. Donald Duckworth, general counsel of Trans World Airlines, obtained the law of Ethiopia.

On behalf of the committee, I wish to express particular gratitude to the very able and distinguished chairman of its Aviation Subcommittee, Senator A. S. Mike Monroney. Few men in public and private life are as knowledgeable in the field of aviation. His great interest and constant awareness of the needs of aviation led him to the conclusion that a complete compilation of world air laws and treaties would constitute an invaluable aid in the furtherance and understanding of civil aviation. He so advised the committee and as a consequence the committee unanimously authorized and compilation and publication of this document.

In offering this work, it is my hope and belief that the publication of the air laws and treaties in a single language and a single document will advance worldwide knowledge of the legal foundation of the field of international civil aviation, and will thereby enhance mutual understanding and cooperation among nations.

WARREN G. MAGNUSON, *Chairman.*

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AIR LAWS AND TREATIES OF THE WORLD

ADEN

The State of Aden in the Federation of South Arabia, the Eastern and Western Aden Protectorates and the Sultanate of Muscat and Oman apply the civil aviation laws, including the colonial air acts and orders of the United Kingdom.

AFGHANISTAN

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

CHAPTER ONE—GENERAL AIMS

ARTICLE I. The Royal Government of Afghanistan, considering:

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

Decrees the following:

CHAPTER TWO—REGULATION AND CONTROL OF CIVIL AVIATION

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

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

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

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

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

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

¹ English text supplied by the Royal Afghan Government.

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

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

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

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

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

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

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

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

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

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

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

CHAPTER THREE—THE DEPARTMENT OF CIVIL AVIATION

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

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

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

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

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

d. Foster any other civil aviation activities.

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

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

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

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

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

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

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

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

2. Safety of flights.

3. Air traffic.

4. Procedures for air navigation.

5. Airports.

6. Health.

7. Customs procedures for aircraft entering or departing Afghanistan.

8. Aircraft documents.

9. Registration of aircraft.

10. Training of aviation personnel.

11. Training institutions.

12. Factories and maintenance.

13. Air transport.

14. Aircraft in distress.

15. Investigation of accidents.

16. Telecommunication.

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

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

CHAPTER FOUR—CIVIL AVIATION COUNCIL

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

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

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

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

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

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

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

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

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

- a. Any person who engages in commercial air transportation without an operating certificate;
- b. Any person who pilots an aircraft or, as a member of the crew, participates or assists in any way in operating an aircraft, or who acts as a flying instructor without the appropriate license.
- c. Any person who pilots an aircraft without a certificate of airworthiness or with one the validity of which has expired.

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

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

20 Assad 1335

12 August 1956

AMENDMENT TO THE CIVIL AVIATION ACT

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

ALBANIA

PRELIMINARY

Before World War II Albania did not have any civil aviation of its own. Air services were taken care of by Italy which obtained a concession for all air traffic.¹ Since the war such services have been taken care of by way of bilateral agreements, by the U.S.S.R. or by other Eastern European countries, and recently to a limited extent, again by Italy.

Legislation dealing with civil aviation has been both scattered and scarce. The People's Republic of Albania may be counted among the few countries lacking a law or a code generally covering civil aviation. Thus, the only provisions touching on the subject are to be found in the Customs Code (1956), in Decree No. 1535 of September 4, 1952 describing and protecting the boundaries of the People's Republic of Albania, and in its criminal code. The latter implies (Art. 256) that Albania complies with established and accepted international rules on flight. This, however, has not resulted in making Albania a party to international conventions on civil aviation or in having her elaborate statutes concerning civil aviation conform to the pattern of such principles. The provisions of Albania law applicable to civil aviation follow:

CUSTOMS CODE ²

IMPORT OR EXPORT OF GOODS BY AIR OR LAND

Art. 41. Clearance through customs of goods [shipped] by land and air shall follow the general rules.

Art. 42. Customs supervision and control of goods imported or exported by air shall take place in the airfields established by the Ministry of Communication in accord with the Ministry of Trade.

Art. 43. The commander of an aircraft landing on airports of the Republic with passengers or goods shall submit to the Customs Office of the Airport the following:

- a) The certificates of nationality and registration of his aircraft;
- b) The bill of lading for goods carried together with the documents of the Customs and Post Office of the place of departure;
- c) A list of the names of the passengers and their luggage;
- d) A list of names of the members of the crew of the aircraft.

Art. 44. Before an aircraft takes off from any Albanian airport, it must submit to the Customs Office the following:

- a) A bill of lading and documents of goods transported;
- b) A list of names of the passengers and their luggage.

Art. 45. The loading and unloading of aircraft on the airfield shall take place under the control and supervision of the Customs Authority.

¹ Law of February 20, 1936 in: *Legislazione Aeronautica Estera*, No. XL—Albania. Roma, 1935.

² *Gazeta Zyrtare* (Official Gazette of the People's Republic of Albania No. 16, 1956).

CRIMINAL CODE ³

CRIMES AGAINST THE SOCIALIST ECONOMIC SYSTEM

Destruction and damaging of means of communications

Art. 106. The destruction or damaging of means of communication or of any work connected therewith, of signals, moving objects, or ships, with intent to cause a crash, or to wreck, damage, or halt the movement of railroads, ships, automobiles and airplanes, shall be punished by imprisonment of from 3 to 10 years.

If such acts actually cause a crash, wreck, or damage, or effectively halt the movement [of the carrier] they shall be punished by not less than ten years of imprisonment, or if they cause serious consequences, by the death penalty.

Art. 107. Violation of rules in the field of transport. Unless there are administrative penalties, violations of the rules dealing with the security and the orderly movement of transport by rail, sea, and air, or relating to the protection of transport equipment, to sanitary provisions, or to provisions relating to prevention of fire in the transportation field, shall be punished by a fine of up to 10,000 leks, correctional labor, or imprisonment of up to three years.

Art. 108. Violation of labor discipline in transport. The violation of labor discipline by workers in rail, sea and air transportation, shall be punished by imprisonment of up to ten years, if such offense has caused interruption of transportation plans, stoppage of moving equipment, damage to the means of communications, their installation or to the means of transport themselves, or any other disorder of importance in the field of transportation.

If the violation of labor discipline by workers on rail, sea and air transportation has caused or may cause a crash, collision or damage and other accidents as well as injuries, or serious damage to communication installations and the means of transportation themselves, the punishment shall be not less than ten years of imprisonment, and if such acts cause especially serious consequences, the punishment shall be death.

CRIMES AGAINST THE ADMINISTRATIVE ORDER

Violation of provisions dealing with the protection of the country's boundaries

Art. 255. Unless the act constitutes a more serious crime, crossing any boundary of the State shall be punished by imprisonment of up to five years.

Art. 256. Violations of international flight rules, particularly as to entering or leaving the People's Republic of Albania without flight permission, violations of air routes, landing places, or flight altitude as specified on the permit, shall be punished by a fine of up to 15,000 leks or deprivation of freedom by imprisonment of up to ten years, with or without confiscation of the aircraft.

³ *Kodi Penal i Republikës Popullore të Shqipërisë* (Tiranë, 1959).

Violation of special provisions of the administrative order

Art. 262. Violation of provisions on radio equipment. The violation of provisions on use of radio and radio equipment on Albanian ships or aircraft, or on foreign ships or aircraft in Albanian waters or in the airspace of the Albanian People's Republic, shall be subject to a punishment of a fine of up to 15,000 leks or imprisonment of up to ten years.

ALGERIA

The following basic legislation has been enacted :

1. Decree No. 62-510, August 23, 1962, concerning establishment and organization of a civil aviation service in Algeria (*Journal Officiel* No. 13/14, September 14, 1962).

2. Ordinance No. 62-050, September 24, 1962, concerning registration and definition of, and property in aircraft (*J.O.* No. 19, September 24, 1962).

3. Decree No. 63-58, February 13, 1963, reestablishing freedom of flight in Algeria for aircraft used for touring and aerial work (*J.O.* No. 8, February 22, 1963).

4. Decree No. 63-84, March 5, 1963, ratifying the Chicago Convention (*J.O.* No. 14, March 19, 1963).

5. Ordinance No. 63-412, October 24, 1963, concerning flight rules for aircraft (*J.O.* No. 80, October 29, 1963).

6. Ordinance No. 63-413, October 24, 1963, concerning criminal provisions regarding violation of the rules on registration and definition of aircraft (*J.O.* No. 80, October 29, 1963).

7. Law No. 64-244, August 22, 1964, concerning airdromes and safety restrictions thereon (*J.O.* No. 69, August 25, 1964).

8. There are several decrees and ordinances on administrative matters, such as the establishment of the Algerian Airports as a public corporation, etc.

ARGENTINA

PRELIMINARY

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

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

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

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

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ARGENTINA

AVIATION CODE OF ARGENTINA,¹ PROMULGATED AUGUST 4, 1954

TITLE I—GENERAL PROVISIONS

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

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

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

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

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

TITLE II—PROVISIONS PERTAINING TO NAVIGATION IN THE AIR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE III—GROUND ORGANIZATION

Chapter I—Airdromes

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

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

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

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

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

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

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

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

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

Chapter II—Limitations on property rights

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

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

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

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

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

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

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

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

TITLE IV—AIRCRAFT

Chapter I—Definition

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

Chapter II—Classification

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

Chapter III—National Register of Aircraft

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

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

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

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

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

5. Contracts for the operation of an aircraft;

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

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

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

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

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

Chapter IV—Requirements for Ownership in an Argentine Aircraft

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

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

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

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

Chapter V—Nationality

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

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

Chapter VI—Markings

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

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

Chapter VII—Ownership, Modifications, and Transfers

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

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

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

Chapter VIII—Mortgages and Creditors' Rights

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

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

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

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

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

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

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

Chapter IX—Operation

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

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

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

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

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

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

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

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

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

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

Chapter X—Attachment

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

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

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

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

Chapter XI—Industries

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

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

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

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

TITLE V—FLIGHT PERSONNEL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE VI—FLIGHT OPERATIONS

Chapter I—Documents Pertaining to National Aircraft

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

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

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

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

Chapter II—Documents Pertaining to Foreign Aircraft

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

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

TITLE VII—AIR TRANSPORTATION

Chapter I—Air Transportation in General

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

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

Chapter II—International Air Transportation

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

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

TITLE VIII—OPERATION OF AIR SERVICES

Chapter I—Scheduled Air Transportation Services

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

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

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

Chapter II—Unscheduled Air Transportation Service

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

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

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

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

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

Chapter III—Transportation of Passengers

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

Article 107. Such ticket shall state:

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

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

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

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

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

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

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

Chapter IV—Transportation of Baggage

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

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

Article 113. The baggage check shall state:

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

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

Chapter V—Transportation of Goods

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

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

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

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

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

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

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

Chapter VI—Transportation of Mail

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

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

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

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

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

TITLE IX—SEARCH, AID, AND RESCUE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE X—LIABILITY

Chapter I—Damages Sustained by Passengers or Goods Being Transported

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter II—Damages Caused to Third Parties on the Ground

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

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

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

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

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

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

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

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

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

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

Chapter III—Damages Sustained When the Transportation is Gratuitous

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE XI—INSURANCE

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

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

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

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

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

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

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

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

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

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

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

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

TITLE XII—INSPECTION

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

1. To enforce the performance of the orders and instructions provided for by the certification and the air operations' license, and the observance of the provisions of this Code and regulations which may be promulgated;

2. To enforce the proper performance of services;

3. To supervise the technical, economic, and financial inspection of the enterprise;

4. To suspend service if the necessary safety conditions are not present and to reestablish service when the defects have been corrected;

5. To forbid or to bar the use of flying materiel which does not provide the necessary safety;

6. To inspect materials used in the manufacture and for repairs and the manner in which they are performed;

7. To require that flight personnel meet the conditions imposed by the pertinent provisions;

8. To perform all other technical functions and supervision which the Executive may confer on it.

TITLE XIII—FORFEITURE

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

1. When the factors of public necessity and convenience contemplated at the time it was conferred no longer exist;

2. When the enterprise which is authorized fails to meet major obligations imposed upon it or when it was repeatedly in default in the performance of lesser obligations;

3. When services are not initiated within the period stipulated in the authorization;

4. When services are disrupted partially or completely without good cause or without authorization by the competent authority;

5. When the enterprise which is authorized to operate is insolvent or is declared in a state of bankruptcy or the firm is dissolved by court decree;

6. When authorization was issued in violation of the terms of Article 104;

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

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

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

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

TITLE XIV—STATUTE OF LIMITATIONS

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

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

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

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

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

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

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

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

TITLE XV—JURISDICTION, POWERS, AND APPLICABLE LAW

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE XVI—VIOLATIONS AND PENALTIES

Chapter I—Violations

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

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

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

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

Chapter II—Criminal Offenses

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

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

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

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

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

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

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

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

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

TITLE XVII—POLICE AND PROCEDURES

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

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

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

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

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

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

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

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

TITLE XVIII—MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

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

OTHER LEGISLATION IN FORCE IN ARGENTINA

ORDER NO. 18, FEBRUARY 25, 1958

In view of the development attained by Argentine commercial aviation and the need duly to protect national aeronautic interests, and

Whereas the protection of regional traffic has been universally admitted and the aeronautic authorities of the different countries have adopted the measures directly or indirectly intended for this purpose;

In all bilateral agreements signed by the Argentine Republic in commercial aviation matters, it is expressly stated that the development of local and regional services constitutes a basic right of the countries interested in the route involved:

Today the operation of regional services is not properly adjusted to the principles mentioned above, but, until such time as the Commission set up by Order No. 325/57 for the study of this problem reaches a decision, it is deemed appropriate to maintain the present system of traffic with the neighboring countries in order to avoid an even more prejudicial situation, The National Director of Civil Aviation orders:

1. As from this date, commercial air services between the Argentine Republic and the Republic of Bolivia, Brazil, Chile, Paraguay and Uruguay are hereby subject to the system established by the present order.

2. Commercial aviation companies hereafter shall not transport within each quarterly period a number of passengers and a volume of cargo exceeding those transported during the same period of 1957 in their regular flights.

3. The preceding paragraph does not include the Argentine companies and those belonging to the Republics of Bolivia, Brazil, Chile, Paraguay and Uruguay, which shall transport passengers and cargo between the Argentine Republic and their respective countries on a fair and equal basis.

4. The General Bureau of Commercial Aviation shall be entrusted with the control of the fulfilment of the present Order, until such time as the commission created by Order No. 325/57 issues a decision.

1. Decree 20.727 of December 7, 1954, creates the National Directorate of Civil Aviation in the Ministry of Aeronautics, to replace the Under-Secretariat of Civil Aviation. Repeals Decrees Nos. 25503/50; 28364/50; 897/52; and 351/54, on establishment and organization of said Under-Secretariat. (*Boletín Oficial*, December 29, 1954.)

2. Decree 14119 of September 9, 1955, regulates installation, transportation, and use of photographic and cinematographic equipment in planes. (*Boletín Oficial*, September 15, 1955.)

3. Decree No. 9692, of May 29, 1956, establishes the Technical Advisory Council of Civil Aviation. (*Boletín Oficial*, June 12, 1956.)

4. Decree No. 11.552 of July 2, 1956, approves the Statute for Argentine Airways—Enterprises of the State. (*Boletín Oficial*, July 24, 1956.)

5. Decree No. 19.986 of November 5, 1956, approves the plan of action of the Argentinian State Airlines for the fiscal year of 1956. (*Boletín Oficial*, December 7, 1956.)

6. Decree-Law No. 1256 of February 1, 1957, establishes standards for the constitution, foundation, and control of air-transport enterprises. (*Boletín Oficial*, February 7, 1957.)

7. Decree No. 3109 of March 25, 1957, authorizes "First Uruguayan Lines of Air Navigation" to bring about air navigation service with Uruguay. (*Boletín Oficial*, April 3, 1957.)

8. Decree No. 4678 of May 7, 1957, amends the Statute of Argentinian Airlines and establishes a new text of the same. (*Boletín Oficial*, May 16, 1957.)

9. Decree-Law No. 12/627, of October 11, 1957, establishes standards for registering and naming airplanes. (*Boletín Oficial*, October 23, 1957.)

10. Decree-Law 1.055 of January 29, 1958, creates the Aeronautic Insurance Company as a state enterprise. Repeals Law 13.004 of September 6, 1947, which had set up the Commercial Air Insurance (*Boletín Oficial*, October 14, 1947). (*Boletín Oficial*, February 6, 1958.)

11. Decree 6474 of April 30, 1958, approves the jurisdiction regulation of the Ministry of Aeronautics. (*Boletín Oficial*, May 16, 1958.)

12. Decree 2649 of July 24, 1958, lists the minimum first aid and medical supplies which must be carried on planes and amends Decree 9626 of 1949 on this subject. (*Boletín Oficial*, August 14, 1958.)

13. Decree 11.161 of December 11, 1958, approves regulations of Article 29 of the "Standards for the functioning and control of air traffic." (*Boletín Oficial*, January 7, 1959.)

14. Decree 1.875 of February 23, 1959, regulates jurisdiction of the military Administration of the Secretariat of Aeronautics. (*Boletín Oficial*, February 27, 1959.)

15. Decree 636 of January 22, 1961, permits aircraft of foreign registration imported prior to November 25, 1960, to be registered, provided payment is made of a 20-percent surcharge. (*Boletín Oficial*, March 13, 1961.)

16. Decree-Law 6,667 of August 9, 1963, adopts rules to govern local transportation of postal air cargo. (*Boletín Oficial*, September 27, 1963.)

AUSTRALIA

AIR NAVIGATION ACT 1920-1950.*

An Act relating to Air Navigation.

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

1. This Act may be cited as the *Air Navigation Act 1920-1950* †

Short title.
Short title
amended:
No. 32, 1918,
s. 2.

2. This Act shall commence in relation to the several States and Territories on such days as are respectively fixed by Proclamation.†

Commencement.

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

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

Definitions.
Amended by
No. 6, 1947,
s. 2;
and No. 80,
1950, s. 3 and
First Schedule.

3A. The ratification on behalf of Australia of the Chicago Convention is approved.

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

* * * * *

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

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

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

† The respective dates so fixed were—

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

† Section 6 of the *Air Navigation Act 1947* reads as follows:—
“6. Section four of the Principal Act as amended by this Act shall cease to have effect as at midnight on the ninth day of August, One thousand nine hundred and forty-seven and shall be deemed to be repealed as at that time.”

[Omitted]

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

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

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

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

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

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

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

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

AUSTRALIAN NATIONAL AIRLINES ACT 1945-1952.*

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

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

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

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

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

PART I.—PRELIMINARY.

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

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

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

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

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

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

Part I.—Preliminary.

Part II.—The National Airline Services.

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

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

Division 3.—Finances of the Commission.

Division 4.—Reports.

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

Part IV.—Limitations in respect of Airline Services.

Part V.—Compensation.

Part VI.—Penalties and Procedure.

Part VII.—Miscellaneous.

Definitions.

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

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

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

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

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

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

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

“Australia” includes the Territories of the Commonwealth;

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

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

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

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

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

Extension of
Act to
Territories.

PART II.—THE NATIONAL AIRLINE SERVICES.

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

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

Australian
National
Airlines
Commission.

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

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

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

Composition of Commission.

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

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

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

Term of office of Commissioners.

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

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

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

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

Remuneration of Commissioners.

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

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

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

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

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

Absence of Chairman.

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

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

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

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

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

Illness or absence of Commissioners.

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

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

Determination of conditions of leave of absence of Commissioners.

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

Dismissal of a Commissioner or Acting Commissioner.

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

Vacation of office.

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

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

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

(2.) A Commissioner shall not be deemed—

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

by reason only—

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

Meetings of
Commission.

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

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

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

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

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

Delegation of
powers by
Commission.

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

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

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

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

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

- (a) he is a natural-born or naturalized British subject;
- (b) the Commission is satisfied, upon such medical examination as is prescribed, as to his health and physical fitness; and

(c) he makes and subscribes an oath or affirmation of allegiance in accordance with the prescribed form, and shall not be appointed to a clerical office in that Service unless he has in open competition successfully passed the prescribed entrance examination:

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

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

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

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

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

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

* * * * *

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

Sub-section (9.) omitted by No. 102, 1952, s. 3.*

Temporary and casual employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2.) The Commission shall not—

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

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

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

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

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

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

Power to purchase and dispose of assets.

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

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

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

Contracts for
transport of
mails.

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

General
contractual
powers of
Commission.

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

Commission to
be common
carrier.

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

Alterations
made by
direction of
Minister.

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

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

Contracts by
the
Commission—
how made.

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

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

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

Commission
may
compound for
breach of
contract.

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

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

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

Limitation of powers.

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

Application of Air Navigation Regulations.

Division 3.—Finances of the Commission.

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

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

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

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

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

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

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

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

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

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

Commission to prepare annual estimates.

Moneys
uninvested
may be lodged
in Bank.

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

Application of
moneys.

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

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

Accounts.

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

Audit.

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

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

Liability of
Commission to
pay rates,
taxes and
charges.

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

Sub-sections (2.)
and (3.) added by
No. 102, 1952,
s. 7 (1.) (6).

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

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

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

Profits of the
Commission.

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

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

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

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

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

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

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

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

* * * * *

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

Division 4.—Reports.

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

Annual report
by Commission.

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

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

Further reports
to Minister.

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

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

Power to
acquire.

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

Property to
vest in
Commission.

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

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

Duty of owner to deliver up possession of property acquired.

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

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

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

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

Airline licences to be inoperative in certain circumstances.

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

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

PART IV.—LIMITATIONS IN RESPECT OF AIRLINE SERVICES.

46.—(1.) * * * * *

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

Limitation with respect to issue of airline licences.

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

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

* * * * *

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

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

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

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

49. A person shall not enter into a contract—

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

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

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

Penalty: Five hundred pounds.

PART V.—COMPENSATION.

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

Compensation Board.

(2.) The Compensation Board shall include—

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

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

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

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

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

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

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

Deputies.

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

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

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

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

Claims for compensation.

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

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

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

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

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

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

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

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

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

Determination
of
compensation.

- (a) the amount of compensation which it considers reasonable; or
- (b) that, in its opinion, the claimant is not entitled to any compensation.

as the case may be.

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

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

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

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

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

**Assessment by
Compensation
Board.**

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

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

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

a notice stating the compensation so assessed.

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

**Applications
for review.**

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

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

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

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

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

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

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

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

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

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

Interest on
compensation.

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

Other rights of
action barred.

Rules.

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

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

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

PART VI.—PENALTIES AND PROCEDURE.

Recovery of
fares or
charges.

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

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

Damage to be
made good in
addition to
penalty.

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

Arrest of
offenders.

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

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

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

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

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

Limitation of actions against the Commission.

