

Unless otherwise established, the ticket shall be evidence of the transportation contract and of the terms of transportation.

If no ticket is issued, or if its contents do not conform to the regulations, or if the ticket is lost, the transportation contract shall remain valid. If a passenger to whom no ticket was issued, boards the aircraft with the consent of the carrier or if the ticket does not contain the notice referred to under (c), the carrier may not avail itself of the provision of Article 111, paragraph 2, on the limitation of liability.

Article 93. In the transportation of registered baggage a baggage check shall be issued. If the baggage check is not attached to, or inserted with the passenger ticket conforming to the provisions of Article 92, paragraph 1, it shall state:

- a) the place of departure and of destination,
- b) at least one intermediate landing point if the place of departure and of destination are in the same state, and one or more intermediate landings in another state are agreed upon,
- c) a notice that the transportation may be subject to the Warsaw Convention or to a law which is in conformity with the limits of the Convention as to the liability of a carrier for loss of, or damage to the baggage.

Unless otherwise established, the baggage check shall be evidence of registration of the baggage and of the terms of transportation.

If no baggage check is issued, or if its contents do not conform to the regulations, or if the check is lost, the transportation contract shall remain valid. A carrier shall not be entitled to avail itself of the provisions of Article 111, paragraph 2, on the limitation of liability, if he has accepted baggage for which no baggage check was issued, or if the check does not contain the notice referred to under (c) and the check is not attached to or inserted in with the passenger ticket conforming to the provisions of Article 92, paragraph 1(c).

Article 94. In the transportation of goods the carrier may require the shipper to execute and deliver a document referred to as a bill of lading, and the shipper may require the carrier to accept the document.

If no bill of lading is executed, or if its contents do not conform to the regulations, or if the bill is lost, the transportation contract shall remain valid.

Article 95. The bill of lading shall be executed by the shipper in three copies and shall be delivered to the carrier together with the goods. The first copy shall be marked "for the carrier" and signed by the shipper. The second copy shall be marked "for the consignee" and be signed by the shipper and carrier. This copy shall accompany the goods. The third copy shall be signed by the carrier and delivered to the shipper after acceptance of the goods.

The bill of lading shall bear the signature of the carrier before the goods are placed on board the aircraft; the signature may be replaced by a stamp. The signature of the shipper may be printed or replaced by a stamp.

If the carrier has executed the bill of lading at the request of the shipper, he shall be presumed to be acting on behalf of the shipper unless there is proof to the contrary.

Article 96. If there are several parcels the carrier may require the shipper to execute a separate bill of lading for each parcel.

Article 97. The bill of lading shall state:

- a) the place of departure and of destination,

b) at least one intermediate landing point if the place of departure and of destination are in the same state, and one or more intermediate landings in another state are agreed upon.

c) a notice that the transportation may be subject to the Warsaw Convention or to a law which is in conformity with the limits of the Convention as to the liability of the carrier for loss of, or damage to the goods.

Article 98. A carrier who accepts goods on an aircraft for which no bill of lading was executed, or whose bill of lading does not contain the notice referred to in Article 97, (c), shall not be entitled to avail itself of the provisions of Article 111, paragraph 2, on the limitation of liability.

Article 99. The shipper shall be liable to the carrier or any other person to whom the carrier may be liable for damages sustained as a result of the shipper's statement on the goods in the bill of lading, when the statement does not correspond to the regulations or, in general, is incorrect or incomplete.

Article 100. Unless otherwise established, a bill of lading shall be evidence of the transportation contract, of receipt of the goods, and of the terms of transportation.

The statement in a bill of lading with respect to weight, dimensions, packaging, and the number of articles, shall be conclusive unless there is proof to the contrary. Other statements in the bill of lading with respect to quantity, cubic content or condition of the goods, may not be used as evidence against the carrier, unless the carrier has made an examination of the correctness of the statements in the presence of the shipper and has noted on the bill of lading or the statement the visible condition of the goods.

RIGHT OF DISPOSAL AND DELIVERY OF GOODS

Article 101. If he acts in accordance with the transportation contract and without affecting the rights of the carrier and other shippers, the shipper may dispose of the goods, take them back at the place of departure or of destination, stop transportation at a place of landing en route or demand delivery of the goods at the place of destination or landing en route to a consignee other than that indicated in the bill of lading, or demand the return of the goods to the place of departure. The shipper shall pay the expenses arising from such orders. The carrier must immediately inform the shipper if the orders of the shipper cannot be fulfilled.

When a carrier executes the orders of the shipper without demanding a copy of the bill of lading from the shipper, the carrier shall assume liability for damages which might result to a holder of the bill of lading, with a right of recourse against the shipper.

The rights of the shipper shall terminate when the consignee assumes his rights pursuant to Article 102. If the consignee refuses to accept the bill of lading or the goods, or if he cannot be reached, the right to dispose of the goods shall revert to the shipper.

Article 102. When the goods have arrived at their place of destination the consignee may demand, except under the conditions referred to in Article 101, that the carrier deliver the bill of lading and the goods to him on payment of the amount owed and fulfillment of the terms of the bill of lading.

If not otherwise agreed, the carrier shall inform the consignee when the goods have arrived.

Article 103. When the carrier gives notice that the goods are lost, or when the goods have not arrived within seven days following the day when they should have arrived, the consignee may bring action on his rights against the carrier in accordance with the transportation contract.

Article 104. Any exceptions from Articles 101 to 103, shall be invalid, unless they are stated in the bill of lading.

Article 105. A shipper shall be required to submit information and attach documents to the bill of lading required for compliance with customs, excise and police formalities prior to the delivery of the goods to the consignee. The shipper shall be liable to the carrier for any damages which might result if such information and documents are not submitted, or if they are incomplete or not conforming to the regulations, unless the carrier or its employees are guilty of errors or negligence.

The carrier shall not be required to check whether the information submitted or the documents enclosed are correct and complete.

LIABILITY OF A CARRIER

Article 106. A carrier shall be liable for the death or bodily injury, or disablement of a passenger resulting from an accident occurring while aboard the aircraft, or while enplaning or deplaning.

Article 107. A carrier shall be liable for damage to, or loss of registered baggage or goods by accident occurring while the baggage or the goods were under the care of the carrier whether at the airdrome or aboard an aircraft, or at any other location if the landing occurs beyond the airdrome.

If a transportation contract includes transportation to a place on land or water outside the airdrome, with loading, delivery, or reloading of baggage or goods, such damage shall be presumed to have occurred during the period indicated in paragraph 1, unless proved otherwise.

Article 108. A carrier shall be liable for damages resulting from a delay in the transportation of passengers, registered baggage and goods.

Article 109. A carrier shall not be liable if it establishes that it or its employees have taken all possible action to avoid the damage or that it was impossible for them to do so.

Article 110. If the carrier proves that the person who sustained the injury was guilty of causing it, its liability may be reduced or excluded.

Article 111. The liability of a carrier in the transportation of passengers shall be limited to 36,500 Crowns per person. A higher limit may be agreed upon by contract.

In the transportation of registered baggage and goods liability shall be limited to 37 Crowns per kilogram weight. If, in delivery of the goods to the carrier, the passenger or shipper declares a special value in connection with the delivery of the goods to the place of destination and pays the specified additional freight charge, the declared value shall be the limit of liability of the carrier, unless the carrier proves that the amount declared exceeds the true value to the passenger or

shipper. In the case of loss, damage or delay of a part of registered baggage or goods or an article thereof, the total weight of parcel in question shall be taken as a basis to determine the extent of liability of the carrier. If the loss, damage or delay reduces the value of other parcels which are included on the same baggage check or bill of lading, also the total weight of these parcels shall be taken into account to determine the extent of liability.

Liability of the carrier for objects retained by the passenger shall be limited to 730 Crowns per passenger.

Limits on liability pursuant to this Article shall not prevent the court from allowing the plaintiff payment of costs. This shall not apply where the judgment, excluding costs, does not exceed the amount offered by the carrier in writing to the plaintiff within six months after the damages occurred, or prior to the commencement of an action for damages if the action was commenced later.

The amount of damages referred to in this Article shall be based on gold value. If the gold value of the Crown changes from the value submitted to the International Monetary Fund at the time of the enactment of this law, the amount of damages shall be changed in accordance with the new gold value. In court actions the recalculation shall be made in accordance with the gold value on the day when a judgment is rendered.

Article 112. Conditions exempting the carrier from liability or setting a lower limit of liability than that provided for in Article 111 shall be invalid.

When, in transportation of goods their loss or damage occurred as a result of their quality or defects in the goods the provisions of paragraph 1 shall not apply.

Article 113. Upon proof that the carrier or its employees caused the damage within the scope of their duties intentionally or by gross negligence with knowledge that damage would result, the provisions of Article 111 referring to the limitation on liability of the carrier shall not apply.

Article 114. If employees of a carrier are sued for damages caused in performance of their service by negligence of a lesser degree than that provided for in Article 113, the amount of compensation imposed jointly on employees and the carrier shall not exceed the limits of liability established for the carrier.

Article 115. If the consignee accepts registered baggage or goods without any reservation, the goods shall be presumed to be delivered in good condition and in accordance with the transportation documents, unless there is proof to the contrary.

If the goods are damaged or partly lost, notification shall be made to the carrier immediately upon discovery of the damage, and in any event within seven days for baggage and fourteen days of goods from the date of the receipt of the baggage or goods. In the case of delay notification shall be made within 21 days from the date the baggage or goods are delivered at the consignee's disposal.

The notification shall be made by a notation on the transportation document or by a letter mailed prior to expiration of the time limit indicated above.

Article 116. If the notification is not made within the period indicated in Article 115, no action will lie against the carrier, unless he has acted fraudulently.

Article 117. An action for damages shall be commenced in the court of the place where the carrier resides, or has its main office or business office which made the transportation contract, or of the place of destination.

If the transportation is subject to the Warsaw Convention, an action for damages may be commenced only in a Danish court or in a court of a State which adheres to that Convention.

Article 118. The right to claim damages pursuant to the provisions of this chapter shall lapse if the claim is not presented within two years from the date of arrival of the aircraft at the place of destination, or the date when the aircraft should have arrived or the date when transportation was discontinued.

Article 119. If transportation which, according to the transportation contract is deemed a single operation, is performed by several carriers in a succession, each carrier accepting passengers, registered baggage, or goods, shall be liable for the portion of transportation which he performs.

With regard to registered baggage or goods, the shipper may commence an action against the first carrier, and the consignee to whom delivery is to be made against the last, even if the damage or delay occurred while the goods were under the control of another carrier. If two carriers are liable, they shall be subject to joint liability.

COMPOUND TRANSPORTATION

Article 120. If the transportation is carried out in part by aircraft and in part by other means of transportation, the provisions of this law shall apply only to air transportation.

The terms covering other means of transportation may be entered in an air transportation document.

OTHER PROVISIONS

Article 121. Reservations made in a transportation contract or in an agreement prior to the time of damages, in which the parties deviate from the provisions of the law which applies, or in which they specify a change of venue, shall be invalid.

Arbitration agreements made prior to the time of damages shall be valid and applicable only to the transportation of goods insofar as the arbitration is undertaken at a place of legal venue pursuant to Article 117; disputes covered by the provisions of the Warsaw Convention shall be settled in accordance with that Convention.

Article 122. Air transportation documents issued in a foreign country, or documents pertaining to international air transportation, shall be deemed to fulfill the requirements for notification prescribed in Article 92, paragraph 1(c), Article 93, paragraph 1(c) and Article 97 (c), when the document provides that the transportation may be subject to the provisions of the Warsaw Convention, which generally limits the liability of a carrier for transportation referred to in the pertinent provisions.

In international air transportation not covered by the Warsaw Convention, a carrier may refer to Article 111 as to the limitations on

liability, even if the transportation document does not include the statement referred to in paragraph 1.

Article 123. In domestic aviation, where the intermediate landing a foreign country is not agreed upon, the Minister of Public Works may make exceptions from the provisions of Article 92, paragraph 1, Article 93, paragraph 1, and Article 97, referring to tickets, baggage checks and bills of lading.

Article 124. The Warsaw Convention in the sense of this law, is the Convention for the Unification of Certain Rules Relating to International Transportation by Air of October 12, 1929, as amended by the Protocol signed of the Hague on September 28, 1955.

Article 125. The provisions of this chapter shall not apply to international transportation by air performed referring to reservation in accordance with the Additional Protocol to Article 2 of the Warsaw Convention of October 12, 1929, or with Article XXVI of the Hague Protocol of September 28, 1955.

Article 126. As long as the Warsaw Convention of October 12, 1929, is valid between Denmark and other countries who have adhered to this Convention but have not ratified or adhered to the Hague Protocol of September 28, 1955, the provisions of Law No. 123 of May 7, 1937 on Transportation by Aircraft shall still be in force with reference to transportation contracts which are made after the enactment of this law and which are in accordance with the provisions of the Warsaw Convention of October 12, 1929.

CHAPTER 10. COMPENSATION FOR DAMAGES

Article 127. If there occurs as a result of use of an aircraft an injury to a person or property not aboard the aircraft, the owner or the person on whose account the aircraft is used, shall be liable for the damages.

There shall be no liability to pay damages upon proof that the person who suffered the injury is guilty of causing the injury intentionally or by gross negligence.

When there is an injury to a person damages may be claimed for suffering mutilation, and disfigurement. If the person injured infers complete or partial loss of his working capacity he shall have a right to damages for reduction of his economic capacity. If an injured person dies as a result of the accident, his dependents may claim damages for the loss sustained.

A claim for reimbursement of funeral expenses maybe made, provided they do not exceed expenses which are consonant with the station in life of the deceased person.

Article 128. In claims involving injury to persons or property within the area of an approved aerodrome, the provision of Article 127, paragraph 1, shall not apply.

If damage to an aircraft or cargo results from a collision between aircraft, the provisions of Articles 220 and 221 of the Maritime Law shall apply.