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

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

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

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

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

PART VII.—MISCELLANEOUS.

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

Medical examination of persons injured in accident.

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

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

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

Limit of
damages for
personal
injury.

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

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

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

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

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

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

Insurance.

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

By-laws.

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

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

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

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

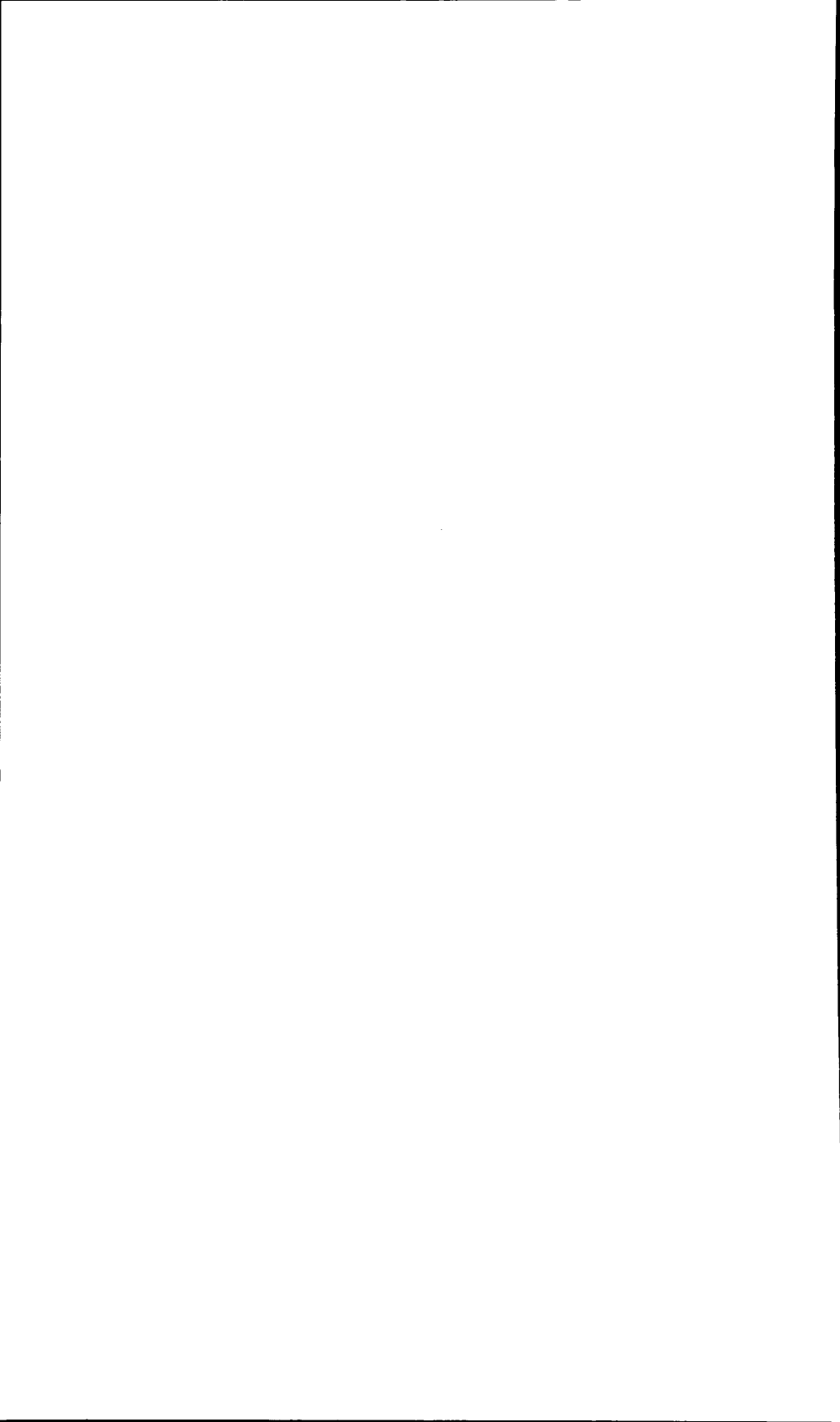
- (a) approved by the Governor-General; and
- (b) published in the *Gazette*.

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

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

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

Regulations.



AIR NAVIGATION.

No. 39 of 1960.

An Act to amend the *Air Navigation Act* 1920-1950,
and for other purposes.

[Assented to 10th June, 1960.]

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

1.—(1.) This Act may be cited as the *Air Navigation Act* 1960. Short title and citation.

(2.) The *Air Navigation Act* 1920-1950* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Air Navigation Act* 1920-1960.

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

3. Sections two and three of the Principal Act are repealed and the following sections inserted in their stead:—

“ 2. This Act extends to every Territory of the Commonwealth. Extension to Territories.

* Act No. 50, 1920, as amended by No. 93, 1936; Nos. 6 and 89, 1947; and No. 80, 1950.

Act to bind
Crown.

" 2A. This Act binds the Crown in right of the Commonwealth or of any State.

Interpretation.

" 3.—(1.) In this Act, unless the contrary intention appears—
' aircraft ' does not include state aircraft;

' (Australian aircraft ' means an aircraft registered in Australia in accordance with the regulations;

' Australian territory ' means the territory of the Commonwealth and of every Territory of the Commonwealth, and includes the territorial waters of the Commonwealth and of every such Territory and the air space over any such territory or territorial waters;

' Contracting State ' means a country, other than Australia, that is a party to the Chicago Convention;

' crew ', in relation to an aircraft, includes every person having duties or functions on board the aircraft during the flight of the aircraft in connexion with the flying or safety of the aircraft;

' international airline ' means an air transport enterprise offering or operating an international air service;

' non-scheduled flight ', in relation to an aircraft that possesses the nationality of a Contracting State, means a flight by that aircraft over or into Australian territory otherwise than under the authority of an international airline licence issued by the Director-General in pursuance of the regulations;

' pilot in command ', in relation to an aircraft, means the pilot responsible for the operation and safety of the aircraft during the flight of the aircraft;

' state aircraft ' means—

- (a) aircraft of any part of the Defence Force, including any aircraft that is commanded by a member of that Force in the course of his duties as such a member; and

- (b) aircraft used in the military, customs or police services of a country other than Australia;

' the Air Transit Agreement ' means the International Air Services Transit Agreement concluded at Chicago on the seventh day of December, One thousand nine hundred and forty-four;

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

' the Director-General ' means the Director-General of Civil Aviation and includes any person acting as Director-General;

'the International Air Transport Association' means the association incorporated under that name by Act 9-10 George VI., Chapter 51, of the Parliament of Canada;

'the International Civil Aviation Organization' means the organization, so named, formed under Article 43 of the Chicago Convention.

"(2.) Any reference in this Act to a contravention of, or failure to comply with, a provision of this Act includes a reference to a contravention of, or failure to comply with, an instruction, direction, condition or requirement issued, given, made or imposed in pursuance of this Act."

4. Section three A of the Principal Act is amended by adding at the end thereof the following sub-section:—

Approval of
ratification of
Chicago
Convention,
&c.

"(2.) Approval is given to the ratification on behalf of Australia of—

- (a) the Air Transit Agreement;
- (b) the Protocol amending Article 45 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on the fourteenth day of June, One thousand nine hundred and fifty-four; and
- (c) the Protocol amending Articles 48 (a), 49 (e) and 61 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on the fourteenth day of June, One thousand nine hundred and fifty-four."

5. Section five of the Principal Act is repealed and the following sections are inserted in its stead:—

"4. For the purposes of this Act, the texts of the Chicago Convention, the Air Transit Agreement and the Protocols referred to in the last preceding section shall be deemed to be the English texts set out respectively in the First, Second, Third and Fourth Schedules to this Act.

Texts of
Conventions
&c.

"5. The Minister may, by notice published in the *Gazette*, declare which countries are from time to time parties to the Chicago Convention, the Air Transit Agreement or any of the Protocols referred to in section three A of this Act, and such a notice is evidence of the matter so declared.

Contracting
States.

"6.—(1.) The International Civil Aviation Organization possesses such legal capacity and is entitled to such privileges and immunities as are necessary for the independent exercise of its powers and performance of its functions in Australian territory.

International
Civil Aviation
Organization.

“(2.) Without limiting the generality of the last preceding sub-section, the International Civil Aviation Organization has in Australian territory juridical personality and the capacity—

- (a) to contract;
- (b) to acquire and dispose of real and personal property; and
- (c) to institute legal proceedings.

“(3.) The archives and other documents of the International Civil Aviation Organization kept in Australian territory are inviolable.

**Establishment
and conduct
of Aeronautical
Information
Service.**

“7.—(1.) The Minister may establish and conduct a service to be known as the Aeronautical Information Service.

“(2.) The functions of the Aeronautical Information Service are to collect and disseminate aeronautical information and instructions relating to the safety, regularity and efficiency of air navigation, being information and instructions with respect to—

- (a) aerodromes;
- (b) air traffic control services and facilities;
- (c) communication and air navigation services and facilities;
- (d) meteorological services and facilities;
- (e) search and rescue services and facilities;
- (f) procedures and regulatory requirements connected with air navigation; and
- (g) hazards to air navigation.

**Publication of
Aeronautical
Information
Publications
and Notices
to Airmen.**

“8.—(1.) The Aeronautical Information Service shall publish publications to be known as Aeronautical Information Publications and notices to be known as Notices to Airmen.

“(2.) There shall be published in Aeronautical Information Publications the aeronautical information and instructions that, by this Act or the regulations, are required to be so published and such other aeronautical information and instructions as are of a lasting character essential to air navigation:

“(3.) There shall be published in Notices to Airmen the aeronautical information and instructions that, by this Act or the regulations, are required to be so published and such other aeronautical information and instructions as—

- (a) are of a temporary character; or
- (b) cannot be made available with sufficient expedition by publication in Aeronautical Information Publications.

“(4.) The Director-General shall forward copies of Aeronautical Information Publications and Notices to Airmen to the International Civil Aviation Organization.

"9.—(1.) The Minister may, by writing under his hand, designate as an international airport an aerodrome at which facilities are available for the formalities incident to customs, immigration, quarantine and other requirements in connexion with arrival in or departure from Australian territory of aircraft.

International airports.

"(2.) The Director-General shall cause to be published in Aeronautical Information Publications particulars of the aerodromes designated as international airports under the last preceding sub-section.

"10. Subject to such exceptions as are prescribed—

(a) an aircraft arriving in Australian territory from a place outside Australian territory shall land at an aerodrome designated as an international airport under the last preceding section; and

(b) an aircraft departing from Australian territory for a place outside Australian territory shall take-off from an aerodrome so designated.

International aircraft to land at and take-off from designated airports.

"11. Subject to the next succeeding section, a scheduled international air service conducted by an international airline of a country other than Australia that is a party to the Air Transit Agreement has, in respect of Australian territory, the following freedoms of the air:—

Freedoms of the air.

(a) the privilege to fly across Australian territory without landing; and

(b) the privilege to land in Australian territory for any purpose other than taking on or discharging passengers, cargo or mail.

"12.—(1.) An international airline of a country other than Australia shall not operate a scheduled international air service over or into Australian territory except in accordance with an international airline licence issued by the Director-General in accordance with the regulations.

International airline licences

"(2.) An international airline licence shall not be granted to an international airline of a country other than Australia unless that country and Australia are parties to the Air Transit Agreement, or to some other agreement or arrangement, whether bilateral or multilateral, under which scheduled international air services of that other country may, subject to the agreement or arrangement, be operated over or into Australian territory.

**Suspension or
cancellation
of international
airline licences.**

“ 13. The Minister may suspend or cancel an international airline licence issued to an international airline of a country other than Australia if and only if—

- (a) the airline or any aircraft operated by the airline fails to comply with a provision of this Act or the regulations or the terms of its licence; or
- (b) the airline fails to conform to, or comply with, any term or condition of the relevant agreement or arrangement referred to in the last preceding section.

**Non-scheduled
flights by
aircraft
possessing
nationality of a
Contracting
State.**

“ 14.—(1.) An aircraft that possesses the nationality of a Contracting State may, subject to observance of the terms of the Chicago Convention and the provisions of this Act and the regulations, fly in transit non-stop across Australian territory, or land in Australian territory for non-traffic purposes, in the course of a non-scheduled flight, without the necessity of obtaining prior permission.

“ (2.) Where an aircraft that possesses the nationality of a Contracting State makes a non-scheduled flight into Australian territory, it shall not take on or discharge passengers, cargo or mail in Australian territory (being passengers, cargo or mail that has been, or is to be, carried for reward) except with the permission of the Director-General and in accordance with that permission.

“ (3.) The Director-General shall cause to be published in Aeronautical Information Publications the procedure to be followed and the particulars to be supplied by applicants for the permission referred to in the last preceding sub-section.

“ (4.) In considering an application for the permission referred to in sub-section (2.) of this section, the Director-General shall have regard to—

- (a) the public interest;
- (b) the need to provide reasonable protection for the operators of regular public air transport services between Australia and other countries so as to ensure the maintenance of regular air transport services for the carriage of passengers, cargo and mail between Australia and other countries; and
- (c) any resolution or decision of the International Civil Aviation Organization or of the International Air Transport Association that has been approved by the Minister and is relevant to the matter.

“ (5.) The Director-General, in giving a permission for the purpose of sub-section (2.) of this section, may direct that the charges to be made in respect of passengers or cargo taken on or discharged in Australian territory shall be not less than such amounts as he directs.

"(6.) For the purposes of this section, an aircraft arriving in Australian territory from a place outside Australian territory shall be deemed to discharge passengers, cargo or mail if it lands at any place in Australian territory while carrying passengers, cargo or mail destined for that place or another place in Australian territory.

"(7.) Notwithstanding anything in the preceding provisions of this section, where it appears to the Director-General that an aircraft that possesses the nationality of a Contracting State is intended, in the course of a non-scheduled flight over Australian territory, to proceed over regions that are inaccessible or without adequate air navigation facilities, the Director-General may, if he considers it necessary in the interests of safety, direct that the aircraft follow an established air route or that the flight shall be conducted in accordance with such conditions as he specifies, and the aircraft shall comply with that direction.

"15.—(1.) A foreign aircraft that does not possess the nationality of a Contracting State shall not make a non-scheduled flight over or into Australian territory unless the Minister has approved the flight.

Non-scheduled flight by foreign aircraft not possessing nationality of Contracting State.

"(2.) In giving an approval under the last preceding sub-section the Minister may impose such conditions and requirements as to the flight as he thinks fit, including such conditions and requirements as he considers necessary to ensure compliance with the general principles contained in the Chicago Convention, and the aircraft shall comply with those conditions and requirements.

"16. The owner, the operator, the hirer, the pilot in command and any other pilot of an aircraft arriving in Australian territory from a place outside Australian territory or departing from Australian territory for a place outside Australian territory shall comply with the provisions of all applicable laws, whether of the Commonwealth or of a State or Territory of the Commonwealth, for the time being in force, including laws relating to the entry or clearance of passengers, crew or cargo, immigration, passports, customs and quarantine.

Aircraft on international flights to comply with laws.

"17. Except as provided by sub-section (1.) of section fourteen of this Act or in accordance with an international airline licence or an approval under section fifteen of this Act, an aircraft shall not arrive in Australian territory from a place outside Australian territory, or depart from Australian territory for a place outside Australian territory, without the permission of the Director-General.

Aircraft on international flights to have permission.

"18. The Minister may make arrangements with the appropriate Minister for the use by aircraft engaged in civil air navigation of an aerodrome under the control of a part of the Defence Force

Defence aerodromes.

and, subject to the terms of the arrangement, the Director-General may authorize the use of the aerodrome by aircraft so engaged in accordance with such conditions as the Director-General specifies.

**Carriage of
munitions.**

“ 19.—(1.) Munitions of war or implements of war shall not be carried by an aircraft in or over Australian territory, or by an Australian aircraft outside Australian territory, except with the permission in writing of the Minister and in accordance with any conditions to which the permission is expressed to be subject.

“ (2.) In this section—

- (a) the reference to munitions of war or implements of war shall be read as including a reference to any articles declared by the regulations to be munitions of war or implements of war, as the case may be ; and
- (b) a reference to aircraft shall be read as including a reference to state aircraft of a country other than Australia.

**The Civil
Air Ensign.**

“ 20.—(1.) The design and colours of the Civil Air Ensign of Australia are as specified by the Minister by notification in the *Gazette* on the fourth day of March, One thousand nine hundred and forty-eight, unless and until another ensign is appointed in its place in pursuance of section five of the *Flags Act* 1953–1954.

“ (2.) The Civil Air Ensign of Australia shall not, either within or outside Australian territory, be flown, painted or otherwise displayed, except—

- (a) by the Department of Civil Aviation on its buildings, boats and aircraft;
- (b) on an Australian aircraft engaged in international air navigation;
- (c) by the Commonwealth on an aerodrome maintained and operated by the Commonwealth under the regulations; or
- (d) in accordance with the permission of, and subject to such conditions as are specified by, the Director-General, in writing.

**Interference
with
navigational
aids.**

“ 21.—(1.) Where it appears to the Minister that any installation is or may be, either actively or passively, causing interference with radio communications to or from aircraft or with navigational aids in circumstances that are likely to endanger the safety of aircraft engaged in interstate or international air navigation or air navigation within or to or from a Territory of the Commonwealth, the Minister may authorize a notice to be served upon the owner or user of the installation or the owner or

occupier of the premises or place in which the installation is installed or kept directing him to permit the installation to be inspected and tested by an officer.

“(2.) If, as a result of such an inspection or otherwise, it appears to the Minister necessary to do so for the safety of aircraft referred to in the last preceding sub-section, the Minister may authorize a notice to be served on the owner or user of the installation or the owner or occupier of the premises or place in which the installation is installed directing the person on whom the notice is served to make such modification to the installation, or to take such other action, as is necessary to eliminate the cause of the interference, within such reasonable time as is specified in the notice.

“(3.) Where the installation has been installed and is used and operated in accordance with all applicable laws, the owner or user of the installation or the owner or occupier of the premises or place in which the installation is installed may recover from the Commonwealth the amount of all reasonable expenses incurred, and of loss actually suffered, in complying with the direction.

“(4.) A person shall not, without reasonable excuse—

- (a) fail to comply with a direction contained in a notice under this section; or
- (b) impede or obstruct an officer or fail to afford every facility to an officer in the inspection or testing of any installation the subject of a notice under this section.

“(5.) If a person upon whom a notice under sub-section (2.) of this section is served fails to comply with a direction contained in the notice, the Minister may authorize an officer, with such assistance as the officer requires, to enter the premises or place in which the installation is installed or kept, with such force as is necessary, and to take such action as is directed in the notice.

“(6.) A notice under this section may be served personally or may be served by post at the last-known place of abode or last-known place of business of the person on whom it is served or at the address at which the installation concerned is installed.

“(7.) In this section, ‘installation’ includes any electrical or other equipment or any metallic structure.

“22.—(1.) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence. Offences.

“(2.) The owner, the operator and the hirer (not being the Crown), and the pilot in command and any other pilot, of an aircraft that flies in contravention of, or fails to comply with, a provision of this Act is guilty of an offence.

"(3.) An offence against this Act may be prosecuted either summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

"(4.) The punishment for an offence against this Act is—

- (a) if the offence is prosecuted summarily—a fine not exceeding Two hundred pounds or imprisonment for a term not exceeding six months, or both; or
- (b) if the offence is prosecuted upon indictment—a fine not exceeding Five hundred pounds or imprisonment for a term not exceeding two years, or both, or, if the offender is a body corporate, a fine not exceeding Five thousand pounds.

"(5.) Proceedings for the commitment of a person for trial on indictment for an offence against this Act shall not be instituted except with the consent in writing of the Director-General.

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

"(7.) Notwithstanding the preceding provisions of this section, the regulations may make provision for or in relation to other consequences (in addition to punishment for an offence) of contravention of, or failure to comply with, a provision of this Act or the regulations or to ensure compliance with a provision of this Act or the regulations.

**Defences in
proceedings
with respect to
offences.**

"23.—(1.) In any proceedings with respect to an offence against this Act or the regulations, it is a defence if the act or omission charged is proved to have been due to stress of weather or other unavoidable cause.

"(2.) In any proceedings against the owner, operator, hirer, pilot in command or other pilot of an aircraft with respect to an offence against this Act or the regulations, it is a defence if the act or omission charged is proved to have taken place without his fault or privity.

**Crown not
liable to
prosecution.**

"24. Nothing in this Act shall be taken to subject the Crown in right of the Commonwealth or of a State to liability to be prosecuted for an offence, but this section does not affect any liability of a member of the crew of an aircraft of which the Crown is the owner or of any other person in the employment of the Crown to be so prosecuted.

**Jurisdiction
of Courts.**

"25.—(1.) Subject to the succeeding provisions of this section—

- (a) the several courts of the States are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories of the Commonwealth,

with respect to offences against this Act or the regulations.

“(2.) The jurisdiction invested in or conferred on courts by the last preceding sub-section is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

“(3.) The trial on indictment of an offence against this Act or the regulations, not being an offence committed within a State, may be held in any State or Territory of the Commonwealth.

“(4.) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate, or a District Officer or Assistant District Officer of a Territory of the Commonwealth.

“(5.) Where an appeal lies from a court to the Supreme Court of a State or Territory of the Commonwealth, an appeal from a decision of the first-mentioned court exercising jurisdiction by virtue of this section may be brought to the High Court.

“(6.) The High Court may grant special leave to appeal to the High Court from a decision of a court of a State or Territory of the Commonwealth exercising jurisdiction by virtue of this section notwithstanding that the law of that State or Territory prohibits an appeal from the last-mentioned court.

“(7.) Subject to this Act, the laws of a State or Territory of the Commonwealth with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act or the regulations.

“(8.) Except as provided by this section, the *Judiciary Act* 1903-1960 applies in relation to offences against this Act or the regulations.

“(9.) For the purposes of this section, ‘court of summary jurisdiction’ includes a court of a Territory of the Commonwealth sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory.

Regulations.

“26.—(1.) The Governor-General may make regulations, not inconsistent with this Act—

- (a) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- (b) for the purpose of carrying out and giving effect to the Chicago Convention, as amended by the Protocols referred to in sub-section (2.) of section three A of this Act, any Annex to the Convention relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and the Air Transit Agreement;
- (c) in relation to air navigation within a Territory of the Commonwealth or to or from a Territory of the Commonwealth;
- (d) in relation to air navigation, being regulations with respect to trade and commerce with other countries and among the States; and
- (e) in relation to air navigation, being regulations with respect to any other matter with respect to which the Parliament has power to make laws.