In the case of damages resulting from a collision of two or more aircraft, for which each owner or user of aircraft involved is separately liable pursuant to Article 127, paragraph 1, such owners or users shall be jointly liable. The court decides depending on the circumstances upon the portion of paid compensation which each of them

may reclaim from a person or the persons with whom he shared the liability.

Article 129. The provisions of Articles 127 and 128 shall not restrict the right to claim damages pursuant to the general rules of law.

Article 130. The owner of an aircraft used within Danish territory in accordance with Article 2(a), or for experimental flights in accordance with Article 2(c) shall, if the aircraft is not State owned, take out and maintain an insurance policy for indemnification of claims which might arise against him or the user in matters involving injury to persons or property outside the aircraft. The insurance shall be with an insurance company on conditions determined by the Minister. If the term of insurance coverage has expired, the liability of the insurance company to a third party for damages according to the face value of the policy shall continue for a period of two months following the date when the company informed the Ministry on the expiration of the policy, unless in the meantime the aircraft, if registered, was stricken from the register or unless the license granted under Article 2(c) was revoked.

The Minister may provide that, in lieu of insurance, the owner may use other means of indemnity, approved by him, for compensation for claims referred to in paragraph 1.

When an aircraft is used within Danish territory in accordance with Article 2(b), or, except for experimental flights, in accordance with Article 2(c), the Minister shall determine whether such aircraft is subject to insurance or other surety for indemnification of claims for damages, in accordance with Article 127 and 128.

CHAPTER 11. FLIGHT ACCIDENTS

RESCUE SERVICE

Article 131. The Minister of Public Works, in concurrence with the Ministers of Defense, of Commerce and of Justice, shall issue regulations concerning search and rescue arrangements for aircraft lost, wrecked or in peril; these regulations may impose a duty on private persons and enterprises to render necessary assistance and establish a right to compensation for such assistance.

SALVAGE OF AIRCRAFT

Article 132. A person who salvages or assists in salvaging an aircraft wrecked or in peril, or cargo, or any part of an aircraft or cargo, shall have a right to salvage money in accordance with the provisions on salvage of ships or cargo, whether the salvage is performed at sea, on land or in the air. Any person who rescues or assists in rescuing a life under emergency circumstances which led to salvage of the aircraft, may claim a share of the salvage money.

Any person who has paid extraordinary and unavoidable expenses for preserving an aircraft shall have a right to claim to repayment of such expenses unless such action was contrary to an explicit and justified order of the aircraft commander.

A claim to salvage money or remuneration of expenses shall not exceed the value of the property salvaged, respectively of the aircraft, including freight for cargo and passengers.

Article 133. The owner of goods salvaged shall be liable only to the value of the salvaged goods, which claim is secured by a lien on the goods with priority over any other security on the goods. The lien shall cease when the goods are delivered.

Concerning lien on an aircraft for security of salvage money or payment of extraordinary expenses in accordance with Article 132, the provision of Article 5 of Law No. 135 of March 31, 1960, shall apply.

INVESTIGATION OF FLIGHT ACCIDENTS

Article 134. If an air accident occurs which causes death or serious injury to a person on or outside the aircraft, or serious damage to the aircraft or to property outside the aircraft, an investigation shall be made, and, unless the Minister of Public Works decides otherwise, this shall be done by the Aviation Board.

This shall also apply when there was a serious threat of such accident or events which indicate an essential defect in the aircraft or aviation ground installation or their operation.

Article 135. When the accident occurs within Danish territory, the aircraft, its parts, contents, or traces of the accident may not be removed or displaced after the accident prior to the completion of an investigation by the Aviation Board unless the police, in concurrence with the Aviation Board, grants permission.

The aircraft, its parts and contents may be removed or displaced without such permission to the extent considered necessary to remove persons, animals or mail from the aircraft, or prevent destruction by fire or by any other cause, or if the aircraft or its contents might threaten public safety.

Article 136. The Aviation Board shall have access to the place of the accident even if private property for the purpose of investigating the aircraft or its wreckage, and of taking the necessary measures.

The Aviation Board may demand the submission of books and other documents relating to the aircraft and its crew, and interrogate the owner or user of the aircraft, the crew, and other persons who may be able to give significant information as to the causes of the accident.

In performing the investigation the cooperation of the police to the extent deemed necessary may be requested. If there is suspicion that a crime was committed, the police may make an independent investigation if deemed necessary by the prosecuting authorities and may request for this purpose the cooperation of the Aviation Board. The role of the police in aviation matters shall be specified by regulations issued by the Minister of Justice in concurrence with the Minister of Public Works.

The owner or user of the aircraft, or any other person whose interests are involved in the investigation, shall be informed on the performance of the investigation and they have the opportunity to request an additional investigation.

Article 137. Upon conclusion of the investigation, the Aviation Board shall immediately report the results of the investigation to the Ministry of Public Works. The report shall include a review of the

causes, or probable causes, of the accident and an opinion on actions which should be taken to avoid any future accidents of the same or a similar nature.

The report shall also include a review of the Aviation Board as to the extent to which in its judgment, violations of regulations or the non-fulfillment of operational requirements were involved.

When, during the investigation of an accident the Aviation Board finds that, in connection with the accident, a holder of a certificate is guilty of the violation of certain rules which could result in the cancellation of the certificate, it shall make a recommendation to that effect.

The Minister of Public Works may determine that a report of the investigation or a part thereof shall be published.

If, in the judgment of the Minister or the Aviation Board, a crime was committed, the report shall be referred to the prosecuting authorities.

Article 138. If, in view of the gravity of the accident or other circumstances, the Minister of Public Works finds it necessary, he may determine that the investigation be made by a special investigation-commission, regardless of a prior investigation concluded by the Aviation Board.

The investigation by the commission may also be made by the decision of the Minister, if circumstances indicate that there was a serious threat of an air accident, or if there were essential defects in the aircraft or ground installations or their operation.

Article 139. Members of the commission referred to in Article 138 shall be appointed by the Minister of Public Works, and the chairman of the Commission shall be appointed by the Minister of Public Works in concurrence with the Minister of Justice.

The Commission shall consist of a judge as the chairman, and of a number of expert members specified by the Minister who have a thorough knowledge of flight equipment and the handling of such equipment, and to international safety regulations related to aviation. In particular cases, the investigation shall be made by the chairman and four members nominated by the Minister.

If the Minister considers it necessary he may, on the recommendation of the chairman and in concurrence with the Minister of Justice, appoint a representative of the public interest to participate with the commission in particular cases.

A deputy chairman, who shall also be a judge, shall be appointed who shall act in the absence of the chairman.

The commission shall have a secretary, and if necessary, may summon special experts.

The members of the commission and deputies shall be appointed for a period of 4 years.

The chairman and the members of the commission shall be compensated at a rate specified by the Minister of Public Works in concurrence with the Minister of Finance.

Article 140. In special cases the Minister of Public Works shall request that one or more expert members of the commission follow the investigation carried out by the Aviation Board.

Article 141. If not otherwise provided for by this law, the procedure of the commission shall correspond to the procedure applicable

to extraordinary criminal courts by Article 21 of the Code on Court Procedure.

Persons who are summoned to appear before the commission and who may be considered subject to punishment or compensation, may appear with counsel.

The sessions of the Commission shall be public, unless the Commission decides otherwise, taking into account the particular circumstances of the case or other reasons.

Article 142. At the conclusion of the investigation the commission shall prepare a report as to cause, or probable cause, of the accident or threat of an accident, and shall specify where possible, appropriate proposals for the prevention of accidents or threats of accidents of the same or a similar nature.

In this connection the commission may express its opinion as to responsibility of a particular person in the matter and measures to be taken in the case. If, in the judgment of the commission or the Minister of Public Works, criminal action should be initiated against some person, the report and the opinion of the commission shall be transmitted to the prosecuting authorities.

Article 143. The report of the commission as to the cause or probable cause of the accident, threat of accidents, or defects in the aircraft or ground installation or their operation may be placed at the disposal of the press by the Minister of Public Works.

Article 144. The Minister of Public Works in concurrence with the Minister of Justice may establish regulations on the guarding, protection, removal, or displacement of aircraft wreckage.

CHAPTER 12. MISCELLANEOUS PROVISIONS

Article 145. When, at the beginning of the flight, there are reasons to assume that the aircraft is not airworthy or is not properly manned, or the conditions for such flight specified in this law or the regulations issued on the basis pursuant to it, are not fulfilled, the proper authority may prohibit the take-off of the aircraft and, if necessary, prevent the aircraft from leaving the airdrome until the defects are corrected. The decision on such action shall be made by the Aviation Board or by an agency authorized by that Board: in the latter instance the decision shall be submitted without delay to the Aviation Board for approval.

Article 146. If for an aircraft leaving an airdrome open for the use of public the landing fees for its last landing or stopover or take-off at the airdrome are not paid, the owner of such airdrome may prevent the aircraft from leaving the airdrome until such fees are paid or a proper guarantee has been given.

Article 147. As regards to arrest and prohibition, reference is made to laws pertinent to this situation.

Article 148. The fees for public proceedings referred to in this law shall be specified by the Minister of Public Works.

The Minister may stipulate that expenses in connection with proceedings referred to in paragraph 1, shall be paid by persons in whose interest the proceedings take place.

The dues and expenses referred to in paragraphs 1 and 2 may be collected by distraint of the aircraft.

CHAPTER 13. PENAL PROVISIONS

Article 149. Any person who performs or attempts to perform service on an aircraft having used alcoholic beverages contrary to the provisions of Article 50, paragraph 1, shall be punished by detention or imprisonment of up to two years. Any person who performs service on an aircraft in disregard of the fact that his right to do so has been terminated or if he is deprived of these rights in accordance with Article 150, shall be subject to the same punishment. In extenuating circumstances the punishment may be reduced to a fine.

The provision of the first paragraph shall also apply to persons who perform service in positions referred to in Article 74.

Any person who violates the provisions of Articles 21, 28, 32, paragraph 3, Article 36, paragraphs 1 and 2, Article 39, Article 41, paragraph 1, Article 42, Article 50, paragraphs 2, 3, 5 and 6, Article 60, paragraph 1(1), and paragraph 4, Article 74, (cf Article 50, paragraphs 2, 3, 5 and 6), Article 84, paragraph 2, Article 85, paragraph 1, Articles 130 and 135, shall be punished by detention or imprisonment of up to two years.

Any person who violates the provisions of Article 2, paragraph 1, Article 12, paragraph 1, (1 to 3), Article 13, paragraph 2, Article 20, Article 48, paragraph 2, Article 55, paragraph 1, Article 66, and Article 75, paragraphs 1 and 2, shall be punished by a fine or by detention.

Any person who violates the provisions of Article 18, Article 37, paragraph 3, Articles 38 and 72 shall be punished by a fine.

If the commander of an aircraft or a member of the crew is guilty of gross negligence, or of continuing negligence or carelessness in fulfilment of his duties in accordance with Articles 43 to 49, such person shall be punished by a fine or by detention. If, by such negligence or carelessness, such person has created a danger to life or health of others, or a danger to the aircraft, the punishment may be increased to imprisonment of up to 2 years.

Any person, who does not follow orders or prohibitions given in accordance with this law, or regulations issued in accordance with this law, shall be punished by a fine or detention. The punishment for disregard of an order given in accordance with Article 84, paragraph 1, may be increased to imprisonment of up to 2 years.

Any person who violates the provisions of regulations issued in accordance with Article 3, Articles 82-83 and Article 85, paragraph 2 and 3, shall be punished by a fine, or imprisonment for a period of up to 2 years. In general a violation of regulations and instructions issued in accordance with this law shall be punished by a fine or detention.

Violations committed by joint stock-companies co-operative societies and the like shall be subject to a fine.

The cases are considered as police matters, unless they concern the suspension or deprivation of rights to serving on an aircraft: cf. Article 150, or on other positions, cf. Article 74. If, according to law, the punishment may be imprisonment, a defense counsel shall be appointed if the defendant so requests.

Article 150. Any person shall be deprived of the right to perform service on an aircraft, if the service is accomplished in a grossly unwarrantable manner, or if by nature of the performance of the serv-

ice and reports on his attitude to the service the continuation of his service on aircraft is found to be a danger to the rules of safety.

Any person shall be deprived of the right to perform service on an aircraft if he has used alcoholic beverages in such amounts as referred to in Article 50, paragraph 1, and has performed or has attempted to perform service on an aircraft.

The revocation shall be carried out for a definite period, of not less than 6 months, or permanently. The revocation pursuant to paragraph 2 shall generally be for a period of not less than one year. If the right is temporarily suspended in accordance with the provisions of paragraph 6, the court may determine that the time of suspension may count as a part of the revocation period.

A person deprived of the right to perform services on an aircraft, in accordance with this or a previous law, for a period of more than 3 years, shall be entitled to bring action to recover the right, prior to the expiration of the revocation period, before the court of last resort which made the judgment on revocation. The case may be brought before the court in accordance with Article 78, paragraph 3, of the Criminal Code only after three years of the revocation period have passed, and the right shall be restored only if there are extremely exceptional circumstances. If the person had been previously deprived of the right to perform service on an aircraft, the restoration of this right shall take place only under unusual exceptions and not prior to the expiration of 6 years of the deprivation period.

When the revocation of right to perform service on an aircraft is initiated by the public prosecutor, the matter may be decided only by the court. The effect of the decision shall not be stopped by an appeal.

If the Aviation Board deems that the circumstances warrant revocation of a person's right to serve on an aircraft, it may suspend this right temporarily, however, the competent judge may cancel the decision of the Aviation Board prior to a final judgment. If the court of first instance gave judgment in favour of the defendant and the judgment is appealed by the prosecution authorities and there are serious reasons for maintaining the suspension of such person's rights to serve on an aircraft prior to final judgment, the prosecution authorities may request a decision by the provincial court.