“(2.) Without limiting the generality of the preceding provisions of this section, the regulations that may be made under the powers conferred by those provisions include regulations for or in relation to—

- (a) the registration, marking and airworthiness of aircraft;
- (b) requiring persons performing specified functions in relation to the operation or maintenance of aircraft to be the holders of licences or certificates of specified kinds, and providing for the grant, cancellation, suspension or variation of such licences and certificates;
- (c) the licensing of air transport operations;
- (d) controlling the provision for reward of air transport within a Territory of the Commonwealth or to or from a Territory of the Commonwealth;
- (e) the establishment, maintenance, operation and use of aerodromes and air route and airway facilities and the licensing of aerodromes other than aerodromes maintained by the Commonwealth;
- (f) hygiene, sanitation and public health at aerodromes;

- (g) the prohibition of the construction of buildings or other structures, the restriction of the dimensions of buildings or other structures, and the removal in whole or in part or the marking of buildings, other structures, trees or other natural obstacles, that constitute or may constitute obstructions, hazards or potential hazards to aircraft flying in the vicinity of an aerodrome, and such other measures as are necessary to ensure the safety of aircraft using an aerodrome or flying in the vicinity of an aerodrome;
- (h) empowering the Director-General, or an officer thereunto authorized by the Director-General, to give or issue directions or instructions to all or any of the persons holding licences or certificates under this Act or the regulations, being directions or instructions with respect to matters affecting the safe navigation and operation, or the maintenance, of aircraft, and providing for the manner in which such directions and instructions are to be notified;
- (i) the formal proof and authentication of instruments made or issued under this Act or the regulations;
- (j) the powers (including powers of arrest) that may be exercised by members of the crew of an aircraft, in relation to persons on board the aircraft, for the purpose of ensuring the safety of the aircraft or of its passengers, crew or cargo or otherwise for the purposes of this Act or the regulations; and
- (k) the imposition of penalties not exceeding a fine of Five hundred pounds or imprisonment for a term of two years, or both, for a contravention of, or failure to comply with, a provision of the regulations or a direction, instruction or condition issued, given, made or imposed under, or in force by virtue of, the regulations.

“(3.) Where the regulations make provision for the removal or marking of structures or obstacles referred to in paragraph (g) of the last preceding sub-section, the regulations shall also include provision for the payment of compensation to any person who suffers loss or damage or incurs expense in or as a direct result of the removal or marking.

“(4.) Regulations affecting air navigation to or from the Northern Territory have effect notwithstanding section ten of the *Northern Territory (Administration) Act* 1910-1959.

“27. Any provisions of the regulations may be expressed to apply to and in relation to Australian aircraft, persons on board Australian aircraft, and members of the crews of Australian aircraft, outside Australian territory.

Extra-territorial
operation of
regulations.

Appeals in respect of refusal to grant or cancellation, &c., of licences or certificates.

“ 28.—(1.) Where the regulations include requirements in pursuance of paragraph (b) of sub-section (2.) of section twenty-six of this Act, the regulations shall, subject to the Constitution, also include provisions under which a person aggrieved by a refusal to grant, or by a cancellation, suspension or variation of, a licence or certificate of a kind referred to in those requirements has a right of appeal to a particular court, or has a right of appeal to such one of two or more courts as he selects.

“ (2.) Nothing in the last preceding sub-section—

- (a) shall be taken to prevent the making of regulations for or in relation to the conferring on any administrative authority, including a board of review constituted under the regulations, of powers and functions, to be exercised by way of appeal or review, in respect of matters referred to in that sub-section;
- (b) shall be taken to require the regulations to give to a person who has elected to have a matter dealt with by an administrative authority having such powers and functions a right to appeal in the same matter to a court; or
- (c) applies in relation to a temporary suspension for the purposes of an examination or a suspension for a period not exceeding twenty-eight days pending completion of an investigation.

“ (3.) The regulations may make provision for and in relation to all or any of the following:—

- (a) investing the Supreme Courts of the States with federal jurisdiction;
- (b) conferring jurisdiction upon the Supreme Courts of the Territories of the Commonwealth; and
- (c) conferring jurisdiction upon a federal court,

for the purposes of regulations made in pursuance of the preceding provisions of this section.

“ (4.) The jurisdiction invested in, or conferred on, a court in pursuance of this section may be exercised by a single Judge of the court.

“ (5.) The reference in sub-section (2.) of section one hundred and ninety-eight of the *Conciliation and Arbitration Act 1904-1960* to jurisdiction conferred upon the Commonwealth Industrial Court by any other Act shall be read as including a reference to any jurisdiction that may be conferred on that Court in pursuance of this section.

“ (6.) In this section, ‘court’ means a federal court, the Supreme Court of a State or the Supreme Court of a Territory of the Commonwealth.

" 29. As soon as practicable after the thirtieth day of June, One thousand nine hundred and sixty-one, and after each succeeding thirtieth day of June, the Minister shall prepare and lay before each House of the Parliament a report on the administration and working of this Act and the regulations and on such other matters concerning civil air navigation as the Minister considers should be brought to the attention of Parliament. Annual report.

" 30. It is hereby declared to be the intention of the Parliament that an officer, authority or person having powers or functions under this Act or the regulations may also have, exercise and perform similar powers or functions conferred by the law of a State relating to air navigation. Powers and functions under State laws.

" 31.—(1.) The Minister or the Director-General may, either generally or in relation to a matter or class of matters, by writing under his hand, delegate to a person or persons all or any of his powers and functions under this Act except this power of delegation. Delegation.

" (2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

" (3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the Director-General, as the case may be."

6. The Air Navigation Regulations, being Statutory Rules 1947, No. 112, as amended from time to time and in force, or purporting to be in force, immediately before the commencement of this Act are as valid and effectual as if they had been made under the Principal Act, as amended by this Act, and shall, subject to any regulations made under the Principal Act as amended by this Act, continue in force notwithstanding the repeal of section five of the Principal Act. Saving and continuance of regulations.

7. The Principal Act is amended by adding at the end thereof the following heading and Schedules:— Schedules.

(NOTE: Schedules omitted)



AIR NAVIGATION.

No. 72 of 1961.

An Act to amend the *Air Navigation Act* 1920-1960.

[Assented to 27th October, 1961.]

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

1.—(1.) This Act may be cited as the *Air Navigation Act* 1961. Short title and citation.

(2.) The *Air Navigation Act* 1920-1960* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Air Navigation Act* 1920-1961.

2. Section three A of the Principal Act is amended—

(a) by omitting from paragraph (b) of sub-section (2.) the word “and” (last occurring); and

(b) by

Approval of
ratification of
Chicago
Convention, &c.

* Act No. 50, 1920, as amended by No. 93, 1936; Nos. 6 and 89, 1947; No. 80, 1950; and No. 39, 1960.

(b) by adding at the end of sub-section (2.) the following word and paragraph:—

“ ; and (d) the Protocol amending Article 50(a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on the twenty-first day of June, One thousand nine hundred and sixty-one.”.

Texts of
Convention, &c.

3. Section four of the Principal Act is amended by omitting the words “ and Fourth ” and inserting in their stead the words “ , Fourth and Fifth ”.

Fifth Schedule.

4. The Principal Act is amended by adding at the end thereof the following Schedule:—

AIR NAVIGATION.

No. 8 of 1963.

An Act to amend the *Air Navigation Act* 1920–1961.

[Assented to 20th May, 1963.]

[Date of commencement, 17th June, 1963.]

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

1.—(1.) This Act may be cited as the *Air Navigation Act* 1963. Short title and citation.

(2.) The *Air Navigation Act* 1920–1961* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Air Navigation Act* 1920–1963.

2. Section three A of the Principal Act is amended—

Approval of ratification of Chicago Convention, &c.

(a) by omitting from paragraph (c) of sub-section (2.) the word “and” (last occurring); and

(b) by

(b) by adding at the end of sub-section (2.) the following word and paragraph:—

Texts of Convention, &c.

“; and (e) the Protocol amending Article 48 (a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on the fourteenth day of September, One thousand nine hundred and sixty-two.”.

Sixth Schedule.

3. Section four of the Principal Act is amended by omitting the words “and Fifth” and inserting in their stead the words “, Fifth and Sixth”.

4. The Principal Act is amended by adding at the end thereof the following Schedule:—

* Act No. 50, 1920, as amended by No. 93, 1936; Nos. 6 and 89, 1947; No. 80, 1950; No. 39, 1960; and No. 72, 1961.

[Omitted]

AIRPORTS (BUSINESS CONCESSIONS).

No. 89 of 1959.

An Act to provide for the Grant of Leases, Licences and Trading Rights in connexion with Commonwealth Airports.

[Assented to 3rd December, 1959.]

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

1. This Act may be cited as the *Airports (Business Concessions) Act 1959*. Short title.
2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
3. In this Act, unless the contrary intention appears— Definitions.
“ airport ” means—
 - (a) an aerodrome owned, or held under lease, by the Commonwealth and operated in pursuance of the *Air Navigation Act 1920-1950* or of the regulations under that Act; or

- (b) such part of an aerodrome owned, or held under lease, by the Commonwealth and under the control of a part of the Defence Force as is made available for civil aviation purposes in pursuance of arrangements made by the Minister administering that Act;

“lease” includes a sub-lease.

Act to bind
Crown.

4. This Act binds the Crown in right of a State.

Application
of Act to
Territories.

5.—(1.) Except in accordance with a Proclamation under this section, this Act does not apply in a Territory of the Commonwealth forming part of the Commonwealth or extend to a Territory of the Commonwealth not forming part of the Commonwealth.

(2.) The Governor-General may, by Proclamation, declare that, on and after a date specified in the Proclamation, this Act shall apply in a Territory so specified, being a Territory of the Commonwealth forming part of the Commonwealth, or shall extend to a Territory so specified, being a Territory of the Commonwealth not forming part of the Commonwealth.

(3.) Where, in a Territory of the Commonwealth to which this Act extends, the Commonwealth operates an aerodrome in pursuance of the *Air Navigation Act 1920–1950* or of the regulations under that Act on land that is owned by the Crown in right of the Territory or by the Administration of the Territory and has been made available for the purposes of the aerodrome otherwise than by a lease, this Act applies in relation to that aerodrome as if it were an airport as defined in section three of this Act, except that the Minister is not authorized to grant a lease in respect of land within such an aerodrome.

Leases and
licences.

6.—(1.) The Minister may, on behalf of the Commonwealth—

- (a) grant leases and licences in respect of land within an airport on such terms and conditions, and subject to payment of such rent or other consideration, as the Minister thinks fit; and
- (b) exercise any power or remedy of the Commonwealth in respect of any such lease or licence.

(2.) This section has effect notwithstanding anything contained in the *Lands Acquisition Act 1955–1957*.

Prohibition
on trading,
&c., without
authority.

7.—(1.) Except in accordance with an authority granted under the next succeeding section and the terms and conditions of that authority, a person shall not, within an airport, either personally or by his servant or agent, or as the servant or agent of another person—

- (a) sell, for delivery within the airport, or supply, any goods or services;

- (b) carry on, or solicit for, any business; or
- (c) erect, display or distribute, or communicate by sound, any advertisement or public notice.

(2.) A person who contravenes the last preceding sub-section is guilty of an offence punishable, upon a first conviction, by a fine of not more than One hundred pounds and, upon a second or subsequent conviction, by a fine of not less than Fifty pounds and not more than Five hundred pounds.

(3.) Sub-section (1.) of this section does not apply to or in relation to—

- (a) the making or performance, by an operator of air transport services, of contracts for the carriage of passengers or goods by air or for the carriage by that operator between the airport and any premises of that operator of passengers or goods that have been, or are to be, carried by that operator by air;
- (b) the advertising, by an operator of air transport services, of those services or other transport services or of tourist facilities; or
- (c) the sale or supply to the owner or operator of aircraft of goods or services required for the maintenance or operation of the aircraft or for use or consumption—
 - (i) aboard the aircraft; or
 - (ii) at the airport by persons employed by him.

(4.) This section does not affect the enforcement of any civil remedy against a person.

8.—(1.) The Minister may, on behalf of the Commonwealth, by writing under his hand, grant to a person an authority to do, either personally, or by his servants or agents, or both, any act or thing referred to in sub-section (1.) of the last preceding section.

Authority to
trade, &c.

(2.) An authority under this section—

- (a) may be included in, or granted in relation to, a lease or licence in respect of particular land within an airport; and
- (b) shall, subject to the next succeeding section, be granted for such period, on such terms and conditions and for such consideration as the Minister thinks fit.

9.—(1.) The holder of an authority under this Act, and the servants and agents of such a holder, may, subject to the terms and conditions of the authority, act in accordance with the authority without obtaining or having any other authority, licence, permit or registration.

Exercise of
authorities.

(2.) Subject to the next succeeding sub-section, the Minister may, having regard to the special needs of the travelling public, specify in the terms and conditions of an authority under this

Act the days on which, and the times during which, the authority may be exercised, and the authority may lawfully be exercised on those days and during those times.

(3.) An authority under this Act to sell or supply intoxicating liquor shall contain terms and conditions under which the holder is subject to requirements, prohibitions and restrictions as to the days on which, and the times during which, such liquor may be sold or supplied corresponding to, and to other requirements, prohibitions and restrictions corresponding, as nearly as possible, to, those that apply, under the law of the State or Territory in which the airport is situated, in relation to the sale or supply of such liquor in pursuance of a licence under that law of the kind that most nearly corresponds with the authority under this Act.

(4.) An authority under this Act shall contain such terms and conditions as the Minister thinks necessary for the purpose of preventing the sale or supply of goods or services, in pursuance of the authority, to persons resorting to the airport solely or principally for the purpose of purchasing or obtaining goods or services at times outside the days and hours of trading or business that would be applicable, under the law of the State or Territory of the Commonwealth in which the airport is situated, in relation to like transactions in the part of that State or Territory in which the airport is situated.

(5.) Except as provided in this section, a lease, licence or authority under this Act does not exempt a person from compliance with the law of a State or Territory of the Commonwealth.

Inspection of
premises, &c.

10.—(1.) An authority under this Act shall contain such terms and conditions in relation to the inspection of premises, the keeping and inspection of books and records and the inspection and sampling of goods as the Minister considers necessary for the purposes of this Act.

(2.) The Governor-General may, for the purposes of this Act, arrange with the Governor of a State for the performance by members of the Police Force of the State or by persons employed in the public service of the State, for the Government of the Commonwealth, of any work or services, and for the payment to be made by the Commonwealth for any such work or services.

Periods of
leases, &c.

11.—(1.) Subject to this section, a lease, licence or authority under this Act, other than a lease, licence or authority for purposes directly related to the operation of air transport services, shall not be granted—

(a) for a period exceeding—

(i) in the case of a building lease or an authority included in, or granted in relation to, such a lease—ninety-nine years; or

- (ii) in any other case—twenty-one years; or
- (b) except after tenders have been publicly invited or after public auction.
- (2.) Paragraph (b) of the last preceding sub-section does not apply in relation to a lease, licence or authority granted—
 - (a) for a period not exceeding three years; or
 - (b) in pursuance of an option of renewal.
- (3.) Nothing in this section affects any rights (including an option of renewal) granted before the commencement of this Act.
- (4.) For the purposes of this section the period of a lease, licence or authority shall be deemed to include any period for which it is renewable under an option of renewal.

12.—(1.) A lease or licence in respect of land within an airport granted by or on behalf of the Commonwealth before the date of commencement of this Act and in force immediately before that date continues in force as if granted under this Act, and accordingly any power or remedy of the Commonwealth, or of any person on behalf of the Commonwealth, in respect of any such lease or licence is exercisable by the Minister.

Saving of
existing leases
and licences.

(2.) In relation to an airport in a Territory of the Commonwealth, a reference in this section to the date of commencement of this Act shall be read as a reference to the date specified in a Proclamation under section five of this Act as the date on and after which this Act shall apply in, or extend to, that Territory.

13. In the application of section fifty-seven of the *Lands Acquisition Act 1955–1957* in relation to land within an airport, references in that section to the Minister shall be read as references to the Minister of State for the time being administering this Act or any Minister or member of the Executive Council for the time being acting for and on behalf of that Minister.

Warrants to
obtain
possession
of land.

14.—(1.) The Minister may, by writing under his hand, certify that, on a specified date or during a specified period, an airport, within the meaning of this Act, existed at a place, and had the boundaries, described, by reference to a map or otherwise, in the certificate and may, in the certificate, certify as to the existence, situation and description of any physical features (including buildings or other erections) of or upon the airport at that date or within that period.

Evidence
of certain
matters.

(2.) In a prosecution under this Act, a certificate under this section is evidence of the matters certified.

(3.) A document purporting to be a certificate under this section and to be signed by a person by virtue of a delegation to that person of the powers of the Minister under this section may be admitted in evidence as such a certificate without proof of the delegation or of the signature of that person.

Delegation.

15.—(1.) The Minister may, either generally or in relation to a matter or class of matters and either in relation to all airports or a particular airport or particular airports, by writing under his hand delegate to a person or persons all or any of his powers and functions under this Act (except this power of delegation and his power to grant an authority to sell or supply alcoholic liquor).

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.

Regulations.

16. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

AIRPORTS (SURFACE TRAFFIC).

No. 40 of 1960.

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

[Assented to 10th June, 1960.]

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

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

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

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

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

- (b) such part of an aerodrome owned or held under lease by the Commonwealth and under the control of a part of the Defence Force as is made available for civil aviation purposes in pursuance of arrangements made under section eighteen of that Act;

“authorized person” means—

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

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

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

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

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

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

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

“the owner”, in relation to a vehicle—

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

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

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

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

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

*Extension of
Act to
Territories.*

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

*Act to bind
Crown.*

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

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

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

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

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

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

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

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

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

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

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

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

Authorized persons.

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

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

Offences.

8.—(1.) A person shall not—

- (a) park a vehicle, or cause a vehicle to stand, in contravention of the terms of a sign or notice displayed in pursuance of section six of this Act;
- (b) park a vehicle or keep a vehicle standing in a parking area or parking position for a period unless he has first paid the parking fee in respect of that period in the manner provided by section six of this Act;

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

Penalty: Twenty pounds.

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

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

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

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

Penalty: Twenty pounds.

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

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

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

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

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

Liability of owner and actual offender for parking infringement.

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

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

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

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

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

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

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

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

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

Evidence of
registration
of motor
vehicle.

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

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

Parking
infringement
notices.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Penalty: Twenty pounds.

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

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

Authorized person may give directions.

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

Penalty: Twenty pounds.

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

Institution of summary prosecution.

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

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

Evidence of certain matters.

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

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

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

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

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

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

Application of
laws of States
and Territories.

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

Arrangements
with the States.

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

Delegation.

20.—(1.) The Director-General may, either generally or in relation to a matter or class of matters and either in relation to all airports or a particular airport or particular airports, by writing under his hand delegate to a person or persons all or any of his powers and functions under this Act except this power of delegation.

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Director-General.

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

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

22.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for or in relation to the regulation and control of vehicular, animal or pedestrian traffic within an airport. Regulations.

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

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

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

CIVIL AVIATION (CARRIERS' LIABILITY).

No. 2 of 1959.

An Act relating to Carriage by Air.

[Assented to 21st April, 1959.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1959*. Short title.

2.—(1.) Parts I., III. and V. of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commence-
ment.

(2.) Parts II. and IV. of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

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

Parts.

Part I.—Preliminary (Sections 1–9).

Part II.—Carriage to which the Warsaw Convention and the Hague Protocol apply (Sections 10–19).

Part III.—Carriage to which the Warsaw Convention without the Hague Protocol applies (Sections 20–25).

Part IV.—Other Carriage to which this Act applies (Sections 26–41).

Part V.—Miscellaneous (Sections 42–43).

Repeal and saving.

4.—(1.) The *Carriage by Air Act* 1935 is repealed.

(2.) Notwithstanding the last preceding sub-section, the provisions of the *Carriage by Air Act* 1935 continue to apply in relation to causes of action that arose before the date of commencement of this section, and Part III. of this Act does not apply in relation to any such cause of action.

Definitions.

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

“Australia” includes the Territories of the Commonwealth;

“the Hague Protocol” means the Protocol to amend the Warsaw Convention opened for signature at The Hague on the twenty-eighth day of September, One thousand nine hundred and fifty-five;

“the Warsaw Convention” means the Convention for the Unification of Certain Rules Relating to International Carriage by Air opened for signature at Warsaw on the twelfth day of October, One thousand nine hundred and twenty-nine, and includes the Additional Protocol to that Convention with reference to Article 2 of that Convention.

Extension to Territories.

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

Act to bind Crown.

7. This Act binds the Crown in right of the Commonwealth or of any State.

Approval of ratification of Hague Protocol.

8. Approval is given to ratification by Australia of the Hague Protocol.

Texts of Conventions.

9.—(1.) Subject to sub-section (3.) of this section, the text of the Warsaw Convention shall, for the purposes of this Act, be deemed to be the text set out in the First Schedule to this Act, being a translation into the English language of the authentic text in the French language of that Convention.

(2.) Subject to the next succeeding sub-section, the text of the Hague Protocol shall, for the purposes of this Act, be deemed to be the text set out in the Second Schedule to this Act, being a copy of the authentic text in the English language of that Protocol.

(3.) If any inconsistency is shown between the text set out in the First Schedule or the Second Schedule to this Act and the authentic text in the French language of the Warsaw Convention or of the Hague Protocol, as the case may be, the authentic French text prevails.

(4.) A certificate in writing under the hand of the Minister of State for External Affairs that a document to which the certificate is annexed is a true copy of the authentic text in the French language of the Warsaw Convention or of the Hague Protocol is evidence that the document is such a true copy.

PART II.—CARRIAGE TO WHICH THE WARSAW CONVENTION AND THE HAGUE PROTOCOL APPLY.

10. In this Part, "the Convention" means the Warsaw Convention and the Hague Protocol read and interpreted together as one single instrument in accordance with Article XIX. of the Hague Protocol. Definition.

11.—(1.) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage. Convention to have force of law.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

12.—(1.) The provisions of this section apply in relation to liability imposed by the Convention on a carrier in respect of the death of a passenger (including the injury that resulted in the death). Liability in respect of death.

(2.) Subject to section fourteen of this Act, the liability under the Convention is in substitution for any civil liability of the carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3.) Subject to the next succeeding sub-section, the liability is enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

(4.) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5.) For the purposes of sub-section (3.) of this section, the members of the passenger's family shall be deemed to be the wife or husband, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members

of the passenger's family, an illegitimate person or an adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adoptors.

(6.) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in Australia in respect of the death of any one passenger, and the action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8.) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10.) The court may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of the provisions of the Convention limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

(11.) The second sentence of paragraph 4 of Article 22 of the Warsaw Convention, as amended by the Hague Protocol, shall not be construed as applying to an action to which this section applies that is wholly or partly for the benefit of a person or persons other than the plaintiff, but the court may, in such an action, deal with any question of costs in such manner as it thinks proper having regard to the operation of that sentence in cases to which it applies.

Liability in
respect of
injury.

13. Subject to the next succeeding section, the liability of a carrier under the Convention in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

14. Nothing in the Convention or in this Part shall be deemed to exclude any liability of a carrier— Certain liabilities not excluded.

- (a) to indemnify an employer of a passenger in respect of liability of that employer under a law of the Commonwealth or of a State or Territory of the Commonwealth providing for compensation to workmen or employees in respect of accidents arising out of or in the course of their employment; or
- (b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger,

but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with the Convention.

15. In assessing damages in respect of liability under the Convention there shall not be taken into account by way of reduction of the damages— Proceeds of insurance policies, &c.

- (a) a sum paid or payable on the death of, or personal injury to, a passenger under a contract of insurance;
- (b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;
- (c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
- (d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
- (e) in the case of death, a premium that would have become payable under a contract of insurance in respect of the life of the deceased passenger if he had lived after the time at which he died.

16.—(1.) Effect shall be given to Article 21 of the Warsaw Convention in accordance with the provisions of this section. Contributory negligence.

(2.) If, in an action against a carrier under the Convention, the carrier proves that the damage was caused by or contributed to by the negligence of the passenger or the consignor, the damages recoverable shall be assessed in accordance with this section.

(3.) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with the Convention and there had been no negligence on the part of the passenger or consignor.

(4.) The damages determined under the last preceding sub-section shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger or the consignor in the responsibility for the damage.

(5.) If the damages as reduced in accordance with the last preceding sub-section exceed the maximum liability of the carrier fixed by or in accordance with the Convention, the court shall further reduce the damages to that maximum amount.

**Actions
against Parties
to the
Convention
who undertake
carriage by air.**

17.—(1.) A Party to the Convention which has not availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention shall, for the purposes of an action under the Convention brought in a court in Australia to enforce a claim in respect of carriage undertaken by that Party, be deemed to have submitted to the jurisdiction of that court.

(2.) Nothing in this section authorizes the issue of execution against the property of a Party to the Convention.

**Evidence of
certain matters.**

18.—(1.) The Minister may, by notice published in the *Gazette*, from time to time declare—

- (a) that a country specified in the notice is a country which has ratified or adhered to the Hague Protocol and the date on which the ratification or adherence became effective;
- (b) that a country specified in the notice has, at the time of deposit of its instrument of ratification of or adherence to the Hague Protocol, declared that its acceptance of that Protocol does not apply to a territory or territories specified in the notice;
- (c) that a country specified in the notice has duly made a declaration under Article XXVI. of the Hague Protocol and the date on which the declaration became effective;
- (d) that a country specified in the notice has duly extended the application of the Hague Protocol to a territory or territories specified in the notice;
- (e) the extent (if any) to which a Party to the Hague Protocol has availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention; or
- (f) that a country specified in the notice has denounced the Hague Protocol in respect of all of the territories for the foreign relations of which that country is responsible or in respect of any such territory specified in the notice, and the date upon which the denunciation became effective.

(2.) A notice in force under this section is evidence of the matters declared.

19. For the purposes of section thirty-eight of the *Judiciary Act* 1903-1955, an action under the Convention shall be deemed not to be a matter arising directly under a treaty. Jurisdiction of State courts preserved.

PART III.—CARRIAGE TO WHICH THE WARSAW CONVENTION WITHOUT THE HAGUE PROTOCOL APPLIES.

20.—(1.) In this Part, "the Convention" means the Warsaw Convention as in force, unaffected by the Hague Protocol, between Australia and any other countries. Interpretation.

(2.) For the purposes of this Part, a reference in the Convention to the territory of a High Contracting Party to the Convention shall be read as a reference to the territories in respect of which a Party declared, in pursuance of section twenty-two of this Act, to be a High Contracting Party to the Convention is declared, in pursuance of that section, to be bound by the Convention.

21.—(1.) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage. Provisions of Convention to have force of law.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

22.—(1.) The Minister may, by notice published in the *Gazette*, from time to time declare— Evidence of certain matters.

- (a) who are the High Contracting Parties to the Convention;
- (b) the territory in respect of which any such Party is bound by the Convention; and
- (c) the extent (if any) to which any Party has availed himself of the provisions of the Additional Protocol to the Convention.

(2.) A notice in force under this section is evidence of the matters declared.

(3.) A notice published by the Governor-General in the *Gazette*, before the date of commencement of this Part, under sub-section (3.) of section three of the *Carriage by Air Act* 1935 and in force immediately before that date shall, for the purposes of this Act, be deemed to be a notice published by the Minister under this section.

Conversion of
francs.

23. Any sum in francs mentioned in Article 22 of the Convention shall, for the purposes of an action against a carrier, be converted into Australian currency at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court or jury.

Adoption of
certain
provisions
of Part II.

24. The provisions of sections twelve to seventeen (inclusive) of this Act, except sub-section (11.) of section twelve, apply for the purposes of this Part as if contained in this Part.

Duration of
Part.

25.—(1.) This Part shall continue in force until a date to be fixed by Proclamation, being a date not earlier than the date upon which a denunciation by Australia of the Convention in accordance with Article 39 of the Convention takes effect.

(2.) Upon the date fixed in pursuance of the last preceding sub-section, this Part shall be deemed to be repealed and the provisions of section eight of the *Acts Interpretation Act* 1901–1957 shall apply as if this Part had been repealed by an Act other than this Act.

PART IV.—OTHER CARRIAGE TO WHICH THIS ACT APPLIES.

Definitions.

26.—(1.) In this Part, unless the contrary intention appears—
“airline licence” means an airline licence in force under the Air Navigation Regulations;

“baggage”, in relation to a passenger, means—

(a) registered baggage; or

(b) baggage, personal effects or other articles, not being registered baggage, in the possession of the passenger, or in the possession of another person (being a person accompanying the passenger or a servant or agent of the carrier) on behalf of the passenger, while the passenger is on board an aircraft for the purposes of carriage to which this Part applies or during the course of any of the operations of embarking or disembarking;

“commercial transport operations” means operations in which an aircraft is used, for hire or reward, for the carriage of passengers or cargo;

“contract” includes an arrangement made without consideration;

“registered baggage”, in relation to a passenger, means baggage, personal effects or other articles registered with the carrier as baggage intended to be carried under a contract for carriage of the passenger to which this Part applies;

“the Air Navigation Regulations” means the Air Navigation Regulations in force under the *Air Navigation Act* 1920–1950, and includes those Regulations as in force by virtue of a law of a State.

(2.) For the purposes of this Part, where, by reason of a contract of charter or other contract between the holder of an airline licence and another person, persons or baggage are or is carried, or are or is to be carried, in an aircraft while it is being operated by the holder of the airline licence, that contract shall be deemed to be a contract of carriage providing for that carriage.

27.—(1.) This Part applies to the carriage of a passenger where the passenger is or is to be carried in an aircraft being operated by the holder of an airline licence in the course of commercial transport operations, or in an aircraft being operated in the course of trade and commerce between Australia and another country, under a contract for the carriage of the passenger—

Application
of Part.

- (a) between a place in a State and a place in another State;
- (b) between a place in a Territory of the Commonwealth and a place in Australia outside that Territory;
- (c) between a place in a Territory of the Commonwealth and another place in that Territory; or
- (d) between a place in Australia and a place outside Australia,

not being carriage to which the Warsaw Convention, or the Warsaw Convention as affected by the Hague Protocol, applies.

(2.) Where the carrier is the Australian National Airlines Commission, this Part applies in relation to carriage between a place in a State and a place in the same State in like manner as it applies in relation to carriage between a place in a State and a place in another State.

(3.) For the purposes of this section, where, under a contract of carriage, the carriage is to begin and end in the one State or Territory of the Commonwealth (whether at the one place or not) but is to include a landing or landings at a place or places outside that State or Territory, the carriage shall be deemed to be carriage between the place where the carriage begins and that landing place, or such one of those landing places as is most distant from the place where the carriage begins, as the case may be.

(4.) For the purposes of this section, where—

- (a) the carriage of a passenger between two places is to be performed by two or more carriers in successive stages ;
- (b) the carriage has been regarded by the parties as a single operation, whether it has been agreed upon by a single contract or by two or more contracts; and
- (c) this Part would apply to that carriage if it were to be performed by a single carrier under a single contract,

this Part applies in relation to a part of that carriage notwithstanding that that part consists of carriage between a place in a State and a place in the same State.

Liability of the
carrier for
death or injury.

28. Subject to this Part, where this Part applies to the carriage of a passenger, the carrier is liable for damage sustained by reason of the death of the passenger or any personal injury suffered by the passenger resulting from an accident which took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Liability of the
carrier in
respect of
baggage.

29.—(1.) Where this Part applies to the carriage of a passenger, the carrier is liable under this Part, and not otherwise, for damage sustained in the event of the destruction or loss of, or injury to, baggage of the passenger, if the occurrence which causes the destruction, loss or injury takes place during the period of the carriage by air unless the carrier proves that he and his servants and agents took all necessary measures to avoid the destruction, loss or injury or that it was impossible for him or them to take such measures.

(2.) For the purposes of the last preceding sub-section but subject to the next succeeding sub-section, the period of the carriage by air comprises—

(a) in relation to baggage other than registered baggage—the period during which the passenger is on board the aircraft or is in the course of any of the operations of embarking or disembarking; and

(b) in relation to registered baggage—the period during which the baggage is in the charge of the carrier, whether on board the aircraft or elsewhere.

(3.) In proceedings under this section in respect of registered baggage, if the carrier proves that the baggage was, within a period of twelve hours after the arrival of the aircraft at the place to which the baggage was to be carried in the aircraft, available for collection by the passenger at a place at which, under the contract, the baggage was to be or could be made available to the passenger, the period of the carriage by air shall not be deemed to include any time after the expiration of that period of twelve hours.

(4.) In the application of section thirty-nine of this Act in relation to an action under this Part in respect of baggage other than registered baggage, the carrier shall be deemed to have proved that the damage was caused by the negligence of the passenger, except so far as the passenger proves that he was not responsible for the damage.

(5.) Where, in relation to carriage referred to in sub-section (4.) of section twenty-seven of this Act, registered baggage has been destroyed, lost or injured in circumstances in which, if the carriage had been performed by a single carrier, that carrier would be subject to liability under this section, the carriers

(other than a carrier who proves that the baggage was not in his charge at the time of the destruction, loss or injury) are jointly and severally subject to that liability.

30.—(1.) For the purposes of an action under this Part, evidence proving receipt of registered baggage, without complaint, by the person entitled to delivery is evidence that the baggage has been delivered in good condition and in accordance with the contract of carriage.

Complaint
to be made in
respect of
baggage.

(2.) An action does not lie against a carrier under this Part in respect of baggage, except in case of fraud on the part of the carrier, unless the passenger, or a person acting on his behalf, has complained by writing delivered to the carrier or served on the carrier by post or in such other manner as is prescribed—

(a) in the case of injury to registered baggage or of loss or destruction of part only of an item of registered baggage—within the period of three days after the date of receipt by or on behalf of the passenger of the baggage, or of the remainder of that item of baggage, as the case may be;

(b) in the case of loss or destruction of the whole of an item of registered baggage—within the period of twenty-one days from the date on which the baggage should have been placed at the disposal of the passenger; or

(c) in the case of injury to, or loss or destruction of, baggage other than registered baggage—within the period of three days from the date on which the carriage of the passenger ended.

(3.) A court having jurisdiction in actions under this Part in respect of baggage may, by order, grant leave to a person to institute or continue an action in that court in relation to baggage notwithstanding that there has been a failure to complain in accordance with the last preceding sub-section within the time fixed by that sub-section, where the court is satisfied that it is just and equitable to do so by reason of special circumstances.

(4.) Sub-section (2.) of this section does not apply in relation to an action in respect of which leave has been granted under the last preceding sub-section.

31.—(1.) Subject to the regulations relating to passenger tickets, the liability of the carrier under this Part in respect of each passenger, by reason of his injury or death, is limited to the sum of Seven thousand five hundred pounds or such higher sum as is specified in the contract of carriage.

Limitation of
liability.

(2.) Subject to the regulations relating to baggage checks, the liability of the carrier under this Part in respect of the

baggage of any one passenger, being baggage that is or includes registered baggage, is limited to the sum of One hundred pounds or such higher sum as is specified in the contract of carriage.

(3.) The liability of the carrier under this Part in respect of the baggage, other than registered baggage, of any one passenger is limited to the sum of Ten pounds or such higher sum as is specified in the contract of carriage.

**Contracting
out.**

32.—(1.) Any provision of an agreement tending to relieve the carrier of liability in accordance with this Part or to fix a lower limit than the appropriate limit of liability provided by this Part is null and void, but the nullity of such a provision does not involve the nullity of the whole contract of carriage.

(2.) The last preceding sub-section does not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of goods carried.

**Servants and
agents of
carrier.**

33.—(1.) If an action in respect of any damage is brought against a servant or agent of a carrier, the servant or agent, if he proves that he acted within the scope of his employment or authority, is entitled to avail himself of the limits of liability, if any, which the carrier himself would be entitled to invoke under section thirty-one of this Act in an action against him in respect of that damage.

(2.) The aggregate of the amounts recoverable from the carrier, his servants and agents shall not exceed the limits referred to in the last preceding sub-section.

(3.) The right to bring an action against a servant or agent of a carrier in respect of any damage, being damage which gave rise to a cause of action against the carrier under this Part, is extinguished if the action is not brought within the time specified in the next succeeding section.

**Limitation of
actions.**

34. The right of a person to damages under this Part is extinguished if an action is not brought by him or for his benefit within two years after the date of arrival of the aircraft at the destination, or, where the aircraft did not arrive at the destination—

(a) the date on which the aircraft ought to have arrived at the destination; or

(b) the date on which the carriage stopped,
whichever is the later.

**Liability
in respect of
death.**

35.—(1.) The provisions of this section apply in relation to liability imposed by this Part on a carrier in respect of the death of a passenger (including the injury that resulted in the death).

(2.) Subject to section thirty-seven of this Act, the liability under this Part is in substitution for any civil liability of the

carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3.) Subject to the next succeeding sub-section, the liability is enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

(4.) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5.) For the purposes of sub-section (3.) of this section, the members of the passenger's family shall be deemed to be the wife or husband, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members of the passenger's family, an illegitimate person or an adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adoptors.

(6.) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in respect of the death of any one passenger, and such an action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8.) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10.) The court may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of the provisions of this Part limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

Liability in
respect of
injury.

36. Subject to the next succeeding section, the liability of a carrier under this Part in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

Certain
liabilities
not excluded.

37. Nothing in this Part shall be deemed to exclude any liability of a carrier—

- (a) to indemnify an employer of a passenger in respect of liability of that employer under a law of the Commonwealth or of a State or Territory of the Commonwealth providing for compensation to workmen or employees in respect of accidents arising out of or in the course of their employment; or
- (b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger,

but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with this Part.

Proceeds
of insurance
policies, &c.

38. In assessing damages in respect of liability under this Part there shall not be taken into account by way of reduction of the damages—

- (a) a sum paid or payable on the death of, or injury to, a passenger under a contract of insurance;
- (b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;
- (c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
- (d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
- (e) a premium that would have become payable under a contract of insurance in respect of the life of a deceased passenger if he had lived beyond the time at which he died.

Contributory
negligence.

39.—(1.) If, in an action against a carrier under this Part, the carrier proves that the damage was caused or contributed to by the negligence of the passenger, the damages recoverable shall be assessed in accordance with this section.

(2.) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with this Part and there had been no negligence on the part of the passenger.

(3.) The damages determined under the last preceding sub-section shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger in the responsibility for the damage.

(4.) If the damages as reduced in accordance with the last preceding sub-section exceed the maximum liability of the carrier fixed by or in accordance with this Part, the court shall further reduce the damages to that maximum amount.

40. The regulations may make provision relating to passenger tickets and baggage checks in respect of passengers or baggage in relation to whom or which this Part applies, being provision for—

Regulations relating to passenger tickets and baggage checks.

- (a) the circumstances in which such tickets and checks must be issued by carriers;
- (b) matters to be included in such tickets and checks; and
- (c) the non-application of a provision of section thirty-one of this Act (except in cases where the limit of liability under that provision is a sum specified in the contract of carriage) where specified provisions of the regulations relating to the issue, form and contents of such tickets or checks have not been complied with.

41. The regulations may provide for applying, with such exceptions, adaptations and modifications as are prescribed, the provisions of the Warsaw Convention and the Hague Protocol and any of the provisions of this Act to and in relation to the carriage of cargo, being carriage in relation to which, if it were the carriage of passengers, this Part would apply, but so that no adaptation or modification of the provisions of Article 22 of the Warsaw Convention, as replaced by Article XI. of the Hague Protocol, shall have the effect of limiting the liability of the carrier to a sum less than the sum to which his liability would be limited if those provisions were applied without adaptation or modification.

Application of Part to cargo.

PART V.—MISCELLANEOUS.

42.—(1.) Where a person travels in an aircraft without the consent of the carrier and Part II., Part III. or Part IV, of this Act would apply in relation to the carriage of that person if he were a passenger carried under a contract for his carriage for reward between the place where he boarded the aircraft and his place of disembarkation, the liability (if any) of the carrier, or of his servants or agents, in respect of that person and his baggage is subject to the limits as to amounts that are applicable in respect of passengers under that Part.

Stowaways.

(2.) This section does not impose any liability on a carrier or a servant or agent of a carrier to which he is not subject apart from this section.

(3.) For the purposes of this section, the place of disembarkation of a person shall be deemed to be the next scheduled stopping place after the place at which he boards the aircraft or, if he continues on board after the aircraft leaves that next scheduled stopping place, the scheduled stopping place next after the last stopping place from which the aircraft departed with that person on board.

Regulations.

43. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, the Warsaw Convention or the Warsaw Convention as affected by the Hague Protocol.

CIVIL AVIATION (CARRIERS' LIABILITY) ACT 1959-1962.*

An Act relating to Carriage by Air.

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1959-1962*.*

Short title.
Short title
amended;
No. 32, 1918,
s. 2.
Commence-
ment.

2.—(1.) Parts I., III. and V. of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(2.) Parts II. and IV. of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

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

Part I.—Preliminary (Sections 1-9).

Part II.—Carriage to which the Warsaw Convention and the Hague Protocol apply (Sections 10-19).

Parts.
Amended by
No. 38, 1962,
s. 3.

* The *Civil Aviation (Carriers' Liability) Act 1959-1962* comprises the *Civil Aviation (Carriers' Liability) Act 1959* as amended. Particulars of the Principal Act and of the amending Act are set out in the following table:—

Act.	Number and Year.	Date of Assent.	Date of Commencement.
<i>Civil Aviation (Carriers' Liability) Act 1959</i>	No. 2, 1959	21st April, 1959 ..	See NOTE 1 below
<i>Civil Aviation (Carriers' Liability) Act 1962</i>	No. 38, 1962	28th May, 1962 ..	See NOTE 2 below

NOTE 1.—Parts I., III. and V. of the *Civil Aviation (Carriers' Liability) Act 1959* commenced on 21st April, 1959, the date of the Royal Assent to that Act.

Part II. of the *Civil Aviation (Carriers' Liability) Act 1959* was proclaimed to commence on 1st November, 1963 (see *Commonwealth Gazette*, 1963, p. 3776).

Part IIIA. of the *Civil Aviation (Carriers' Liability) Act 1959-1962*, inserted by section 7 of the *Civil Aviation (Carriers' Liability) Act 1962*, came into operation on 1st May, 1964, the date on which that section was proclaimed to commence (see NOTE 2 below).

Part IV. of the *Civil Aviation (Carriers' Liability) Act 1959* was proclaimed to commence on 1st July, 1959 (see *Commonwealth Gazette*, 1959, p. 1831).

NOTE 2.—Section 2 of the *Civil Aviation (Carriers' Liability) Act 1962* reads as follows:—

"2.—(1.) Sections one, two, six and nine of this Act shall come into operation on the day on which this Act receives the Royal Assent and the other sections of this Act shall come into operation on a date to be fixed by Proclamation.

"(2.) The sub-section added to section sixteen of the Principal Act by section six of this Act shall come into operation on the day on which Part II. of the Principal Act comes into operation, but the sub-section so added shall, for the purposes of section twenty-four of the Principal Act as amended by this Act, be taken to be included in the provisions of section sixteen of the Principal Act as so amended as from the commencement of section six of this Act."

Sections 1, 2, 6 and 9 of the *Civil Aviation (Carriers' Liability) Act 1962* commenced on 28th May 1962, the date of the Royal Assent to that Act.

Sections 3, 4, 5, 7, 8 and 10 were proclaimed to commence on 1st May, 1964 (see *Commonwealth Gazette*, 1964, p. 1569).

Part III.—Carriage to which the Warsaw Convention without the Hague Protocol applies (Sections 20-25).

Part IIIA.—Carriage to which the Guadalajara Convention applies (Sections 25A-25C).

Part IV.—Other Carriage to which this Act applies (Sections 26-41).

Part V.—Miscellaneous (Sections 42-43).

Repeal and
saving.

4.—(1.) The *Carriage by Air Act* 1935 is repealed.

(2.) Notwithstanding the last preceding sub-section, the provisions of the *Carriage by Air Act* 1935 continue to apply in relation to causes of action that arose before the date of commencement of this section, and Part III. of this Act does not apply in relation to any such cause of action.

Definitions.
Amended by
No. 38, 1962,
s. 4.

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

“Australia” includes the Territories of the Commonwealth;

“the Guadalajara Convention” means the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier opened for signature at Guadalajara on the eighteenth day of September, One thousand nine hundred and sixty-one;

“the Hague Protocol” means the Protocol to amend the Warsaw Convention opened for signature at The Hague on the twenty-eighth day of September, One thousand nine hundred and fifty-five;

“the Warsaw Convention” means the Convention for the Unification of Certain Rules Relating to International Carriage by Air opened for signature at Warsaw on the twelfth day of October, One thousand nine hundred and twenty-nine, and includes the Additional Protocol to that Convention with reference to Article 2 of that Convention.

Extension to
Territories.

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

Act to bind
Crown.

7. This Act binds the Crown in right of the Commonwealth or of any State.

Approval of
ratification of
Hague Protocol.

8. Approval is given to ratification by Australia of the Hague Protocol.

9.—(1.) Subject to sub-section (3.) of this section, the text of the Warsaw Convention shall, for the purposes of this Act, be deemed to be the text set out in the First Schedule to this Act, being a translation into the English language of the authentic text in the French language of that Convention.