If the right to perform service on an aircraft is revoked or suspended in accordance with the provisions of this article, the certificate of such person shall be returned to the Aviation Board. Such revocation or suspension shall be published in an official publication by the Aviation Board.

When, in accordance with Article 70 of the Law on Traffic a person is deprived of his right to drive a motor car, the Minister of the Public Works may for that period deprive him of the right to perform service on an aircraft, insofar a crime for which he has been punished, establishes a reason to believe that these rights may be abused by him. The defendant may bring an action in court. The provisions of this article shall be applied accordingly.

If a Danish national or a person who has his domicile in Denmark has been punished in a foreign country for a crime the punishment of which according to this article should be the revocation of rights to perform service on an aircraft, he may be deprived of these rights by the action of competent public authorities. The provisions of this Article shall be applied accordingly.

The provisions of paragraphs 1 to 9 of this Article shall be applied to persons referred to in Article 74.

CHAPTER 14. PROVISIONS FOR MAKING THIS LAW EFFECTIVE

Article 151. For the safety of aviation or in the general interests of the public the Minister of Public Works may issue exceptions from the provisions of this law or issue special regulations referring to aircraft with no pilot abroad, or which are operated without engine or aircraft which are of an extraordinary type; these exceptions and regulations shall not amend any provisions which according to their content are provisions of civil or criminal statutes.

The Minister may issue regulations on inventions which are designed to operate in the air, but are not aircraft.

Article 152. The Minister of Public Works may stipulate that the Aviation Board shall have authority, in addition to that stipulated by the law, to perform certain functions on which according to the law the Minister is competent.

Article 153. The Minister of Public Works may issue regulations for the application and enforcement of this law.

The Minister may authorize the Aviation Board to issue such regulations as referred to in paragraph 1.

II

CHAPTER 15. MILITARY AND OTHER NON-COMMERCIAL AVIATION OF THE STATE

Article 154. The Minister of Defense shall issue regulations to what extent and with which amendments this law on civil aviation, and the regulations enacted under the authority of this law, shall apply to Danish military aircraft and to military aviation in general. The regulations relating to civil aircraft, insofar as they may differ from the conditions provided for in this law, may be issued in concurrence with the Minister of Public Works.

The provisions of Article 132 on salvage shall always apply to aircraft referred to in paragraph 1.

Article 155. The provisions of this law shall apply with the exception of Article 133 to Danish aircraft, which are not military aircraft but are exclusively used by the Danish State for other than commercial purposes.

The Minister of Public Works may stipulate that certain provisions of this law shall not apply to aircraft referred to in paragraph 1. The provisions of Article 132 on salvage and the criminal provisions of Chapter 13 shall always apply to aircraft referred to in paragraph 1.

Article 156. A flight over Danish territory of military aircraft and non-foreign aircraft which are exclusively in official use for other than commercial purposes may be made with a permission granted in advance, or in accordance with regulations which apply to the access of foreign military aircraft to Danish territory during peacetime.

A permission to which the conditions of flight are attached shall be issued to military aircraft by the Minister of Defense in concurrence with the Minister of Public Works, and to other aircraft referred to in paragraph 1, by the Minister of Public Works.

III

THE PROVISIONS ON CARRYING THE LAW INTO EFFECT AND INTERIM PROVISIONS

Article 157. This law shall be made effective by Royal decree. The Royal decree may provide that certain provisions of the law shall be made effective separately.

The effectiveness of this law shall repeal law No. 175, of May 1, 1923, as amended by law No. 124 of May 6, 1937, and the regulations enacted in accordance with these laws, unless otherwise provided for by the decree making this law effective.

Law No. 411, of July 12, 1946, on the Right for Flights to Air-dromes open for Public Use and Law No. 123, of May 7, 1937, on Transport by Aircraft, cf. Article 126, shall be repealed.

Article 158. This law shall apply in Greenland only in connection with special provisions enacted by special legislation for Greenland. The procedure of expropriation necessary in Greenland for application of this law, shall be as provided by a special law.

The law shall not be applicable to the Faroe Islands. By Royal decree it may be provided that this law shall be applicable on the Faroe Islands to the extent and with such amendments as adopted by the Legislature of Faroe Islands.

REGULATIONS IN FORCE

According to the Regulation of the Minister of Public Works of December 18, 1961, No. 376 the following decrees and regulations temporarily remain in force:

1) Regulation 13 to Decrees on Aviation of September 11, 1920, of November 24, 1930, No. 312;

2) Regulation on Nationality, Registration and Marking of June 18, 1951, No. 255;

3) Regulation on Scheduled Public Air Traffic of June 10, 1953, No. 188;

4) Regulation on Non-scheduled Public Air Traffic of June 10, 1953, No. 189;

5) Regulation on Traffic Rules of September 29, 1953, No. 297, as amended on August 31, 1954, No. 279, with the exception of point 2.5.;

6) Regulation on Gliders, Parachutes and Aircraft Pilot Assn. of December 22, 1956, No. 349;

7) Regulation on Rescue Service of June 17, 1957, No. 173;

8) Regulation on Commercial Aerial Photography of July 28, 1958, No. 249;

9) Regulation of Aircraft Certificates of July 11, 1959, No. 253;

10) Decree on Prohibition of Flights over the Area of the Experimental Plant of the Committee of Atomic Energy at Ris, of July 24, 1959, No. 256;

11) Regulation C to the Decree on Aviation of September 11, 1920, of September 23, 1960, No. 342;

Temporarily remain in force also Article 39, (a) and (c) to (f) of the Decree on Aviation of September 11, 1920, No. 490, as amended by Regulation of September 6, 1947, No. 349.

DOMINICAN REPUBLIC

LAW ON CIVIL AIR NAVIGATION—Law No. 1915 of January 28, 1949,¹ as amended by Laws No. 4119, of April 20, 1955 and No. 4481 of June 30, 1956

CHAPTER I. GENERAL PROVISIONS

Article 1. Civil, commercial, recreational or educational air navigation above the territory of the nation, or in the airspace over its territorial waters and adjacent islands, shall be governed by the present law and by regulations to be enacted for this purpose by the Executive Power. Its provisions shall apply to any national or foreign aircraft, which takes off, lands, or flies over, or in any manner is found within the jurisdiction of national sovereignty.

Article 2. This law, and the regulations which are issued for its implementation by the Executive Power, shall govern only in peacetime. Whenever a state of war is declared, or public peace is breached, or constitutional guarantees over all or some part of the nation are suspended, the present law shall cease to be effective, and the rights granted to private persons thereunder suspended and, consequently, air navigation shall be prohibited to nationals as well as foreigners unless they have obtained special authorization from the Executive Power, in which case flights shall be subject to the conditions or rules established by that Power.

Officially declared termination of a state of war or serious breach of peace shall void the suspension and *ipso facto* restore the effect of all of its provisions and rights acquired thereunder.

Article 3. Definitions. Unless the context indicates otherwise, the terms employed in this law, which are indicated below in alphabetical order [in Spanish text], shall mean:

Airdrome. A defined area of land or water (including any buildings, installations and equipment thereon) intended wholly or in part to be used for the landing take off, movement, or servicing of aircraft.