Texts of
Conventions.

(2.) Subject to this section, the text of the Hague Protocol shall, for the purposes of this Act, be deemed to be the text set out in the Second Schedule to this Act, being a copy of the authentic text in the English language of that Protocol.

Amended by
No. 38, 1962,
s. 5.

(2A.) Subject to this section, the text of the Guadalajara Convention shall, for the purposes of this Act, be deemed to be the text set out in the Third Schedule to this Act, being a copy of the authentic text in the English language of that Convention.

Inserted by
No. 38, 1962,
s. 5.

(3.) If any inconsistency is shown between the text set out in the First, Second or Third Schedule to this Act and the authentic text in the French language of the Warsaw Convention, the Hague Protocol or the Guadalajara Convention, as the case may be, the authentic French text prevails.

Substituted by
No. 38, 1962,
s. 5.

(4.) A certificate in writing under the hand of the Minister of State for External Affairs that a document to which the certificate is annexed is a true copy of the authentic text in the French language of the Warsaw Convention, the Hague Protocol or the Guadalajara Convention is evidence that the document is such a true copy.

Amended by
No. 38, 1962,
s. 5.

PART II.—CARRIAGE TO WHICH THE WARSAW CONVENTION AND THE HAGUE PROTOCOL APPLY.

10. In this Part, "the Convention" means the Warsaw Convention and the Hague Protocol read and interpreted together as one single instrument in accordance with Article XIX. of the Hague Protocol.

Definition.

11.—(1.) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

Convention to
have force of
law.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

12.—(1.) The provisions of this section apply in relation to liability imposed by the Convention on a carrier in respect of the death of a passenger (including the injury that resulted in the death).

Liability
in respect of
death.

(2.) Subject to section fourteen of this Act, the liability under the Convention is in substitution for any civil liability of the carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3.) Subject to the next succeeding sub-section, the liability is enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

(4.) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5.) For the purposes of sub-section (3.) of this section, the members of the passenger's family shall be deemed to be the wife or husband, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members of the passenger's family, an illegitimate person or an adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adoptors.

(6.) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in Australia in respect of the death of any one passenger, and the action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8.) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10.) The court may at any stage of the proceedings make any such order as appears to the Court to be just and equitable in view of the provisions of the Convention limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

(11.) The second sentence of paragraph 4 of Article 22 of the Warsaw Convention, as amended by the Hague Protocol, shall not be construed as applying to an action to which this section applies that is wholly or partly for the benefit of a person or persons other than the plaintiff, but the court may, in such an action, deal with any question of costs in such manner as it thinks proper having regard to the operation of that sentence in cases to which it applies.

13. Subject to the next succeeding section, the liability of a carrier under the Convention in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

Liability in respect of injury.

14. Nothing in the Convention or in this Part shall be deemed to exclude any liability of a carrier—

Certain liabilities not excluded.

(a) to indemnify an employer of a passenger in respect of liability of that employer under a law of the Commonwealth or of a State or Territory of the Commonwealth providing for compensation to workmen or employees in respect of accidents arising out of or in the course of their employment; or

(b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger, but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with the Convention.

15. In assessing damages in respect of liability under the Convention there shall not be taken into account by way of reduction of the damages—

Proceeds of insurance policies, &c.

(a) a sum paid or payable on the death of, or personal injury to, a passenger under a contract of insurance;

(b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;

- (c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
- (d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
- (e) in the case of death, a premium that would have become payable under a contract of insurance in respect of the life of the deceased passenger if he had lived after the time at which he died.

Contributory
negligence.

16.—(1.) Effect shall be given to Article 21 of the Warsaw Convention in accordance with the provisions of this section.

(2.) If, in an action against a carrier under the Convention, the carrier proves that the damage was caused by or contributed to by the negligence of the passenger or the consignor, the damages recoverable shall be assessed in accordance with this section.

(3.) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with the Convention and there had been no negligence on the part of the passenger or consignor.

(4.) The damages determined under the last preceding sub-section shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger or the consignor in the responsibility for the damage.

(5.) If the damages as reduced in accordance with the last preceding sub-section exceed the maximum liability of the carrier fixed by or in accordance with the Convention, the court shall further reduce the damages to that maximum amount.

Added by
No. 38, 1962,
s. 6.

(6.)* Where any case to which sub-section (2.) of this section applies is tried with a jury, the jury shall determine the damages referred to in sub-section (3.) of this section and the amount of the reduction under sub-section (4.) of this section.

Actions
against Parties
to the
Convention
who undertake
carriage by air.

17.—(1.) A Party to the Convention which has not availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention shall, for the purposes of an action under the Convention brought in a

* See NOTE 2 on page 1 as to the coming into operation of this sub-section.

court in Australia to enforce a claim in respect of carriage undertaken by that Party, be deemed to have submitted to the jurisdiction of that court.

(2.) Nothing in this section authorizes the issue of execution against the property of a Party to the Convention.

18.—(1.) The Minister may, by notice published in the *Gazette*,* from time to time declare—

Evidence of
certain matters.

- (a) that a country specified in the notice is a country which has ratified or adhered to the Hague Protocol and the date on which the ratification or adherence became effective;
- (b) that a country specified in the notice has, at the time of deposit of its instrument of ratification or of adherence to the Hague Protocol, declared that its acceptance of that Protocol does not apply to a territory or territories specified in the notice;
- (c) that a country specified in the notice has duly made a declaration under Article XXVI. of the Hague Protocol and the date on which the declaration became effective;
- (d) that a country specified in the notice has duly extended the application of the Hague Protocol to a territory or territories specified in the notice;
- (e) the extent (if any) to which a Party to the Hague Protocol has availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention; or
- (f) that a country specified in the notice has denounced the Hague Protocol in respect of all of the territories for the foreign relations of which that country is responsible or in respect of any such territory specified in the notice, and the date upon which the denunciation became effective.

(2.) A notice in force under this section is evidence of the matters declared.

19. For the purposes of section thirty-eight of the *Judiciary Act* 1903-1955, an action under the Convention shall be deemed not to be a matter arising directly under a treaty.

Jurisdiction of
State courts
preserved.

* The only notice under sub-section (1.) of section 18 published before 3rd July, 1964, appears in *Commonwealth Gazette*, 1964, at p. 2607.

PART III.—CARRIAGE TO WHICH THE WARSAW CONVENTION WITHOUT THE HAGUE PROTOCOL APPLIES.

Interpretation.

20.—(1.) In this Part, "the Convention" means the Warsaw Convention as in force, unaffected by the Hague Protocol, between Australia and any other countries.

(2.) For the purposes of this Part, a reference in the Convention to the territory of a High Contracting Party to the Convention shall be read as a reference to the territories in respect of which a Party declared, in pursuance of section twenty-two of this Act, to be a High Contracting Party to the Convention is declared, in pursuance of that section, to be bound by the Convention.

Provisions of Convention to have force of law.

21.—(1.) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

Evidence of certain matters.

22.—(1.) The Minister may, by notice published in the *Gazette*,* from time to time declare—

- (a) who are the High Contracting Parties to the Convention;
- (b) the territory in respect of which any such Party is bound by the Convention; and
- (c) the extent (if any) to which any Party has availed himself of the provisions of the Additional Protocol to the Convention.

(2.) A notice in force under this section is evidence of the matters declared.

(3.)† A notice published by the Governor-General in the *Gazette*, before the date of commencement of this Part, under sub-section (3.) of section three of the *Carriage by Air Act 1935* and in force immediately before that date shall, for the purposes of this Act, be deemed to be a notice published by the Minister under this section.

* The only notice under sub-section (1.) of section 22 published before 3rd July, 1964, appears in *Commonwealth Gazette*, 1962, at p. 2574, and was still in force on that date.

† The only notice under sub-section (3.) of section 3 of the *Carriage by Air Act 1935* in force immediately before the date of commencement of Part III. (i.e. 21st April, 1959) appears in *Commonwealth Gazette*, 1953, at p. 889 and is reprinted in *Commonwealth Statutory Rules*, 1953, p. 614. That notice was superseded by the notice referred to in footnote * above.

23. Any sum in francs mentioned in Article 22 of the Convention shall, for the purposes of an action against a carrier, be converted into Australian currency at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court or jury.

Conversion of francs.

24. The provisions of sections twelve to seventeen (inclusive) of this Act, except sub-section (11.) of section twelve, apply for the purposes of this Part as if contained in this Part.

Adoption of certain provisions of Part II.

25.—(1.) This Part shall continue in force until a date to be fixed by Proclamation,* being a date not earlier than the date upon which a denunciation by Australia of the Convention in accordance with Article 39 of the Convention takes effect.

Duration of Part.

(2.) Upon the date fixed in pursuance of the last preceding sub-section, this Part shall be deemed to be repealed and the provisions of section eight of the *Acts Interpretation Act* 1901-1957 shall apply as if this Part had been repealed by an Act other than this Act.

PART IIIA.—CARRIAGE TO WHICH THE GUADALAJARA CONVENTION APPLIES.

Part IIIA. inserted by No. 38, 1962, s. 7.

25A. The provisions of the Guadalajara Convention have, subject to Parts II. and III. of this Act as affected by the next succeeding section, the force of law in Australia in relation to any carriage by air to which that Convention applies.

Provisions of Convention to have force of law. Inserted by No. 38, 1962, s. 7.

25B. In relation to carriage to which the Guadalajara Convention applies, references in Part II. (other than section eleven) and in Part III. (other than section twenty-one) to "the Convention" shall be read as including references to the provisions of the Guadalajara Convention as having the force of law by virtue of this Part.

Modification of Parts II. and III. Inserted by No. 38, 1962, s. 7.

25c.—(1.) The Minister may, by notice in the *Gazette*,† from time to time publish information as to the coming into operation of the Guadalajara Convention or as to the States that have or have not taken any action referred to in Article XI, XII, XIV, XV or XVI of that Convention and as to the particulars of any action so taken.

Evidence of certain matters. Inserted by No. 38, 1962, s. 7.

(2.) A notice in force under this section is evidence of the matters specified in the notice.

* No Proclamation was published in the *Commonwealth Gazette* before 3rd July, 1964.

† The only notice under sub-section (1.) of section 25c published before 3rd July, 1964, appears in *Commonwealth Gazette*, 1964, at p. 1569, and was still in force on that date.

PART IV.—OTHER CARRIAGE TO WHICH THIS ACT APPLIES.

Definitions.

26.—(1.) In this Part, unless the contrary intention appears—

“airline licence” means an airline licence in force under the Air Navigation Regulations;

“baggage”, in relation to a passenger, means—

(a) registered baggage; or

(b) baggage, personal effects or other articles, not being registered baggage, in the possession of the passenger, or in the possession of another person (being a person accompanying the passenger or a servant or agent of the carrier) on behalf of the passenger, while the passenger is on board an aircraft for the purposes of carriage to which this Part applies or during the course of any of the operations of embarking or disembarking;

“commercial transport operations” means operations in which an aircraft is used, for hire or reward, for the carriage of passengers or cargo;

“contract” includes an arrangement made without consideration;

“registered baggage”, in relation to a passenger, means baggage, personal effects or other articles registered with the carrier as baggage intended to be carried under a contract for carriage of the passenger to which this Part applies;

“the Air Navigation Regulations” means the Air Navigation Regulations in force under the *Air Navigation Act* 1920-1950, and includes those Regulations as in force by virtue of a law of a State.

(2.) For the purposes of this Part, where, by reason of a contract or charter or other contract between the holder of an airline licence and another person, persons or baggage are or is carried, or are or is to be carried, in an aircraft while it is being operated by the holder of the airline licence, that contract shall be deemed to be a contract of carriage providing for that carriage.

Application
of Part IV.
Sub-section (1.)
amended by
No. 38, 1962,
s. 8.

27.—(1.) This Part applies to the carriage of a passenger where the passenger is or is to be carried in an aircraft being operated by the holder of an airline licence in the course of commercial transport operations, or in an aircraft being operated in the course of trade and commerce between Australia and

another country, under a contract for the carriage of the passenger—

- (a) between a place in a State and a place in another State;
- (b) between a place in a Territory of the Commonwealth and a place in Australia outside that Territory;
- (c) between a place in a Territory of the Commonwealth and another place in that Territory; or
- (d) between a place in Australia and a place outside Australia,

not being carriage to which the Warsaw Convention, the Hague Protocol or the Guadalajara Convention applies.

(2.) Where the carrier is the Australian National Airlines Commission, this Part applies in relation to carriage between a place in a State and a place in the same State in like manner as it applies in relation to carriage between a place in a State and a place in another State.

(3.) For the purposes of this section, where, under a contract of carriage, the carriage is to begin and end in the one State or Territory of the Commonwealth (whether at the one place or not) but is to include a landing or landings at a place or places outside that State or Territory, the carriage shall be deemed to be carriage between the place where the carriage begins and that landing place, or such one of those landing places as is most distant from the place where the carriage begins, as the case may be.

(4.) For the purposes of this section, where—

- (a) the carriage of a passenger between two places is to be performed by two or more carriers in successive stages;
- (b) the carriage has been regarded by the parties as a single operation, whether it has been agreed upon by a single contract or by two or more contracts; and
- (c) this Part would apply to that carriage if it were to be performed by a single carrier under a single contract,

this Part applies in relation to a part of that carriage notwithstanding that that part consists of carriage between a place in a State and a place in the same State.

28. Subject to this Part, where this Part applies to the carriage of a passenger, the carrier is liable for damage sustained by reason of the death of the passenger or any personal injury

Liability of the carrier for death or injury.

suffered by the passenger resulting from an accident which took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Liability of the
carrier in
respect of
baggage.

29.—(1.) Where this Part applies to the carriage of a passenger, the carrier is liable under this Part, and not otherwise, for damage sustained in the event of the destruction or loss of, or injury to, baggage of the passenger, if the occurrence which causes the destruction, loss or injury takes place during the period of the carriage by air unless the carrier proves that he and his servants and agents took all necessary measures to avoid the destruction, loss or injury or that it was impossible for him or them to take such measures.

(2.) For the purposes of the last preceding sub-section but subject to the next succeeding sub-section, the period of the carriage by air comprises—

- (a) in relation to baggage other than registered baggage—the period during which the passenger is on board the aircraft or is in the course of any of the operations of embarking or disembarking; and
- (b) in relation to registered baggage—the period during which the baggage is in the charge of the carrier, whether on board the aircraft or elsewhere.

(3.) In proceedings under this section in respect of registered baggage, if the carrier proves that the baggage was, within a period of twelve hours after the arrival of the aircraft at the place to which the baggage was to be carried in the aircraft, available for collection by the passenger at a place at which, under the contract, the baggage was to be or could be made available to the passenger, the period of the carriage by air shall not be deemed to include any time after the expiration of that period of twelve hours.

(4.) In the application of section thirty-nine of this Act in relation to an action under this Part in respect of baggage other than registered baggage, the carrier shall be deemed to have proved that the damage was caused by the negligence of the passenger, except so far as the passenger proves that he was not responsible for the damage.

(5.) Where, in relation to carriage referred to in sub-section (4.) of section twenty-seven of this Act, registered baggage has been destroyed, lost or injured in circumstances in which, if the carriage had been performed by a single carrier, that carrier would be subject to liability under this section, the carriers (other than a carrier who proves that the baggage was not in his charge at the time of the destruction, loss or injury) are jointly and severally subject to that liability.

30.—(1.) For the purposes of an action under this Part, evidence proving receipt of registered baggage, without complaint, by the person entitled to delivery is evidence that the baggage has been delivered in good condition and in accordance with the contract of carriage.

Complaint
to be made in
respect of
baggage.

(2.) An action does not lie against a carrier under this Part in respect of baggage, except in case of fraud on the part of the carrier, unless the passenger, or a person acting on his behalf, has complained by writing delivered to the carrier or served on the carrier by post or in such other manner as is prescribed—

- (a) in the case of injury to registered baggage or of loss or destruction of part only of an item of registered baggage—within the period of three days after the date of receipt by or on behalf of the passenger of the baggage, or of the remainder of that item of baggage, as the case may be;
- (b) in the case of loss or destruction of the whole of an item of registered baggage—within the period of twenty-one days from the date on which the baggage should have been placed at the disposal of the passenger; or
- (c) in the case of injury to, or loss or destruction of, baggage other than registered baggage—within the period of three days from the date on which the carriage of the passenger ended.

(3.) A court having jurisdiction in actions under this Part in respect of baggage may, by order, grant leave to a person to institute or continue an action in that court in relation to baggage notwithstanding that there has been a failure to complain in accordance with the last preceding sub-section within the time fixed by that sub-section, where the court is satisfied that it is just and equitable to do so by reason of special circumstances.

(4.) Sub-section (2.) of this section does not apply in relation to an action in respect of which leave has been granted under the last preceding sub-section.

31.—(1.) Subject to the regulations relating to passenger tickets, the liability of the carrier under this Part in respect of each passenger, by reason of his injury or death, is limited to the sum of Seven thousand five hundred pounds or such higher sum as is specified in the contract of carriage.

Limitation of
liability.

(2.) Subject to the regulations relating to baggage checks, the liability of the carrier under this Part in respect of the baggage of any one passenger, being baggage that is or includes registered baggage, is limited to the sum of One hundred pounds or such higher sum as is specified in the contract of carriage.

(3.) The liability of the carrier under this Part in respect of the baggage, other than registered baggage, of any one passenger is limited to the sum of Ten pounds or such higher sum as is specified in the contract of carriage.

Contracting
out.

32.—(1.) Any provision of an agreement tending to relieve the carrier of liability in accordance with this Part or to fix a lower limit than the appropriate limit of liability provided by this Part is null and void, but the nullity of such a provision does not involve the nullity of the whole contract of carriage.

(2.) The last preceding sub-section does not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of goods carried.

Servants and
agents of
carrier.

33.—(1.) If an action in respect of any damage is brought against a servant or agent of a carrier, the servant or agent, if he proves that he acted within the scope of his employment or authority, is entitled to avail himself of the limits of liability, if any, which the carrier himself would be entitled to invoke under section thirty-one of this Act in an action against him in respect of that damage.

(2.) The aggregate of the amounts recoverable from the carrier, his servants and agents shall not exceed the limits referred to in the last preceding sub-section.

(3.) The right to bring an action against a servant or agent of a carrier in respect of any damage, being damage which gave rise to a cause of action against the carrier under this Part, is extinguished if the action is not brought within the time specified in the next succeeding section.

Limitation of
actions.

34. The right of a person to damages under this Part is extinguished if an action is not brought by him or for his benefit within two years after the date of arrival of the aircraft at the destination, or, where the aircraft did not arrive at the destination—

(a) the date on which the aircraft ought to have arrived at the destination; or

(b) the date on which the carriage stopped,

whichever is the later.

Liability
in respect of
death.

35.—(1.) The provisions of this section apply in relation to liability imposed by this Part on a carrier in respect of the death of a passenger (including the injury that resulted in the death).

(2.) Subject to section thirty-seven of this Act, the liability under this Part is in substitution for any civil liability of the carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3.) Subject to the next succeeding sub-section, the liability is enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

(4.) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5.) For the purposes of sub-section (3.) of this section, the members of the passenger's family shall be deemed to be the wife or husband, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members of the passenger's family, an illegitimate person or an adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adoptors.

(6.) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in respect of the death of any one passenger, and such an action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8.) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10.) The court may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of the provisions of this Part limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

Liability in
respect of
injury.

36. Subject to the next succeeding section, the liability of a carrier under this Part in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

Certain
liabilities
not excluded.

37. Nothing in this Part shall be deemed to exclude any liability of a carrier—

- (a) to indemnify an employer of a passenger in respect of liability of that employer under a law of the Commonwealth or of a State or Territory of the Commonwealth providing for compensation to workmen or employees in respect of accidents arising out of or in the course of their employment; or
- (b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger, but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with this Part.

Proceeds
of insurance
policies, &c.

38. In assessing damages in respect of liability under this Part there shall not be taken into account by way of reduction of the damages—

- (a) a sum paid or payable on the death of, or injury to, a passenger under a contract of insurance;
- (b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;
- (c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
- (d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
- (e) a premium that would have become payable under a contract of insurance in respect of the life of a deceased passenger if he had lived beyond the time at which he died.

Contributory
negligence.

39.—(1.) If, in an action against a carrier under this Part, the carrier proves that the damage was caused or contributed to by the negligence of the passenger, the damages recoverable shall be assessed in accordance with this section.

(2.) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with this Part and there had been no negligence on the part of the passenger.

(3.) The damages determined under the last preceding sub-section shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger in the responsibility for the damage.

(4.) If the damages as reduced in accordance with the last preceding sub-section exceed the maximum liability of the carrier fixed by or in accordance with this Part, the court shall further reduce the damages to that maximum amount.

(5.) Where any case to which sub-section (1.) of this section applies is tried with a jury, the jury shall determine the damages referred to in sub-section (2.) of this section and the amount of the reduction under sub-section (3.) of this section.

Added by
No. 38, 1962,
a. 9.

40.* The regulations may make provision relating to passenger tickets and baggage checks in respect of passengers or baggage in relation to whom or which this Part applies, being provision for—

Regulations
relating to
passenger
tickets and
baggage checks.

- (a) the circumstances in which such tickets and checks must be issued by carriers;
- (b) matters to be included in such tickets and checks; and
- (c) the non-application of a provision of section thirty-one of this Act (except in cases where the limit of liability under that provision is a sum specified in the contract of carriage) where specified provisions of the regulations relating to the issue, form and contents of such tickets or checks have not been complied with.

41.* The regulations may provide for applying, with such exceptions, adaptations and modifications as are prescribed, the provisions of the Warsaw Convention and the Hague Protocol and any of the provisions of this Act to and in relation to the carriage of cargo, being carriage in relation to which, if it were the carriage of passengers, this Part would apply, but so that no adaptation or modification of the provisions of Article 22 of the Warsaw Convention, as replaced by Article XI. of the Hague Protocol, shall have the effect of limiting the liability of the carrier to a sum less than the sum to which his liability would be limited if those provisions were applied without adaptation or modification.

Application
of Part to
cargo.

* No regulations had been made before 3rd July, 1964.

PART V.—MISCELLANEOUS.

Stowaways.

42.—(1.) Where a person travels in an aircraft without the consent of the carrier and Part II., Part III. or Part IV. of this Act would apply in relation to the carriage of that person if he were a passenger carried under a contract for his carriage for reward between the place where he boarded the aircraft and his place of disembarkation, the liability (if any) of the carrier, or of his servants or agents, in respect of that person and his baggage is subject to the limits as to amounts that are applicable in respect of passengers under that Part.

(2.) This section does not impose any liability on a carrier or a servant or agent of a carrier to which he is not subject apart from this section.

(3.) For the purposes of this section, the place of disembarkation of a person shall be deemed to be the next scheduled stopping place after the place at which he boards the aircraft or, if he continues on board after the aircraft leaves that next scheduled stopping place, the scheduled stopping place next after the last stopping place from which the aircraft departed with that person on board.

Regulations.

43.* The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, the Warsaw Convention or the Warsaw Convention as affected by the Hague Protocol.

THE SCHEDULES.

[Omitted]

CIVIL AVIATION (CARRIERS' LIABILITY).

No. 38 of 1962.

An Act to amend the *Civil Aviation (Carriers' Liability) Act 1959*.

[Assented to 28th May, 1962.]

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

1.—(1.) This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1962*. Short title and citation.

(2.) The *Civil Aviation (Carriers' Liability) Act 1959** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Civil Aviation (Carriers' Liability) Act 1959–1962*.

2.—(1.) Sections one, two, six and nine of this Act shall come into operation on the day on which this Act receives the Royal Assent and the other sections of this Act shall come into operation on a date to be fixed by Proclamation. Commencement.

(2.) The sub-section added to section sixteen of the Principal Act by section six of this Act shall come into operation on the day on which Part II. of the Principal Act comes into operation, but the sub-section so added shall, for the purposes of section twenty-four of the Principal Act as amended by this Act, be taken to be included in the provisions of section sixteen of the Principal Act as so amended as from the commencement of section six of this Act.

3. Section

* Act No. 2, 1959.

Parts.

3. Section three of the Principal Act is amended by omitting the words—

“Part IV.—Other Carriage to which this Act applies (Sections 26–41).”

and inserting in their stead the words—

“Part IIIA.—Carriage to which the Guadalajara Convention applies (Sections 25A–25C).

Part IV.—Other Carriage to which this Act applies (Sections 26–41).”.

Definitions.

4. Section five of the Principal Act is amended by inserting after the definition of “Australia” the following definition:—

“‘the Guadalajara Convention’ means the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier opened for signature at Guadalajara on the eighteenth day of September, One thousand nine hundred and sixty-one;”.

Texts of Conventions.

5. Section nine of the Principal Act is amended—

(a) by omitting from sub-section (2.) the words “the next succeeding sub-section” and inserting in their stead the words “this section”;

(b) by omitting sub-section (3.) and inserting in its stead the following sub-sections:—

“(2A.) Subject to this section, the text of the Guadalajara Convention shall, for the purposes of this Act, be deemed to be the text set out in the Third Schedule to this Act, being a copy of the authentic text in the English language of that Convention.

“(3.) If any inconsistency is shown between the text set out in the First, Second or Third Schedule to this Act and the authentic text in the French language of the Warsaw Convention, the Hague Protocol or the Guadalajara Convention, as the case may be, the authentic French text prevails.”; and

(c) by omitting from sub-section (4.) the words “or of the Hague Protocol” and inserting in their stead the words “, the Hague Protocol or the Guadalajara Convention”.

6. Section

6. Section sixteen of the Principal Act is amended by adding at the end thereof the following sub-section:—

Contributory negligence.

“(6.) Where any case to which sub-section (2.) of this section applies is tried with a jury, the jury shall determine the damages referred to in sub-section (3.) of this section and the amount of the reduction under sub-section (4.) of this section.”.

7. After Part III. of the Principal Act the following Part is inserted:—

“PART IIIA.—CARRIAGE TO WHICH THE GUADALAJARA CONVENTION APPLIES.

“25A. The provisions of the Guadalajara Convention have, subject to Parts II. and III. of this Act as affected by the next succeeding section, the force of law in Australia in relation to any carriage by air to which that Convention applies.

Provisions of Convention to have force of law.

“25B. In relation to carriage to which the Guadalajara Convention applies, references in Part II. (other than section eleven) and in Part III. (other than section twenty-one) to ‘the Convention’ shall be read as including references to the provisions of the Guadalajara Convention as having the force of law by virtue of this Part.

Modification of Parts II. and III

“25C.—(1.) The Minister may, by notice in the *Gazette*, from time to time publish information as to the coming into operation of the Guadalajara Convention or as to the States that have or have not taken any action referred to in Article XI, XII, XIV, XV or XVI of that Convention and as to the particulars of any action so taken.

Evidence of certain matters.

“(2.) A notice in force under this section is evidence of the matters specified in the notice.”.

8. Section twenty-seven of the Principal Act is amended by omitting from sub-section (1.) all the words after paragraph (d) and inserting in their stead the words—

Application of Part IV.

“not being carriage to which the Warsaw Convention, the Hague Protocol or the Guadalajara Convention applies”.

9. Section thirty-nine of the Principal Act is amended by adding at the end thereof the following sub-section:—

Contributory negligence.

“(5.) Where any case to which sub-section (1.) of this section applies is tried with a jury, the jury shall determine the damages referred to in sub-section (2.) of this section and the amount of the reduction under sub-section (3.) of this section.”.

10. The Principal Act is amended by adding at the end thereof the following Schedule:—

Third Schedule.

[Omitted]

CRIMES (AIRCRAFT).

No. 64 of 1963.

An Act to make provision with respect to Crimes committed on board certain Aircraft, and for other purposes.

[Assented to 28th October, 1963.]

[Date of commencement, 25th November, 1963.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Crimes (Aircraft) Act 1963*. Short title.

2. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1–5).

Part II.—Crimes on board Aircraft engaged in certain Flights (Sections 6–9).

Part III.—Crimes affecting Aircraft (Sections 10–20).

Part IV.—Miscellaneous (Sections 21–29).

3.—(1.) In this Act, unless the contrary intention appears— (interpretation.)

“ aircraft ” includes any machine that can derive support in the atmosphere from the reactions of the air;

“ Australia ” includes the Territories;

“ Australian aircraft ” means—

(a) an aircraft registered or required to be registered in accordance with the Air Navigation Regulations as an Australian aircraft;

(b) a Commonwealth aircraft; or

(c) a defence aircraft;

“ Commonwealth

- “Commonwealth aircraft” means an aircraft, other than a defence aircraft, that is in the possession or control of the Commonwealth or an authority of the Commonwealth;
- “court of summary jurisdiction” includes a court of a Territory having jurisdiction in respect of the summary punishment of any offences under the law of the Territory;
- “defence aircraft” means an aircraft of any part of the Defence Force and includes any aircraft that is being commanded or piloted by a member of that Force in the course of his duties as such a member;
- “foreign aircraft” means an aircraft that is not an Australian aircraft, including such an aircraft belonging to or operated by the Government of a country (including a part of the Queen’s dominions) outside Australia;
- “landing” includes alighting on water;
- “member of the crew”, in relation to an aircraft, means a person having duties or functions on board the aircraft;
- “part of Australia” means a State or a Territory;
- “Territory” means a Territory of the Commonwealth;
- “the Air Navigation Regulations” means the regulations known as the Air Navigation Regulations as in force for the time being under the *Air Navigation Act* 1920–1963, and includes any of those regulations as in force by virtue of a law of a State.

(2.) For the purposes of this Act—

(a) a flight of an aircraft shall be taken to commence—

- (i) at the time of the closing of the last external door of the aircraft to be closed before the aircraft first moves for the purpose of taking off from any place; or
- (ii) if the last preceding sub-paragraph is not applicable—at the time at which the aircraft first moves for the purpose of taking off from any place; and

(b) a flight of an aircraft shall be taken to end—

- (i) at the time of the opening of the first external door of the aircraft to be opened after the aircraft comes to rest after its next landing after the commencement of the flight; or
- (ii) if the last preceding sub-paragraph is not applicable—at the time at which the aircraft comes to rest after its next landing after the commencement of the flight,

or,

or, if the aircraft is destroyed, or the flight is abandoned, before either sub-paragraph (i) or sub-paragraph (ii) of this paragraph becomes applicable, at the time at which the aircraft is destroyed or the flight is abandoned, as the case may be.

(3.) For the purposes of this Act, a flight of an aircraft shall be taken to be a flight between two geographical areas where the flight commences in either of those areas and ends, or is, at the commencement of the flight, intended to end, in the other of those areas.

(4.) Subject to the last preceding sub-section, a flight of an aircraft shall, for the purposes of this Act, be taken to be a flight within a single Territory where the flight commences in that Territory and ends, or is, at the commencement of the flight, intended to end, in that Territory, whether or not the aircraft may or will, in the course of the flight, go outside the Territory or outside Australia.

(5.) A reference in this Act to Australia or a part of Australia shall be read as including a reference to the territorial waters of Australia or of that part of Australia, as the case may be.

4. This Act extends to every Territory.

Extension of Act
to Territories.

5. This Act extends—

Extra-territorial
operation of
Act.

- (a) to acts, omissions, matters and things outside Australia, whether or not in or over a foreign country; and
- (b) to all persons, irrespective of their nationality or citizenship.

PART II.—CRIMES ON BOARD AIRCRAFT ENGAGED IN CERTAIN FLIGHTS.

6.—(1.) This Part applies to any aircraft (including a foreign aircraft) that—

Application
of Part.

- (a) is engaged in a flight between two States in the course of trade and commerce with other countries or among the States;
- (b) is engaged in a flight within a Territory, between two Territories or between a State and a Territory;
- (c) is outside Australia while engaged in a flight that commenced in Australia; or
- (d) is engaged in a flight between a part of Australia and a country or place outside Australia.

(2.) This

(2.) This Part also applies to—

- (a) an Australian aircraft that is engaged in a flight wholly out of Australia; and
- (b) a Commonwealth aircraft or a defence aircraft that is engaged in any flight, including a flight wholly out of Australia.

Crimes
committed
on aircraft
to which
Part applies.

7.—(1.) A person who, while on board an aircraft to which this Part applies, does or omits to do an act or thing the doing or omission of which, if it took place in, or if it took place in a public place in, the Australian Capital Territory, would be an offence against—

- (a) a law of the Commonwealth in force in that Territory;
- (b) the Crimes Act, 1900 of the State of New South Wales, in its application to that Territory, as amended or affected by Ordinances from time to time in force in that Territory; or
- (c) the *Police Offences Ordinance* 1930–1961 of that Territory, as amended from time to time,

is guilty of an offence against this Part and is punishable by the same penalty as that by which he would have been punishable if he had been guilty of the first-mentioned offence.

(2.) This section extends to an act or omission that may have taken place in the Australian Capital Territory and a person may be convicted of an offence against this Part notwithstanding that the evidence shows that the act or omission constituting the offence took place in the Australian Capital Territory.

Which offences
are indictable.

8. The question whether an offence against this Part is to be, or may be, prosecuted or dealt with on indictment or summarily shall be determined in accordance with the law that would be applicable in relation to a prosecution under the laws in force in the Australian Capital Territory if the act or omission alleged to constitute the offence had occurred in the Australian Capital Territory.

Alternative
verdicts.

9. Where a person is charged with an offence against this Part before a court other than a court in the Australian Capital Territory, he may be found guilty of any other offence against this Part of which he could have been found guilty if the act or omission alleged to constitute the first-mentioned offence had taken place in the Australian Capital Territory and he had been charged with that offence before a court in the Australian Capital Territory.

PART III.

PART III.—CRIMES AFFECTING AIRCRAFT.

10.—(1.) This Part applies to—

Application
of Part.

- (a) an Australian aircraft (other than a Commonwealth aircraft or a defence aircraft) that is used principally for the purpose of prescribed flights, or is engaged, or is intended or likely to be engaged, in a prescribed flight;
- (b) a Commonwealth aircraft;
- (c) a defence aircraft; and
- (d) a foreign aircraft that is in Australia, or is outside Australia while engaged in a flight that commenced in Australia or was, at its commencement, intended to end in Australia.

(2.) In this section, "prescribed flight" means a flight—

- (a) between two States, in the course of trade and commerce with other countries or among the States;
- (b) within a Territory, between two Territories or between a State and a Territory;
- (c) between a part of Australia and a country or place outside Australia; or
- (d) wholly outside Australia.

11.—(1.) A person shall not, without lawful excuse, take or exercise control, whether direct or through another person, of an aircraft to which this Part applies.

Taking control
of aircraft.

Penalty: Imprisonment for seven years.

(2.) A person shall not, without lawful excuse, take or exercise control, whether direct or through another person, of an aircraft to which this Part applies while another person, not being an accomplice of the first-mentioned person, is on board the aircraft.

Penalty: Imprisonment for fourteen years.

(3.) A person shall not, without lawful excuse, by force or violence or threat of force or violence, or by any trick or false pretence, take or exercise control, whether direct or through another person, of an aircraft to which this Part applies while another person, not being an accomplice of the first-mentioned person, is on board the aircraft.

Penalty, for any contravention of this sub-section: Imprisonment for twenty years.

12. A person shall not wilfully destroy an aircraft to which this Part applies.

Destruction
of aircraft.

Penalty: Imprisonment for fourteen years.

13. A person who destroys an aircraft to which this Part applies with intent to cause the death of a person or with reckless indifference to the safety of the life of a person is guilty of an indictable offence punishable by death.

Destruction of
aircraft with
intent to kill.

14. A person

Prejudicing
safe
operation of
aircraft.

14. A person shall not do an act or thing capable of prejudicing the safe operation of an aircraft to which this Part applies with intent to prejudice the safe operation of that aircraft.

Penalty: Imprisonment for fourteen years.

Prejudicing safe
operation of
aircraft with
intent to kill
persons, &c.

15. A person who does an act or thing capable of prejudicing the safe operation of an aircraft to which this Part applies—

(a) with intent to prejudice the safe operation of that aircraft; and

(b) with intent to cause the death of a person or with reckless indifference to the safety of the life of a person,

is guilty of an indictable offence punishable by death.

Assaulting
crew, &c.

16. A person shall not, while on board an aircraft to which this Part applies, assault, intimidate or threaten with violence a member of the crew of the aircraft so as to interfere with the performance by the member of his functions or duties connected with the operation of the aircraft or so as to lessen his ability to perform those functions or duties.

Penalty: Imprisonment for fourteen years.

Endangering
safety of
aircraft.

17. A person shall not, while on board an aircraft to which this Part applies, do any act or thing that, to his knowledge, is likely to endanger the safety of the aircraft.

Penalty: Imprisonment for seven years.

Taking or
sending
dangerous
goods on
aircraft.

18.—(1.) Subject to this section, a person shall not—

(a) carry or place dangerous goods on board an aircraft to which this Part applies;

(b) deliver dangerous goods to a person for the purpose of their being placed on board such an aircraft; or

(c) have dangerous goods in his possession on board such an aircraft.

Penalty: Imprisonment for seven years.

(2.) This section does not apply—

(a) to or in relation to an act done with the consent of the owner or operator of the aircraft given with knowledge of the nature of the goods concerned;

(b) to or in relation to the carrying or placing of fire-arms, or ammunition for fire-arms, on board an aircraft with permission granted under the Air Navigation Regulations;

(c) in the case of a Commonwealth aircraft (not being an aircraft that is being used for commercial transport operations)—to or in relation to the carrying or placing of dangerous goods on board the aircraft by an officer of, or person employed in, the Public Service of the Commonwealth, or an officer of, or person employed

employed by, an authority of the Commonwealth, in the performance of his duties, or by a person acting in accordance with the instructions of such an officer or person given in the performance of his duties; or
 (d) in the case of a defence aircraft—to or in relation to the carrying or placing of dangerous goods on board the aircraft by a member of the Defence Force in the performance of his duties or by a person acting in accordance with the instructions of a member of the Defence Force given in the performance of his duties.

(3.) In this section, “ dangerous goods ” means—

- (a) fire-arms, ammunition, weapons and explosive substances; and
- (b) substances or things that, by reason of their nature or condition, may endanger the safety of an aircraft or of persons on board an aircraft.

19.—(1.) A person shall not threaten, state that it is his intention, or make a statement from which it could reasonably be inferred that it is his intention, to destroy, damage or endanger the safety of an aircraft to which this Part applies or to kill or injure all or any of the persons on board such an aircraft.

Threats and false statements.

(2.) A person shall not make a statement or convey information, being a statement or information that he knows to be false, to the effect, or from which it could reasonably be inferred, that there has been, is or is to be a plan, proposal, attempt, conspiracy or threat to—

- (a) take or exercise control, by force or violence, of an aircraft to which this Part applies;
- (b) destroy, damage or endanger the safety of such an aircraft; or
- (c) kill or injure all or any of the persons on board such an aircraft.

Penalty: Imprisonment for two years.

20.—(1.) Where, on the trial of a person for an offence against any of the provisions of section eleven of this Act, the evidence does not establish the commission by him of that offence but establishes the commission by him of an offence against another of those provisions, he may be found guilty of that last-mentioned offence.

Alternative verdicts.

(2.) Where, on the trial of a person for an offence against section thirteen of this Act, the evidence does not establish the commission by him of that offence but establishes the commission by him of an offence against section twelve of this Act, he may be found guilty of that last-mentioned offence.

(3.) Where

(3.) Where, on the trial of a person for an offence against section fifteen of this Act, the evidence does not establish the commission by him of that offence but establishes the commission by him of an offence against section fourteen of this Act, he may be found guilty of that last-mentioned offence.

PART IV.—MISCELLANEOUS.

Prosecutions.

21.—(1.) Proceedings for—

(a) the commitment of a person for trial on indictment for an offence against this Act; or

(b) the summary prosecution of an offence against this Act,

shall not be instituted except with the consent in writing of the Attorney-General or a person authorized by the Attorney-General, by writing under his hand, to give such consents.

(2.) Notwithstanding that a consent has not been given in relation to the offence in accordance with the last preceding sub-section—

(a) a person may be charged with an offence against this Act;

(b) a person may be arrested for such an offence, and a warrant for such an arrest may be issued and executed; and

(c) a person so charged may be remanded in custody or on bail,

but no further step in proceedings of a kind referred to in that sub-section shall be taken in relation to the offence until such a consent has been obtained.

(3.) Nothing in the last preceding sub-section shall prevent the discharging of the accused if proceedings are not continued within a reasonable time.

Jurisdiction of courts.

22.—(1.) Subject to the succeeding provisions of this section, jurisdiction is conferred on the several courts of the States and Territories with respect to offences against this Act.

(2.) The jurisdiction conferred on courts by the last preceding sub-section is conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, but, in the case of a court of a State, subject to the conditions and restrictions specified in paragraphs (a), (b) and (c) of sub-section (2.) of section thirty-nine of the *Judiciary Act* 1903–1960.

(3.) The

(3.) The jurisdiction conferred on a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate.

(4.) Jurisdiction with respect to an offence is not conferred by this section on a court of a Territory not forming part of the Commonwealth unless the offence was committed in the Territory or on board an aircraft the last place of taking off of which before the commission of the offence, or the next place of landing of which after the commission of the offence, was in that Territory.

(5.) The trial on indictment of an offence against this Act that was not committed within any State may be held—

(a) in any State; or

(b) in any Territory in which a court having jurisdiction to try the offence may sit.

(6.) Subject to this Act, the laws of a State or Territory with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act.

(7.) Except as provided by this Act, the *Judiciary Act* 1903–1960 applies in relation to offences against this Act.

23.—(1.) In a prosecution for an offence against this Act committed on board an aircraft engaged in a flight, where an act constituting, in whole or in part, the offence charged is proved, it shall be presumed, unless the evidence shows the contrary, that that act did not take place in a State or Territory other than the State or Territory in which the trial is held.

Provisions in
relation to
venue.

(2.) In a prosecution for an offence against this Act committed on board an aircraft engaged in a flight, if the information, complaint or indictment specifies the flight in which the aircraft was engaged, it is not necessary for the information, complaint or indictment to state the part of Australia or other place at which the offence was committed, except where the prosecution is in a court of a Territory and the jurisdiction of the court depends on the offence having been committed in the Territory.

24.—(1.) Where

Change of
venue.

24.—(1.) Where, at any time after the presentation in a court in a part of Australia of an indictment for an offence against this Act and before the jury has returned its verdict—

(a) the defendant objects to the trial on the ground that the offence, if committed, was committed in another part of Australia; and

(b) the Judge is satisfied that the offence, if committed, was committed in that other part of Australia,

the Judge shall forthwith order that the proceedings on the indictment be discontinued and, if the jury has been empanelled, that the jury be discharged, and that the defendant appear before that court or another court of the first-mentioned part of Australia at a specified place and at a specified time not later than twenty-eight days after the date on which the order is made, to be dealt with in accordance with this section.

(2.) Where a Judge makes an order under the last preceding sub-section, he may also—

(a) order that the defendant be kept in such custody as is specified in the order; or

(b) admit the defendant to bail, on such recognizances as the Judge thinks fit.

(3.) If, before the time at which the defendant is to appear before a court, the Attorney-General notifies that court that he does not intend to file an indictment against the defendant in a court of another part of Australia, the first-mentioned court shall, as soon as practicable after being so notified, make an order—

(a) discharging the defendant from his obligation to appear before that court at that time; and

(b) directing—

(i) if the defendant is held in custody—that he be released; or

(ii) if he has been admitted to bail—that the recognizances upon which he was admitted to bail be discharged.

(4.) If, at or before the time at which the defendant is to appear before a court, the Attorney-General notifies that court that he has filed an indictment against the defendant in a court of another part of Australia, the first-mentioned court shall—

(a) if the defendant is in custody—forthwith; or

(b) in any other case—as soon as practicable after the time at which the defendant is to appear before that court, make an order directing that the defendant be taken, as soon as practicable, in the custody of such person as it directs, to the

part

part of Australia in which the indictment was filed and there be delivered to the custody of a person having authority to arrest him, and may make such further orders as it thinks necessary for facilitating the carrying into effect of the first-mentioned order.

(5.) If—

(a) the Attorney-General—

(i) does not, before the time at which the defendant is to appear before a court, notify that court that he does not intend to file an indictment against the defendant in a court of another part of Australia; and

(ii) does not, at or before that time, notify the first-mentioned court that he has filed such an indictment; and

(b) the defendant is in custody,

the first-mentioned court shall, at that time, make an order directing that he be released.

(6.) Where an order has been made under sub-section (1.) of this section in relation to an indictment, the proceedings on that indictment do not, and that order does not, prevent or prejudice any other indictment, or any information, against the defendant, whether on the same charge or on any other charge.

25.—(1.) The person in command of an aircraft to which Part II. or Part III. of this Act applies may, on board the aircraft, with such assistance as is necessary, arrest without warrant a person whom he finds committing, or reasonably suspects of having committed, or of having attempted to commit, an offence against that Part, and that person in command or a person authorized by him may hold the person so arrested in custody until he can be brought before a Justice of the Peace or other proper authority to be dealt with in accordance with law.

Arrest of
offenders, &c.