Aircraft. Any vehicle capable of supporting itself in the air.

Aircraft lighter than air. Any aircraft which supports itself in the air principally by means of its buoyancy.

Aircraft heavier than air. Any aircraft which derives its principal lift in flight from aerodynamic forces.

Airport. Any airdrome available to the public, provided with facilities for shelter, service or repair of aircraft, and for receiving or discharging passengers or cargo.

Aeroplane. Any aircraft heavier than air, equipped with one or more engines or propulsion systems and which maintains itself

¹ Published in *Gaceta Oficial*, February 11, 1949, vol. 70, No. 6894. For dates of publication of amendments see footnotes 2 and 3, *infra*.

in flight principally by means of aerodynamic reaction on its surfaces which remain stable under specified flight conditions.

Landing field. Any airdrome which is not an airport.

Co-pilot. A licensed pilot who renders services as a pilot without being in command of the aircraft.

State of Registry. The country in which the aircraft is registered.

Member of Flight Crew. A member of the crew to whom are assigned duties essential for the operation of the aircraft during a specified period specified as flight time.

Night. The hours between the setting and the rising of the sun which may be specified by the competent authorities.

To pilot. To manipulate the controls of an aircraft during a period specified as flight time.

Pilot in charge of an aircraft. The pilot responsible for the operation and safety of the aircraft during the period specified as flight time.

Glider plane. An aircraft heavier than air, without engine or propulsion system, which maintains itself in flight principally by virtue of aerodynamic reaction on its surfaces, which remain stable under specified flight conditions.

Type of aircraft. All aircraft of the same basic design, with all modifications, except if they alter the operation or flight characteristics.

Air traffic. All aircraft which are in flight and circling around the operations area of an airdrome.

Acrobatic flight. Manoeuvres intentionally performed in an aircraft which involve an abrupt change of position, or an abnormal position, or change in speed.

Article 4. The word "military" and the term "military service" when used in this law in connection with provisions affecting air navigation, shall include all persons employed in any way by one of the branches, arms or auxiliary services of the army, navy, or air force and to all types of acts, facts, works, efforts, etc., which affect, or originate or result from the functions, duties or rights inherent in the armed forces.

Article 5. For legal and international effects, all aircraft, their accessories, instruments and equipment thereon, and all parts and documents therein, of whatever form, origin or purpose, shall be considered "War Materiel", and subject to expropriation, attachment, use, confiscation, interment, or destruction in the cases and under the rules and principles of international and domestic law.

Article 6. All civil, military or naval public officials or employees, whatever their rank, status or category, particularly when they are members of the customs administration, health, immigration and police services, who by reason of their functions must participate in the clearing or inspection of any national or foreign aircraft duly authorized to make flights over or across national territory, must render services related to such aircraft, fulfill formalities, render necessary assistance in making repairs on such aircraft, render aid or assistance to any person operating or abandoning an aircraft, or enforce compliance with the authority of the commander of such aircraft.

Article 7. The processing, examination and issuance of documents of aircraft used in public service, as well as that of its crew or pas-

sengers and its cargo, shall be made in the offices and by the respective officials with the greatest possible speed, and shall be expedited as much as compliance with the laws and regulations permits and in accordance with the provisions of Law No. 295 of February 13, 1932.

There shall be gratuitously furnished to the pilots or commanders of aircraft, with the same procedure, speed and accuracy, all reports requested by them from the corresponding centers, establishments or offices on the weather or atmospheric or maritime conditions over all the territory, on supplies of fuel, water, repair shops, mechanical parts, or other commodities which may be needed; on routes, communications, topographic or hydrographic charts, signals, etc.; on medical aid and on anything, in any form, which may be necessary or conducive to greater safety and efficiency of air navigation. The messages which public officials or employees must send by national telegraph, telephone or radio, in order to give this information shall be considered "official" and "urgent".

CHAPTER II.² GENERAL DIRECTION OF CIVIL AERONAUTICS AND AERONAUTICS COMMISSION

Article 8. There is hereby created a General Direction of Civil Aeronautics, as a specialized and technical organization under the jurisdiction of the Secretariat of State for War, Navy and Aviation, to deal with matters relating to civil aviation. This organization shall be headed by a Director General, as many assistants as may be necessary, and such other employees as may be required for the best possible performance of the functions assigned to it under the present law.

The Director General, as well as his assistants and employees, shall be appointed by the Executive Power.

Article 9. The Director General of Civil Aviation shall have sufficient independence and authority to resolve and dispose of all matters within his jurisdiction and to take all measures he considers pertinent to enforce the decisions of the Secretary of State for War, Navy and Aviation, and of the Executive Power in all matters concerning civil air navigation.

Paragraph.—In addition to the powers conferred on it by the regulations, and by the decisions of the Executive Power and of the Secretary of State for War, Navy and Aviation, the General Direction of Civil Aeronautics shall:

1. Establish direct and supervise all services necessary to the efficient operations of civil air navigation, particularly those relating to air traffic, air information, control centers, signals, and search and salvage, guided by the procedures and manuals of the International Civil Aviation Organization.

2. Coordinate with the Dominican National Army, Navy and the military Air Force, and other departments of the Administration, in order to obtain the participation of these organizations in the various services specified in the preceding paragraph, particularly insofar as concerns the loan of technical personnel, communications, search and salvage, meteorology, maps and charts.

² Note: Chapter II. Article 8-13, were repealed and replaced by Law No. 4119 of April 20, 1955. *Gaceta Oficial*, April 30, 1955.

3. Promote, encourage and facilitate the development of civil, commercial, or recreational air navigation, official or private, national or foreign, within the Republic, or between it and other nations;

4. Perform or execute studies, plans and drafts on air routes, prohibited areas, airdromes, service and signal stations, storage of spare parts, fuel, mechanical workshops, medical aid services, communications, salvage, factories, aviation schools, and anything which may be necessary or useful to the development of, and aid to air navigation in the Republic;

5. Obtain, select, make available, and publish all national or international information on any matter of interest to air navigation particularly as to mechanical improvements, designs, construction, discoveries, inventions, experiments, tests, competitions, conferences which may be applicable or useful to air navigation; radiotelegraphy, telephonic systems, signals, meteorology, radiography, medicine applicable to the art of flying; topographic charts, routes, photographs and air legislation; statistics and history of aviation;

6. Cooperate in every way and with all resources at its disposal to obtain greater efficiency of military and naval aviation in the Republic;

7. Examine and certify documents and provide for inspection and tests of aircraft, their engines, instruments, and equipment, when application is made for permission to navigate in the air over the territory, and determine as to approval or rejection of such license and its conditions.