(2.) The person in command of an aircraft to which Part II. or Part III. of this Act applies may, where he considers it necessary so to do in order to prevent an offence against that Part or to avoid danger to the safety of the aircraft or of persons on board the aircraft, with such assistance as he thinks necessary—

(a) place a person who is on board the aircraft under restraint or in custody; and

(b) if the aircraft is not in the course of a flight—remove a person from the aircraft.

26.—(1.) If, in relation to an aircraft to which Part II. or Part III. of this Act applies, the person in command of the aircraft or any person authorized in writing for the purposes of this section

Power of
person to
search
aircraft.

section by the Minister of State for Civil Aviation reasonably suspects that an offence against that Part has been, is being or may be committed on board or in relation to the aircraft, he may, with such assistance as is necessary, search or cause to be searched—

- (a) the aircraft and any person, luggage or freight on board the aircraft; and
- (b) in the case of an aircraft to which Part III. of this Act applies and which is not engaged in a flight—any person who is about to board the aircraft and any luggage or freight that is about to be placed on board the aircraft.

(2.) A female shall not be searched under the last preceding sub-section except by a female.

Saving of
other laws.

27. This Act is not intended to exclude or limit the operation of any other law of the Commonwealth or, except as provided by the next succeeding section, the operation of any law of a State or Territory.

Person not to
be convicted
twice for
same act or
omission.

28. Where an act or omission of a person is both an offence against this Act and an offence under the law of a State or Territory and that person is convicted of either of those offences, he is not liable to be convicted of the other of those offences.

Death
sentences.

29.—(1.) Where a person is convicted of an offence against this Act punishable by death—

- (a) the sentence of the court shall be that the convicted person shall suffer the punishment of death; and
- (b) the court may give directions with respect to the holding in custody of the convicted person until the sentence is executed or directions of the Governor-General under sub-section (3.) of this section with respect to his custody take effect.

(2.) Subject to the next succeeding sub-section, a sentence of death passed by a court in pursuance of this Act shall be carried into execution in accordance with the law of the State or Territory in which the offender is convicted.

(3.) The Governor-General may, in any case (including a case in which the law of the State or Territory in which the offender is convicted does not provide for the execution of sentences of death), give directions for and in relation to the carrying into execution of a sentence of death passed by a court in pursuance of this Act and, where such directions are given, the sentence shall be carried into execution accordingly.

AIR ACCIDENTS (COMMONWEALTH LIABILITY).

No. 74 of 1963.

An Act to provide for the payment of Damages by the Commonwealth and Authorities of the Commonwealth in respect of the Death of, or Personal Injury to, certain persons travelling as Passengers in Aircraft.

[Assented to 31st October, 1963.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Air Accidents (Commonwealth Liability) Act 1963*. Short title.

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

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

Parts.

Part I.—Preliminary (Sections 1–5).

Part

Part II.—Carriage in Aircraft operated by the Commonwealth or a Commonwealth Authority (Sections 6–10).

Part III.—Carriage in Aircraft not operated by the Commonwealth or a Commonwealth Authority (Sections 11–17).

Part IV.—Regulations (Section 18).

Definitions.

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

“Commonwealth authority” means an authority of the Commonwealth;

“damages” includes an amount received under a compromise or settlement of a claim for damages, whether legal proceedings had been instituted or not;

“flying pay” includes flying instructional pay, flight pay and flying allowance and any other like pay or allowance;

“passenger”, in relation to an aircraft, does not include—

(a) a member of the crew, including a pilot, of the aircraft;

(b) a member of the Defence Force, whether a member of the crew of the aircraft or not, who—

(i) is in receipt of flying pay; or

(ii) is included in a prescribed class of members of the Defence Force, being a class as to whom the terms and conditions of their service include provision for risks arising out of the performance of duties in aircraft;

(c) a person whose carriage in the aircraft is specifically and only for the purpose of his performing in the aircraft—

(i) duties or services for the performance of which he is employed or engaged by the Commonwealth or a Commonwealth authority; or

(ii) duties as a member of the Defence Force;

(d) a person whose carriage in the aircraft is specifically and only for the purpose of his performing duties or services in the aircraft; or

(e) a person who is not lawfully entitled to be on board the aircraft.

Operation of Act.

5. This Act applies both within and outside the Commonwealth and extends to all the Territories of the Commonwealth.

PART

PART II.—CARRIAGE IN AIRCRAFT OPERATED BY THE COMMONWEALTH OR A COMMONWEALTH AUTHORITY.

6.—(1.) This Part applies to the carriage of a passenger in an aircraft operated by the Commonwealth or a Commonwealth authority, not being carriage to which Part IV. of the *Civil Aviation (Carriers' Liability) Act 1959–1962* applies.

Application
of Part.

(2.) This Part does not apply in relation to the death of, or injury to, a person in circumstances entitling any dependant of the person, or the person, to pension under the *Repatriation Act 1920–1962*, the *Repatriation (Far East Strategic Reserve) Act 1956–1962* or the *Repatriation (Special Overseas Service) Act 1962*.

7. Subject to this Part, the following provisions of the *Civil Aviation (Carriers' Liability) Act 1959–1962*, namely, section twenty-eight, sub-section (1.) of section thirty-two, sections thirty-three and thirty-four, section thirty-five (other than sub-section (2.)) and sections thirty-seven to thirty-nine (inclusive) apply to and in relation to carriage to which this Part applies as if those provisions were incorporated in this Part and as if—

Application
of certain
provisions of
*Civil Aviation
(Carriers'
Liability) Act
1959–1962*.

- (a) references in those provisions to a carrier or the carrier were references to the Commonwealth or the Commonwealth authority by which the aircraft was being operated, as the case requires;
- (b) references in those provisions to Australia included references to the Territories of the Commonwealth; and
- (c) the reference in section thirty-three of that Act to section thirty-one of that Act were a reference to section eight of this Act.

8.—(1.) The maximum liability of the Commonwealth or a Commonwealth authority under this Part in respect of any one person, by reason of his death or injury, is Seven thousand five hundred pounds.

Limitation of
amount
recoverable
under this
Part.

(2.) The amount of any damages recoverable but for this sub-section by a person from the Commonwealth or a Commonwealth authority by virtue of this Part in respect of a death or injury shall be reduced by any amount received or receivable by that person in consequence of the death or injury by reason of—

- (a) insurance effected for the benefit of the deceased or injured person or his estate by the Commonwealth or the Commonwealth authority; or
- (b) insurance effected by the deceased or injured person that is referable to an allowance granted by the Commonwealth or the Commonwealth authority for the purpose of enabling him to effect such insurance.

9.—(1.) Subject

Liability under this Part to be in substitution for certain other liabilities.

9.—(1.) Subject to the provisions of section thirty-seven of the *Civil Aviation (Carriers' Liability) Act 1959–1962*, in its application by virtue of this Part, the liability of the Commonwealth or a Commonwealth authority under this Part in respect of the death of a passenger, or personal injury to a passenger that has not resulted in his death, is in substitution for any other civil liability of the Commonwealth or the Commonwealth authority in respect of that death or injury other than—

- (a) a liability under Part II. or Part III. of the *Civil Aviation (Carriers' Liability) Act 1959–1962*; or
- (b) a liability arising otherwise than by reason of the operation of the aircraft by the Commonwealth or the Commonwealth authority.

(2.) Notwithstanding anything contained in Part II. or Part III. of the *Civil Aviation (Carriers' Liability) Act 1959–1962*, but without prejudice to the operation of the next succeeding section, any liability of the Commonwealth or a Commonwealth authority under this Part is not excluded by reason of the existence of any liability of the Commonwealth or of that Commonwealth authority under either of those Parts.

Liability of Commonwealth, &c., independently of this Part.

10.—(1.) Where, apart from this section, damages in respect of any death or injury are recoverable from the Commonwealth or a Commonwealth authority by or for the benefit of a person under this Part and such damages are also recoverable from the Commonwealth or a Commonwealth authority by or for the benefit of that person otherwise than under this Part—

- (a) if damages are recovered otherwise than under this Part, damages are not recoverable under this Part; and
- (b) if damages are recovered under this Part, the amount of damages recoverable otherwise than under this Part shall be reduced by the amount of the damages so recovered.

(2.) In the last preceding sub-section, “damages” does not include compensation under the *Commonwealth Employees' Compensation Act 1930–1962* or the *Seamen's Compensation Act 1911–1960*.

(3.) Nothing in this section prevents the application of section seventeen A of the *Commonwealth Employees' Compensation Act 1930–1962* or section ten A of the *Seamen's Compensation Act 1911–1960* in relation to damages recovered or recoverable under this Part.

PART III.—CARRIAGE IN AIRCRAFT NOT OPERATED BY THE COMMONWEALTH OR A COMMONWEALTH AUTHORITY.

11.—(1.) Subject to this section, this Part applies to the carriage in an aircraft operated by a person other than the Commonwealth or a Commonwealth authority of a passenger being—

Application
of Part.

(a) a person who is—

- (i) an employee within the meaning of the *Commonwealth Employees' Compensation Act* 1930–1962 or a person to whom that Act applies as if he were such an employee; or
- (ii) a seaman to whom the *Seamen's Compensation Act* 1911–1960 applies, being a seaman employed by the Commonwealth or a Commonwealth authority,

and is travelling in the course of his employment by the Commonwealth or a Commonwealth authority;

(b) a person the cost of whose carriage has been, or is to be, borne by the Commonwealth or a Commonwealth authority; or

(c) a person travelling by air for the purposes of the Commonwealth or of a Commonwealth authority in pursuance of arrangements made or authority given by the Commonwealth or the Commonwealth authority.

(2.) This Part does not apply to carriage to which Part IV. of the *Civil Aviation (Carriers' Liability) Act* 1959–1962 applies or to which any provisions of a State Act for the time being declared by the Treasurer by notice in the *Gazette* to correspond with the provisions of that Part apply.

(3.) This Part does not apply in relation to the death of, or injury to, a person in circumstances entitling any dependant of the person, or the person, to pension under the *Repatriation Act* 1920–1962, the *Repatriation (Far East Strategic Reserve) Act* 1956–1962 or the *Repatriation (Special Overseas Service) Act* 1962.

12. Subject to this Part, where this Part applies to the carriage of a person, the Commonwealth, or, if the person is employed by a Commonwealth authority or a Commonwealth authority has borne, or is to bear, the cost of his carriage or has arranged for or authorized his carriage, that Commonwealth authority, is liable for damage sustained by reason of the death of that person or any personal injury suffered by that person resulting from an accident that took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Liability of
Common-
wealth, &c.,
for death
or injury.

13. Subject

Application
of certain
provisions of
Civil Aviation
(Carriers'
Liability) Act
1959-1962.

13. Subject to this Part, the following provisions of the *Civil Aviation (Carriers' Liability) Act* 1959-1962, namely, sections thirty-four, thirty-five (other than sub-sections (2.) and (10.)), thirty-eight and thirty-nine, apply to and in relation to carriage to which this Part applies as if those provisions were incorporated in this Part and as if—

- (a) references in those provisions to a carrier were references to the Commonwealth or a Commonwealth authority; and
- (b) references in those provisions to Australia included references to the Territories of the Commonwealth.

Limitation
of amount
recoverable
under this
Part.

14.—(1.) The maximum liability of the Commonwealth or a Commonwealth authority under this Part in respect of any one person, by reason of his death or injury, is Seven thousand five hundred pounds.

(2.) The amount of any damages recoverable but for this sub-section by a person from the Commonwealth or a Commonwealth authority by virtue of this Part in respect of a death or injury shall be reduced by—

- (a) the amount of any damages or compensation paid or payable in respect of the death or injury to or for the benefit of that person by, or recovered or recoverable by or for the benefit of that person from, the carrier, a servant or agent of the carrier or any other person other than the Commonwealth or the Commonwealth authority, as the case may be; and
- (b) any amount received or receivable by that person in consequence of the death or injury by reason of—
 - (i) insurance effected for the benefit of the deceased or injured person or his estate by the carrier or by the Commonwealth or the Commonwealth authority; or
 - (ii) insurance effected by the deceased or injured person that is referable to an allowance granted by the Commonwealth or the Commonwealth authority for the purpose of enabling him to effect such insurance.

Liability of
Common-
wealth, &c.,
independently
of this Part.

15.—(1.) Where, apart from this section, damages in respect of any death or injury are recoverable from the Commonwealth or a Commonwealth authority by or for the benefit of a person under this Part and such damages are also recoverable from the Commonwealth or a Commonwealth authority by or for the benefit of that person otherwise than under this Part—

- (a) if damages are recovered otherwise than under this Part, damages are not recoverable under this Part; and

(b) if

- (b) if damages are recovered under this Part, the amount of damages recoverable otherwise than under this Part shall be reduced by the amount of the damages so recovered.

(2.) In the last preceding sub-section, "damages" does not include compensation under the *Commonwealth Employees' Compensation Act 1930-1962* or the *Seamen's Compensation Act 1911-1960*.

(3.) Nothing in this section prevents the application of section seventeen A of the *Commonwealth Employees' Compensation Act 1930-1962* or section ten A of the *Seamen's Compensation Act 1911-1960* in relation to damages recovered or recoverable under this Part.

16.—(1.) Damages under this Part in respect of a death or injury are not recoverable from the Commonwealth or a Commonwealth authority by or for the benefit of a person where that person, or a person lawfully acting or entitled to act on behalf of that person—

Damages not recoverable under this Part in certain circumstances.

- (a) has failed to take any action that he could reasonably have been expected to take, if this Part had not been enacted, to recover damages in respect of the death or injury from any other person who was, or may have been, liable to pay damages in respect of the death or injury;
- (b) has, without the consent in writing of the Commonwealth or the Commonwealth authority, as the case may be, entered into a compromise, settlement or agreement whereby a person other than the Commonwealth or the Commonwealth authority has been discharged in whole or in part from liability in respect of the death or injury to which he was, or might have been, subject; or
- (c) has refused to comply with a request under the next succeeding sub-section.

(2.) The Commonwealth or a Commonwealth authority may, in writing, request a person who appears to be entitled to recover damages in respect of a death or injury to which this Part applies against a person other than the Commonwealth or the Commonwealth authority, or a person lawfully acting or entitled to act on behalf of such a person, to take or continue proceedings (whether in the Commonwealth or elsewhere) to recover those damages and, where proceedings are so taken or continued, the

proceedings

proceedings shall be conducted on behalf of the first-mentioned person at the expense of the Commonwealth or the Commonwealth authority.

(3.) The Commonwealth or a Commonwealth authority may, at any time, by notice in writing, revoke a request made under the last preceding sub-section, and, in that event, is not liable for any costs or expenses incurred in respect of the continuance of the proceedings after the revocation.

Action against Commonwealth, &c., under this Part not to be heard if other proceedings pending.

17. An action against the Commonwealth or a Commonwealth authority for damages under this Part in respect of a death or injury shall not be heard or determined if an action against a person other than the Commonwealth or the Commonwealth authority for damages in respect of that death or injury is pending in any court, whether in the Commonwealth or elsewhere.

PART IV.—REGULATIONS.

Regulations.

18. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

CIVIL AVIATION (DAMAGE BY AIRCRAFT).

No. 81 of 1958.

An Act to approve Ratification by Australia of the Rome Convention on Damage caused by Foreign Aircraft to third Parties on the Surface, to give effect to that Convention, and to make provision with respect to the Liabilities of certain Operators of Aircraft in respect of damage on the Surface to which that Convention does not apply.

[Assented to 10th October, 1958.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Civil Aviation (Damage by Aircraft) Act 1958*. Short title.

2.—(1.) Parts I. and IV. of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commencement.

(2.) Part II. of this Act shall come into operation on a date to be fixed by Proclamation, not being earlier than the ninetieth day after the deposit on behalf of Australia of an instrument of ratification of the Convention.

(3.) Part III. of this Act shall come into operation on a date to be fixed by Proclamation.

Parts.

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

Part I.—Preliminary (Sections 1–7).

Part II.—Damage to which the Rome Convention applies (Sections 8–15).

Part III.—Other Damage to which this Act applies (Sections 16–19).

Part IV.—Regulations (Section 20).

Definitions.

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

“Australia” includes the Territories of the Commonwealth;

“contracting State” means a country, other than Australia, which is bound by the provisions of the Convention;

“the Convention” means the Convention on Damage caused by Foreign Aircraft to third Parties on the Surface opened for signature at Rome on the seventh day of October, One thousand nine hundred and fifty-two, being the Convention a copy of the authentic text of which in the English language is set out in the Schedule to this Act.

Extension to Territories.

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

Act to bind Crown.

6. This Act binds the Crown in right of the Commonwealth or of any State.

Approval of ratification of Rome Convention.

7. Approval is given to ratification by Australia of the Convention.

PART II.—DAMAGE TO WHICH THE ROME CONVENTION APPLIES.

Convention to have the force of law.

8.—(1.) The provisions of the Convention have the force of law in Australia.

(2.) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

Actions under Convention.

9.—(1.) Where damage in relation to which the Convention applies occurs in Australia, an action under the Convention in respect of the damage does not lie in Australia except in a Court having jurisdiction in relation to the place where the damage occurs.

(2.) Where an action under the Convention is pending in the Supreme Court of a State or Territory of the Commonwealth, an action under the Convention arising out of the same incident (other than an action instituted before the institution of the action in the Supreme Court) does not lie in any other Court of that State or Territory.

(3.) Where actions under the Convention arising out of a single incident are pending in two or more Courts of a State or Territory of the Commonwealth (whether or not one of those Courts is the Supreme Court), the Supreme Court of that State or Territory may, upon the application of the defendant in any such action (or, if there is more than one defendant, upon the application of any defendant), order any such action to be removed into the Supreme Court, and any such order may be made on such terms and conditions as the Supreme Court thinks fit.

(4.) For the purposes of section thirty-eight of the *Judiciary Act* 1903-1955, an action under the Convention shall be deemed not to be a matter arising directly under a treaty.

(5.) For the purposes of this section, the Territory of Papua and the Territory of New Guinea shall be deemed to constitute one Territory of the Commonwealth.

10.—(1.) A Court in which two or more actions under the Convention are pending, being actions arising out of a single incident, may make such orders as it thinks fit, upon such terms and conditions as it thinks fit, for the purpose of ensuring, so far as the interests of justice and convenience permit, that all of those actions are consolidated for disposal in a single proceeding.

Consolidation
of actions.

(2.) The last preceding sub-section does not prejudice any power of a Court under any other law with respect to any actions to which that sub-section is applicable.

11.—(1.) The provisions of this section apply in relation to the liability imposed by the Convention on a person in respect of the death of another person.

Liability in
respect of
death.

(2.) The action to enforce the liability may be brought by the personal representative of the deceased person or by one of the persons who suffered damage by reason of the death, but only one action shall be brought in Australia in respect of the death of any one person and the action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(3.) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the deceased person and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the deceased person.

(4.) In awarding damages, the Court is not limited to the financial loss resulting from the death of the deceased person.

(5.) Subject to the next succeeding sub-section, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the Court (or, where the action is tried with a jury, the jury) directs.

(6.) The Court may, at any stage of the proceedings, make any such order as appears to the Court to be just and equitable in view of the provisions of the Convention limiting the liability of the defendant.

Proceeds of insurance policies in relation to death or injury.

12. In assessing damages in respect of liability under the Convention in relation to the death of, or personal injury to, a person, there shall not be taken into account—

- (a) a sum paid or payable on the death of, or personal injury to, that person under a contract of insurance;
- (b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union ; or
- (c) in the case of death, a premium that would have become payable under a contract of insurance in respect of the life of that person if he had lived after the time at which he died.

Actions against contracting States as operators of aircraft.

13.—(1.) A contracting State shall, for the purposes of an action under the Convention brought in a Court in Australia to enforce a claim in respect of damage for which, under the Convention, the contracting State is liable as operator of the aircraft concerned or as being otherwise connected with that aircraft, be deemed to have submitted to the jurisdiction of that Court.

(2.) Nothing in this section authorizes the issue of execution against the property of a contracting State.

Evidence of certain matters.

14.—(1.) The Minister may, by notice published in the *Gazette*, from time to time declare—

- (a) that a country specified in the notice is a country which has ratified or adhered to the Convention and the date on which the ratification or adherence became effective;

- (b) that a country has, at the time of deposit of its instrument of ratification of or adherence to the Convention, declared that its acceptance of the Convention does not apply to a territory or territories specified in the notice;
- (c) that a country specified in the notice has extended the application of the Convention to a territory or territories specified in the notice, and the date as from which the extension took effect;
- (d) that a country specified in the notice has made a declaration under paragraph 3 of Article 37 of the Convention in relation to a territory specified in the notice; or
- (e) that a country specified in the notice has denounced the Convention in respect of all of the territories for the foreign relations of which that country is responsible, or in respect of any such territory specified in the notice, and the date upon which the denunciation became effective.

(2.) A notice under this section is evidence of the matters declared.

15.—(1.) The regulations may prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to the Convention and, in particular, matters in relation to—

Regulations
for giving
effect to
Convention.

- (a) the manner in which requirements may be made under Chapter III. of the Convention and the authority that is to be the appropriate authority in Australia for any purpose in relation to that Chapter; and
- (b) the manner in which evidence may be given, in proceedings under the Convention, of a certificate of airworthiness of an aircraft or the identity of the registered owner of an aircraft.

(2.) The regulations for carrying out or giving effect to Article 20 of the Convention may include regulations—

- (a) prescribing the Courts in Australia by which judgments referred to in that Article may be enforced and the formalities that are to be complied with before such a judgment may be so enforced;
- (b) in matters arising under that Article or the regulations—
 - (i) conferring original jurisdiction on the High Court;
 - (ii) investing any Court of a State with federal jurisdiction; or

- (iii) conferring jurisdiction on a court of a Territory of the Commonwealth;
- (c) providing that an application to a Court in Australia for execution of a judgment referred to in that Article shall be made by way of, or be preceded by, an application for registration of the judgment in that Court;
- (d) providing that a Court to which such an application for registration of a judgment is made may refuse registration of the judgment, or set aside registration, upon any ground upon which, under that Article, execution of the judgment may be refused or where, for any other reason, the judgment is found not to be enforceable under that Article; and
- (e) prohibiting, restricting or regulating actions or proceedings in Courts in Australia upon foreign judgments in respect of liability under the Convention, for the purpose of preventing the use of such actions or proceedings as a means of evading the limitations contained in Article 20 of the Convention on rights of execution of those judgments.

PART III.—OTHER DAMAGE TO WHICH THIS ACT APPLIES.

Application
of Part.

16.—(1.) This Part applies to an aircraft registered in Australia which, while being used for the purposes of, or moved in the course of, trade and commerce between Australia and another country, is in flight in Australia—

- (a) in the course of a journey of the aircraft between a place in Australia and a place outside Australia (either with or without intermediate stopping places in Australia); or
- (b) in the course of a journey of the aircraft between two places in Australia, if passengers or goods are being carried in the aircraft in part performance of a contract for their carriage by a single carrier between a place in Australia and a place outside Australia.