8. Examine and certify the personal and technical documents of those persons desiring to navigate in the air over the territory, such as pilots, mechanics, radio operators or crew members, whatever the manner in which they may participate in the navigation, regulation, operation or maneuvers of an aircraft, and decide whether or not they should be authorized to do so without prior examination and other tests provided for in this law;

9. Provide for, and regulate all matters concerning the form and extent of inspection, classification and tests for aircraft, and the physical and technical examination of persons who may be authorized to navigate in the air over the territory, and to operate the planes;

10. Establish properly signal systems and air traffic rules which must be uniformly observed in the Republic;

11. File reports on the applications for permits to take photographic or motion pictures from the air over the territory, or to make maps or charts thereof;

12. File reports on the applications for permits to establish within the territory aviation factories, or factories for accessories and parts particularly intended for this purpose, and for warehouses or establishments intended for their sale to the public, for repair of aircraft, for construction or establishment of airdromes, and for service or supply stations for public use;

13. File reports on approval of rates, prices, insurance, guarantees, fees, taxes, etc., with respect to public air transportation services; and on matters of subsidies, gifts, financial assistance

from the State or municipalities to individuals or corporations or organizations for purposes of the establishment and maintenance of such services;

14. Maintain registers and registration books on all types of aircraft built on national territory or imported, and of those permitted or authorized to navigate in the air in the Republic, and between it and foreign nations, duly classified according to their horsepower, capacity, weight, shape and use, and indicating their nationality, ownership, crew, means of communication, use for which they are employed, places where they are stored and where they normally land, airdromes which they use and routes which they follow, accidents they have suffered, repairs or modifications of importance that have been made thereon, and all other data which constitute their history until their final withdrawal from service.

15. Maintain registers and records of pilots, mechanics, radio operators and their assistants who have been officially authorized to navigate in the air over the territory; of aviation teachers and instructors; of supervisors or managers of airports, workshops or service stations of use to aviation; of aviation schools or academies, their personnel, teaching staff and student bodies, incorporating as much information of a personal and technical nature as may pertain to these persons;

16. File reports on applications for authorization to establish within the Republic aviation academies or schools, and, once such schools have been created, to inspect them, particularly with reference to plans or methods of teaching, competence of the teaching staff, usefulness of the material and location of airdromes, their capacity and conditions in general.

Article 10. There is hereby created a commission known as "Commission on Aeronautics", with the powers specified in the present law. It shall be composed of nine or more members appointed by the Executive Power. At least two of these members shall be selected from the body of officers of the Dominican Military Air Force and, in addition there shall be at least one expert in legal matters, one expert in radio communications, one expert in meteorology, one expert in aviation medicine, one expert in aircraft maintenance, and one expert in cartography. The Director General of Civil Aviation shall be an *ex officio* member of this Commission.

The Executive Power shall determine which of its officers, other than the Director General of Civil Aviation, shall preside, and which among them shall perform the functions of Secretary.

*Article 11.*³ The Commission on Aeronautics shall convene regularly once a month, on the day and at the hour fixed by its chairman, and as many times as may be necessary, in extraordinary session called by that official.

Its principal functions shall be:

- a) To organize air traffic within the national territory;
- b) To make the necessary recommendations for construction and effective operation of civil airports, as well as to supervise the efficient running thereof;

³ *Gaceta Oficial*, June 27, 1956.

c) To be in charge of all matters relating to civil aviation in the country and to be responsible for the effective development thereof;

d) To act as the consultative and advisory body of the General Direction of Civil Aeronautics in Aviation matters;

e) To draft and propose to the General Direction of Civil Aeronautics the adoption of measures tending to facilitate air traffic and development of air transportation in the Republic;

f) To study and render opinions on the advisability and timeliness of application by the Dominican Government or resolutions adopted at international conventions and congresses relating to air navigation, and of bilateral agreements on air transportation which may be proposed to it;

g) To make appropriate recommendations for instructions to Dominican delegates at International Congresses and Conferences on air navigation;

h) To decide and advise on draft legislation and regulations concerning air navigation which the Director General of Civil Aviation may have under study.

Article 12. As to matters within the jurisdiction of the General Direction of Civil Aeronautics and for purposes of general information, the Secretary of State for War, Navy and Aviation may communicate directly with any public official or employee, organization, office, establishment, observatory, or public civil institution, with merchant vessels of Dominican nationality, and with any stations or agencies of public service railroads; and such officials or employees, and the heads or managers of such offices and establishments, the captains of vessels and managers of railway stations, shall reply to or inform the Secretary of State for War, Navy and Aviation in the speediest, most comprehensive and detailed manner concerning the data desired.

Article 13. When the Secretary of State for War, Navy and Aviation deems it necessary or convenient for the greatest speed and efficiency in the preparation, study, procedure or solution of any problems that comes within his jurisdiction, he may request that a public official who is an expert particularly in matters of customs, immigration, health, communications, or a professor of the University or Institute, or a naval officer, appear personally before the Commission on Aeronautics, or attend one or more of its meetings for the purpose of informing, advising or counseling it orally or in writing.

The Secretaries of State, or the Heads of Departments or independent officials in charge of the branch of service in question or to which such official is attached whose counsel or opinion is being sought, may order such person to appear before the Secretary of State for War, Navy and Aviation on the day and at the hour designated for this purpose.

In the same manner, the Secretary of State for War, Navy and Aviation may request assistance from, or temporary use of any laboratory, workshop, office, museum, field, or experimental station, or of any apparatus, devices, instruments, tools, fixtures, equipment or materials owned by or belonging to the State when they are requested for investigation, study, tests, or experiments, when the services related to these matters serve or are of interest to the development, progress, safety or efficiency of air Navigation.

CHAPTER III. CLASSIFICATION, NATIONALITY AND REGISTRATION OF AIRCRAFT

Article 14. For the purposes of the present law, aircraft shall be classified in accordance with the following chart:

AIRCRAFT	Lighter than air	Not propelled by engine	Free balloon	{ Spheric Non-spheric
			Captive balloon	{ Spheric Non-spheric
	Heavier than air	Propelled by engine	Dirigibles	{ Rigid Semi-rigid Flexible
			Glider	{ Land plane Sea plane
	Propelled by engine	Not propelled by engine	Aeroplane	{ Hydroplane Land plane Amphibian
			Autogiro	{ Watergiro Land autogiro Amphibian
		Propelled by engine	Helicopter	{ Water helicopter Land helicopter Amphibian
			Ornithopter	{ Water ornithopter Land ornithopter Amphibian

Article 15. Aircraft shall be divided into public and civil aircraft according to the use for which they are intended.

Public aircraft shall be those belonging to the State, to the District of Santo Domingo, to the municipalities, or to any agency of the Public Administration, and shall be subdivided into:

a) Military aircraft, when they are owned by the Army or Navy, or are commanded by an officer who is a member of said forces in military or naval service;

b) Administrative aircraft, when they are used for any other public service.

Civil aircraft shall be those belonging to any individual, corporation, association, or civil or commercial institution, and shall be subdivided into:

a) commercial aircraft, when used for commercial transportation of passengers or cargo;

b) educational aircraft, when used to teach, prepare or train pilots, mechanics and other personnel as flight crews;

c) recreational or sport aircraft, when used only for such purposes;

d) experimental aircraft, when used for study, observation, experimentation or practice, for the purpose of knowing, proving or testing, the efficiency, utility, or functioning of any device intended or built for air navigation.