(2.) This Part also applies in relation to an aircraft, not being an aircraft registered in Australia or in a Contracting State, which is being used for the purposes of, or moved in the course of, trade and commerce between Australia and another country and is in flight in Australia.

(3.) For the purposes of this section, an aircraft shall be deemed to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

17.—(1.) Subject to this section, the provisions of the Convention (other than Chapter III., Articles 20, 23, 27, 28 and 29 and Chapter VI.) apply, by virtue of this section, in relation to an aircraft to which this Part applies.

Application of provisions of Convention.

(2.) For the purposes of this section, references to the Convention in the provisions of the Convention that apply by virtue of this section shall be read as references to the provisions of the Convention that apply by virtue of this section, as so applying.

(3.) The provisions of Chapter II., and of Articles 19 and 21, of the Convention do not apply to an aircraft referred to in sub-section (2.) of the last preceding section, and, in the application of the provisions of the Convention which do apply to such an aircraft, every reference to the limits of liability provided by Chapter II. of the Convention shall be deemed to be omitted.

18. The provisions of sections nine, ten, eleven and twelve of this Act apply for the purposes of this Part in like manner as they apply for the purposes of Part II., but, in the application of those provisions, any reference to the Convention shall be read as a reference to the provisions of the Convention that apply by virtue of this Part, as so applying.

Application of certain provisions of Part II.

19.—(1.) The Minister may, by notice in writing, prohibit a person from operating an aircraft in circumstances in which the aircraft would be an aircraft to which this Part applies unless there is in force a certificate in writing issued by the Minister certifying that that person is insured to the satisfaction of the Minister against liability under this Part to an extent corresponding to the extent to which an operator may be required to be insured under Chapter III. of the Convention.

Minister may require operator to be insured.

(2.) A person to whom a notice under this section has been given shall not, while the notice is in force, contravene the notice.

(3.) For the purposes of this section and of any notice under this section, a person shall be deemed to operate an aircraft if the circumstances are such that that person would, if the aircraft were one to which the Convention applies, be the operator of that aircraft for the purposes of the Convention.

PART IV.—REGULATIONS.

20. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

Here follows the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface¹

¹ For the text of this Convention see vol. 3.

AUSTRALIAN NATIONAL AIRLINES.

No. 3 of 1959.

An Act to amend the *Australian National Airlines Act* 1945-1958, and for other purposes.

[Assented to 21st April, 1959.]

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

1.—(1.) This Act may be cited as the *Australian National Airlines Act* 1959. Short title and citation.

(2.) The *Australian National Airlines Act* 1945-1958* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian National Airlines Act* 1945-1959.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

(2.) Sections thirteen, twenty, twenty-one and twenty-two of this Act shall come into operation on a date to be fixed by Proclamation.

* Act No. 31, 1945, as amended by No. 90, 1947; No. 102, 1952; No. 105, 1956; and No. 70, 1958.

3. Section three of the Principal Act is repealed and the following section inserted in its stead:—

Parts.

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

Part I.—Preliminary (Sections 1-5).

Part II.—The National Airline Services.

Division 1.—Establishment and Constitution of the Australian National Airlines Commission (Sections 6-18B).

Division 2.—Powers, Functions and Duties of the Commission (Sections 19-29).

Division 3.—Finances of the Commission (Sections 30-38).

Division 4.—Reports (Sections 40-41).

Part VI.—Penalties and Procedure (Sections 60-63).

Part VII.—Miscellaneous (Sections 65-70).”.

Definitions.

4. Section four of the Principal Act is amended—

(a) by omitting the definition of “ Acting Commissioner ” and inserting in its stead the following definition:—

“ ‘ Acting Commissioner ’ means a person appointed under section ten of this Act to act as a Commissioner; ”;

(b) by omitting the definitions of “ adequate airline service ”, “ Chairman ”, “ contractor ” and “ owner ”;

(c) by inserting after the definition of “ Territorial airline service ” the following definition:—

“ ‘ the Chairman ’ means the Chairman of the Commission, and includes a Commissioner acting as Chairman under section ten of this Act; ”; and

(d) by omitting the definition of “ the licensing authority ” and inserting in its stead the following definition:—

“ ‘ the Vice-Chairman ’ means the Vice-Chairman of the Commission, and includes a Commissioner appointed under section ten of this Act to act as the Vice-Chairman; ”.

Australian
National
Airlines
Commission.

5. Section six of the Principal Act is amended by adding at the end thereof the following sub-section:—

“ (5.) The exercise or performance of the powers or functions of the Commission is not affected by reason only of there being a vacancy in the office of a Commissioner.”.

6. Section seven of the Principal Act is amended by omitting from sub-section (1.) the words "five Commissioners" and inserting in their stead the words "six Commissioners".

Composition of Commission.

7.—(1.) Section eight of the Principal Act is repealed and the following section inserted in its stead:—

"8.—(1.) A Commissioner shall be appointed to hold office for a period not exceeding five years.

Term of office of Commissioners.

"(2.) A Commissioner is eligible for re-appointment."

(2.) The last preceding sub-section does not affect the term of office of a Commissioner holding office at the commencement of this section.

8.—(1.) Sections nine to fifteen (inclusive) of the Principal Act are repealed and the following sections inserted in their stead:—

"9. A Commissioner shall be paid such remuneration and allowances as the Governor-General determines.

Remuneration of Commissioners.

"10.—(1.) Where the Minister grants leave of absence to a Commissioner under the next succeeding section, the Minister may appoint a person to act as a Commissioner during that absence, and a person so appointed has all the powers and functions of a Commissioner.

Absence of Commissioners.

"(2.) Where the Minister grants leave of absence to the Chairman of the Commission under the next succeeding section, the Vice-Chairman shall act as Chairman during the absence.

"(3.) Where the Minister grants leave of absence to the Vice-Chairman of the Commission under the next succeeding section, or where the Vice-Chairman is or will be acting as Chairman, the Commission may appoint a Commissioner (other than an Acting Commissioner) to act as Vice-Chairman during the absence, or during the period for which the Vice-Chairman acts as Chairman, as the case may be.

"11. The Minister may grant leave of absence to a Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Leave of absence.

"12. The Governor-General may terminate the appointment of a Commissioner for inability, inefficiency or misbehaviour.

Dismissal of Commissioners.

Resignation of
Commissioners.

“ 13. A Commissioner or an Acting Commissioner may resign his office by writing under his hand addressed to the Governor-General or the Minister, as the case may be, but the resignation is not effective unless it has been accepted by the Governor-General or the Minister, as the case may be.

Vacation of
office.

“ 14.—(1.) If a Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Minister, from three consecutive meetings of the Commission; or
- (c) fails to comply with his obligations under the next succeeding sub-section,

the Governor-General shall, by notice in the *Gazette*, declare that the office of the Commissioner is vacant, and thereupon the office shall be deemed to be vacant.

“ (2.) A Commissioner who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

“ (3.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the Commission, and the Commissioner—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

“ (4.) Sub-section (2.) of this section does not apply in relation to a contract between a Commissioner and the Commission for the carriage of the Commissioner or another person or of any goods.

" 15.—(1.) The Commission shall hold such meetings as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs. Meetings of Commission.

" (2.) The Minister may at any time convene a meeting of the Commission.

" (3.) The Chairman shall, on receipt of a written request signed by not less than two Commissioners, call a meeting of the Commission.

" (4.) The Chairman shall preside at all meetings of the Commission at which he is present.

" (5.) In the event of the absence of the Chairman from a meeting of the Commission, the Vice-Chairman shall preside at that meeting.

" (6.) In the event of the absence of both the Chairman and the Vice-Chairman from a meeting of the Commission, the Commissioners present shall appoint one of their number to preside at that meeting.

" (7.) At a meeting of the Commission, three Commissioners constitute a quorum.

" (8.) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present.

" (9.) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

" (10.) The general manager shall, as far as practicable, attend all meetings of the Commission but, if the Commission so directs, he shall retire from a meeting."

(2.) A determination under section nine of the Principal Act, as amended by this Act, may have effect on or from a date not earlier than the first day of July, One thousand nine hundred and fifty-seven.

9. Section seventeen of the Principal Act is amended—

(a) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

" (4.) The regulations may provide that persons who possess prescribed educational qualifications may, notwithstanding the provisions of the last

Appointment of officers.

preceding sub-section, but subject to such conditions (if any) as are prescribed, be appointed to clerical offices in the Service of the Commission without having passed the prescribed entrance examination, and such persons may be appointed accordingly.”; and

- (b) by omitting from sub-section (7.) the words “Fifteen hundred pounds” and inserting in their stead the words “Two thousand five hundred pounds”.

Intra-state
services in
pursuance of
powers referred
by State
Parliaments.

10.—(1.) Section nineteen A of the Principal Act is amended by omitting from sub-section (1.) the words “prior to the commencement of this section” and inserting in their stead the words “prior to the commencement of section ten of the *Australian National Airlines Act 1959*”.

(2.) On and after the date of commencement of this section, the provisions of the Principal Act, as amended by the provisions of this Act that come into operation on that date, in their application to or in relation to airline services referred to in section nineteen A of that Act, as so amended, shall be deemed to have effect by virtue of this Act.

Power to
purchase and
dispose of
assets.

11. Section twenty-one of the Principal Act is amended by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

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

- (a) purchase any land for a consideration exceeding Twenty thousand pounds;
- (b) enter into a lease of land for a period exceeding ten years; or
- (c) dispose of any property, right or privilege where the consideration for the disposal, or the value of the property, right or privilege, exceeds Fifty thousand pounds.

“(3.) The Commission shall not, without the approval of the Minister, enter into a contract for the supply of aircraft, equipment or materials to the Commission for a consideration exceeding Fifty thousand pounds.”.

Contracts for
transport of
mails.

12. Section twenty-two of the Principal Act is amended by omitting the words “the Minister on behalf of”.

Commission to
be common
carrier.

13. Section twenty-four of the Principal Act is repealed.

14. Section thirty of the Principal Act is amended by omitting from sub-section (1.) the word "more" and inserting in its stead the word "those".

Capital of the Commission.

15. Sections thirty-three, thirty-four, thirty-five and thirty-six of the Principal Act are repealed and the following sections inserted in their stead:—

" 33.—(1.) The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves.

Bank accounts.

" (2.) The Commission shall pay all moneys received by it into an account referred to in this section.

" 34.—(1.) Subject to this Act, the moneys of the Commission shall be applied only—

Application of moneys.

(a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Commission under this Act ;

(b) in payment of the remuneration and allowances of the Commissioners; and

(c) in making payments to the Commonwealth as provided by this Act.

" (2.) Moneys of the Commission not immediately required for the purposes of the Commission may be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

" 35. The Commission shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of the Commission and the incurring of liabilities by the Commission.

Proper accounts to be kept.

" 36.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission, and shall forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

Audit.

" (2.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under the last preceding sub-section.

" (3.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission

relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets of the Commission.

"(4.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

"(5.) The Auditor-General or an officer authorized by him may require a Commissioner or an officer of the Commission to furnish him with such information in the possession of the Commissioner or officer or to which the Commissioner or officer has access as the Auditor-General or authorized officer considers necessary for the purpose of the performance of the functions of the Auditor-General under this Act, and the Commissioner or officer of the Commission shall comply with the requirement."

Profits of
Commission.

16. Section thirty-eight of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

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

"(2.) For the purposes of the last preceding sub-section, the expenditure of the Commission properly chargeable against the revenue received or receivable in respect of a financial year includes—

- (a) charges and expenses accrued in that year but not paid;
- (b) provision made in that year for obsolescence and depreciation of assets;
- (c) provision made in that year for the overhaul of aircraft, engines and operating equipment;
- (d) provision made in that year in lieu of insurance;
- (e) provision made in that year for staff superannuation; and
- (f) provision made in that year for income tax,

but does not include expenditure charged against amounts provided out of the revenue of a previous year or expenditure in payment of charges and expenses accrued in a previous year."

17. Section forty of the Principal Act is repealed and the following section inserted in its stead:—

Annual report
of
Commission.

"40.—(1.) The Commission shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

"(2.) Before furnishing the financial statements to the Minister, the Commission shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the Commission;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act;
- (d) as to the adequacy of provision in the nature of reserves made in the accounts of the Commission; and
- (e) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

"(3.) The Minister shall lay the report and financial statements of the Commission, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister."

18. Parts III., IV. and V. of the Principal Act are repealed.

Repeal of
Parts III.,
IV. and V.
Recovery of
fares or
charges.

19. Section sixty of the Principal Act is amended by omitting from paragraph (a) the word "his" and inserting in its stead the word "its".

20. Section sixty-three of the Principal Act is amended—

- (a) by omitting the words "six months" and inserting in their stead the words "two years"; and
- (b) by adding at the end thereof the following sub-section :—

Limitation
of actions
against the
Commission.

"(2.) This section does not apply to an action to which a period of limitation is applicable by virtue of the *Civil Aviation (Damage by Aircraft) Act 1958* or the *Civil Aviation (Carriers' Liability) Act 1959*."

21. Section sixty-four of the Principal Act is repealed.

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

22.—(1.) Section sixty-six of the Principal Act is repealed and the following section inserted in its stead :—

"66.—(1.) In an action brought against the Commission to recover damages or compensation in respect of personal injury or death (including proceedings for the recovery of contribution from the Commission brought by a tort-feasor who is liable in respect of the same injury or death) the plaintiff is not entitled to recover an amount exceeding Seven thousand five hundred pounds.

Limit of
damages for
personal injury
or death.

“(2.) This section does not apply in relation to the liability of the Commission by virtue of the *Civil Aviation (Damage by Aircraft) Act* 1958 or the *Civil Aviation (Carriers' Liability) Act* 1959.”.

(2.) The amendment made by this section does not apply in relation to a cause of action that arose before the commencement of this section.

By-law.

23. Section sixty-nine of the Principal Act is amended by inserting in sub-section (1.), after the words “this Act” (first occurring), the words “or any other Act”.

AUSTRALIAN NATIONAL AIRLINES.

No. 105 of 1956.

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

[Assented to 15th November, 1956.]

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

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

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

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

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

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

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

Public Service
Arbitration
Act not to
apply.

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

Saving of
existing
determinations
and pending
proceedings.

4. Notwithstanding the amendment made by this Act—

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

AUSTRALIAN NATIONAL AIRLINES.

No. 71 of 1961.

An Act to amend the *Australian National Airlines Act 1945-1959*.

[Assented to 27th October, 1961.]

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

1.—(1.) This Act may be cited as the *Australian National Airlines Act 1961*. Short title and citation.

(2.) The *Australian National Airlines Act 1945-1959** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian National Airlines Act 1945-1961*.

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

3. Section

* Act No. 31, 1945, as amended by No. 90, 1947; No. 102, 1952; No. 105, 1956; No. 70, 1958; and No. 3, 1959.

Capital of the
Commission.

3. Section thirty of the Principal Act is amended by inserting in sub-section (5.), after the words "have regard to", the words "the determination made under sub-section (1.) of section thirty-two of this Act in respect of the relevant financial year and to".

4. Section thirty-two of the Principal Act is repealed and the following section inserted in its stead:—

Financial
policy of
Commission.

"32.—(1.) The Minister, with the concurrence of the Treasurer and after consultation with the Commission—

(a) shall, not later than one month before the commencement of each financial year, determine the percentage of the capital of the Commission that would represent a reasonable return to the Commonwealth from the operations of the Commission in that financial year, and give notice in writing to the Commission of the percentage so determined; and

(b) may, at any time during a financial year, by reason of a change in circumstances, by notice in writing to the Commission, amend a determination under the last preceding paragraph.

"(2.) In performing their functions under the last preceding sub-section, the Minister and the Treasurer shall take into account, in addition to other relevant matters—

(a) the profits, in relation to capital employed, that have been, and are expected to be, made by privately-owned air transport undertakings in Australia;

(b) all matters tending to create disparity with respect to costs between the Commission and privately-owned air transport undertakings, including—

(i) any loans made by the Commonwealth to the Commission at interest rates less than current commercial rates;

(ii) the fact that moneys representing provision made by the Commission for staff superannuation are available for use in the business of the Commission;

(iii) the conduct by, or by undertakings associated with, privately-owned air transport undertakings of commercial activities other than air transport services;

(iv) the operation of developmental services and essential rural services; and

(v) the extent of their non-competitive air transport operations.

"(3.) The Commission shall pursue a policy directed towards making, in each financial year, profits sufficient to enable the Commission to pay to the Commonwealth, out of those profits, an amount equal to the percentage of its capital determined under sub-section (1.) of this section in respect of that financial year.

“(4.) After receipt of notice of the determination made under sub-section (1.) of this section in respect of a financial year, the Commission shall, having full regard to its duty under the last preceding sub-section, prepare estimates, in such form as the Minister directs, of its revenue and expenditure for that financial year and submit those estimates to the Minister.

“(5.) The Commission shall, from time to time as provided in the next succeeding sub-section, review the financial results of its operations during the current financial year and if, upon any such review, the Commission finds that the revenue and expenditure of the Commission during the preceding part of the financial year have not been as favorable to the profitable conduct of the business of the Commission as those specified in the estimates submitted to the Minister and, having regard to that fact, it appears likely that, unless special measures are taken, the Commission will not make sufficient profits in that year to enable it to pay to the Commonwealth, out of those profits, an amount equal to the percentage of its capital determined, in respect of that year, under sub-section (1.) of this section, the Commission shall forthwith consider what specific measures can be taken for the purpose of enabling it to carry out more effectively, during the remainder of that financial year, its duty under sub-section (3.) of this section and shall inform the Minister of the measures it proposes to adopt for that purpose and the effect that it considers the adoption of those measures will have on the financial results of its operations.

“(6.) A review under the last preceding sub-section shall be made whenever the Commission considers that circumstances so require or the Minister so directs, but so that not more than six months shall elapse in a financial year between—

- (a) the beginning of that financial year and the first review under that sub-section in that financial year; or
- (b) the commencement of a review under that sub-section and the commencement of the next such review.”.

5. After section thirty-seven of the Principal Act the following section is inserted:—

“37A.—(1.) In this section, ‘risks to which this section applies’ means the following risks, to the extent to which, in the case of privately-owned air transport undertakings, they are customarily covered by insurance:— Insurance.

- (a) risk of loss of, or damage to, aircraft of the Commission and parts of, and equipment for, such aircraft;
- (b) risk of liability in respect of the death of, or injury to, passengers in aircraft of the Commission; and

- (c) risk of liability in respect of the death of, or injury to, persons on the surface, or damage to property on the surface, caused by an aircraft of the Commission in flight or by any person or thing falling from such an aircraft.

“(2.) So long as the Commission is not fully insured by policies of insurance against all risks to which this section applies, the Commission shall maintain an account (in this section referred to as ‘the prescribed account’) for the purpose of making provision against risks to which this section applies, so far as they are not covered by insurance.

“(3.) The Commission shall credit to the prescribed account—

- (a) any amount that, immediately before the date of commencement of this section, appeared in the accounts of the Commission as a provision in lieu of insurance against risks that, upon that date, became risks to which this section applies;
- (b) such sums as are approved by the Minister, with the concurrence of the Treasurer, as being equivalent to the current commercial premiums that would be payable by the Commission for insurance in respect of risks to which this section applies, so far as they are not covered by insurance;
- (c) interest received by the Commission upon securities representing moneys standing to the credit of the prescribed account, and any profits upon the realization of any such securities; and
- (d) the whole, or such part as the Minister approves as being appropriate, of any damages, compensation or other moneys received or recovered by the Commission in respect of a loss referred to in paragraph (a) of the next succeeding sub-section.

“(4.) The Commission shall debit to the prescribed account—

- (a) where the Commission suffers loss, not fully covered by insurance, by reason of a risk to which this section applies, such amount in respect of that loss as the Minister approves as being appropriate having regard to the provision made under this section in lieu of insurance against that risk;
- (b) payments to the Commonwealth of interest upon any loan made to the Commission in accordance with the next succeeding sub-section; and
- (c) any loss incurred by the Commission upon the realization of securities representing moneys standing to the credit of the prescribed account.

“(5.) If an amount that is, in accordance with paragraph (a) of the last preceding sub-section, required to be debited to the prescribed account exceeds, by more than Fifty thousand pounds, the value of the securities of the Commonwealth held by the Commission that represent moneys standing to the credit of the prescribed account, the Treasurer shall, under section thirty-one of this Act and notwithstanding sub-section (5.) of that section, make a loan to the Commission of an amount equal to the excess.

“(6.) Subject to this section, the Commission shall keep invested in securities of the Commonwealth the whole of the amount from time to time standing to the credit of the prescribed account.

“(7.) Up to and including the thirtieth day of June, One thousand nine hundred and sixty-four, the amount required to be kept invested in accordance with the last preceding sub-section is reduced by an amount equal to so much of the amount referred to in paragraph (a) of sub-section (3.) of this section as was not, immediately before the date of commencement of this section, represented by securities of the Commonwealth, but the Commission shall endeavour to reduce progressively the extent to which the amount standing to the credit of the prescribed account is not represented by securities of the Commonwealth.

“(8.) The Commission shall not be taken to have failed to carry out its obligations under sub-section (6.) of this section by reason only of the lapse of a reasonable interval between the crediting of an amount to the prescribed account and the investment of an equivalent amount in securities of the Commonwealth or between the realization of any securities and the re-investment of the proceeds of the realization.

“(9.) All securities of the Commonwealth that, immediately before the date of commencement of this section, represented any part of the amount referred to in paragraph (a) of sub-section (3.) of this section shall, upon the establishment of the prescribed account, be deemed to represent a corresponding amount standing to the credit of the prescribed account.”.

CIVIL AVIATION AGREEMENT.

No. 86 of 1957.

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

[Assented to 12th December, 1957.]

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

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

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

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

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

Amendment of
Civil Aviation
Agreement Act
1952.

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

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

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

THE SCHEDULE.

Sections 3 and 4.

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

WHEREAS by an agreement (in this agreement called “the Civil Aviation Agreement”) made the Twenty-fourth day of October, One thousand nine hundred and fifty-two between the Commonwealth and the Company and set forth in the schedule to the *Civil Aviation Agreement Act* 1952, the Commonwealth and the Company agreed, inter alia, to rationalize certain airline services operated by the Commission and the Company: AND WHEREAS by the *Civil Aviation Agreement Act* 1952, the Parliament of the Commonwealth of Australia approved the Civil Aviation Agreement and provided that the Commission should do all such things as the Civil Aviation Agreement provided that the Commission would do:

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

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

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

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