Article 16. Aircraft shall have the nationality of the State in which they are registered.

Article 17. Any civil aircraft which is located or built in, or imported into the Republic, whatever the purpose for which it is to be used, must be registered by its owner with the Secretariat of State for War and Navy, by recording the name and other personal data of the owner, his predecessor in title, the manufacturer, and the manufacturer's designation of the aircraft, its capacity, number and type of engine used, its horsepower and the speed it can attain, as well as the location where it is based.

Article 18. In order for an aircraft to be registered, it must be owned by a person, corporation, association, or institution established in the national territory, subject to domestic legislation; it may not be registered in another country, unless there is *bona fide* proof that such registration has been cancelled.

Article 19. Likewise, a certificate of airworthiness, which shall be issued after inspection by the technical personnel designated by the Secretariat of State for War and Navy, must be obtained in advance, and there must be proof of compliance with the minimum requirements for safe flight operation.

Article 20. The registration certificate issued in the name of the owner of the aircraft, as well as that of airworthiness, must be displayed in a visible place where they may be easily examined by passengers and by persons duly authorized to inspect them.

Article 21. In order to obtain the registration of an aircraft, the owner must present an application addressed to the Secretary of State for War and Navy, and exhibit documentary evidence as to the acquisition of title.

Article 22. The registration certificate shall be in force:

a) As long as it is not suspended, revoked, or cancelled by the Secretary of State for War and Navy;

b) As long as the certificate of airworthiness is in force;

c) As long as there is no transfer of ownership, and even in this case, not until such conveyance has been recorded in the Secretariat of State for War and Navy.

Article 23. In the registration certificate, the following must be recorded in addition to the information required in Article 17:

1) Identification markings of the aircraft;

2) Type or types for which it has been approved; and limitations, if any;

3) Weight of the aircraft (empty and with full cargo);

4) Capacity (number of seats, crew, passengers, cargo, and range);

5) Date of issuance of the certificate.

Article 24. The registration certificate shall be valid for one calendar year and must be renewed each year under conditions to be specified by the Secretariat of State for War and Navy.

Article 25. In the event of transfer of ownership of an aircraft, the original owner as well as the new owner shall within a period of five days give notice to the Secretariat of State for War and Navy, and a new registration if approved shall be issued to the purchaser of the aircraft.

Article 26. In case of loss, destruction or deterioration of an aircraft, its owner shall within a period of ten days notify the Secretariat of State for War and Navy, in order that it may be expunged from the corresponding registers.

If it considers it proper, the Secretariat of State for War and Navy may initiate an investigation in order to ascertain the facts and the cause of such loss or deterioration, for the purpose of taking appropriate action.

Article 27. The registration of any aircraft may be cancelled without prior notice whenever the Executive Power deems it proper.

Article 28. All civil aircraft shall bear distinctive markings of their nationality and registration.

Article 29. The Dominican nationality marking for aircraft shall be the letters HI.

Article 30. Registration marking shall be placed after the nationality marking, separated therefrom by a hyphen, and shall consist of a number.

Article 31. Registration and nationality markings may be placed on the aircraft or attached thereto in any other manner which gives them comparable permanency. Markings should be clean and visible at all times.

Article 32. On aircraft lighter than air, the markings must appear in the locations indicated below, and the lateral markings must be visible both from the sides and from the ground:

a) *Dirigibles:* Markings on a dirigible shall appear on each side thereof, and also on the upper portion above the center line. They should be displayed along the sides near the transversal section of the greatest diameter of the dirigible;

b) *Spheric balloons:* Markings on a spheric balloon shall appear twice, diametrically opposite each other, and placed near the maximum horizontal circumference of the balloon;

c) *Non-spheric balloons:* Markings on a non-spheric balloon shall appear on both sides, and shall be placed near the transversal section of the greatest diameter of the globe, immediately above the rigging band or at the connecting points of the suspension cables of the gondola, or as near as possible thereto.

Article 33. On aircraft heavier than air the markings shall appear on the upper and lower surfaces of the wings. They shall be placed in the middle of the right side of the upper surface, and in the middle of the left side of the lower surface of the wing structures, unless they extend across the total of both upper and lower surfaces, of the wing structure. The markings shall be placed, as far as possible, equidistant from the nose and trailing edge of the wings. The upper portion of the letters and numerals shall be turned toward the leading edge of the wings. In addition, the markings should also appear on each side of the fuselage (or equivalent structure) between the wings and the tail surfaces, or on the upper halves of the vertical tail surfaces. When placed on only one vertical tail surface, they must appear on both sides thereof; and if there is more than one vertical tail surface, they must appear on the outside of each of the exterior surfaces. If an aircraft heavier than air does not have parts corresponding to those described in this article, the markings must appear in a form which will permit easy identification of the aircraft.

Article 34. The letters and numerals of each individual group of markings shall be of equal height. On aircraft lighter than air, the height of the markings shall be at least 75 centimeters (30 inches): and on aircraft heavier than air, those on the wings shall be at least

50 centimeters (20 inches). The markings on the fuselage (or equivalent structure) shall not create any confusion with the contour thereof. The markings on the vertical tail surfaces, of aircraft heavier than air, shall be distributed in a manner which will leave a margin of 6 centimeters (2 inches) the entire length of the flanges of the vertical tail surfaces. In view of specifications, the marking must be of the largest possible dimensions, but there shall be no inference that the markings must exceed the height of 15 centimeters (6 inches).

Article 35. The letters shall be in capitals, in Roman characters, without ornamentation; and the numerals shall be arabic, also without ornamentation. The width of each character (except the letter X and the numeral 1) and the length of the hyphens shall be two-thirds of the height of the characters. These and the hyphens shall be comprised of solid lines and be of a color which contrasts clearly with the background. The width of the lines shall equal a sixth of the height of the individual characters and each of these shall be separated from the one immediately preceding or following it by a space equal to half the width thereof. For this purpose, the hyphen shall be considered as a letter.

Article 36. All aircraft shall carry an identification plate on which will be inscribed at least its nationality and registration markings. This plate shall be of refractory metal, or of other refractory material possessing adequate physical properties, and shall be affixed to the aircraft in a visible place near the principal entry.

CHAPTER IV. AIR NAVIGATION

Article 37. Civil air navigation over Dominican territory and in the airspace over the seas under its jurisdiction and adjacent islands shall be free, subject to the exceptions and restrictions established by the present law and the regulations which are enacted thereunder.

Article 38. Under exceptional circumstances pertinent to external security or maintenance of internal order, the Executive Power, temporarily or permanently and effective immediately, may prohibit or restrict air navigation over the national territory without incurring any liability for damages and losses which may be caused by the enforcement of such a measure.

Article 39. Upon application addressed to it through proper channels, the Secretariat of State for War and Navy may grant or deny authorization to foreign military or civil aircraft to fly over the territory of the Republic, or to land on land or water areas within its borders.

General authorization may be granted to aircraft of a particular nation, or it may be limited specifically to one or more aircraft, as provided in this present law.

It shall be considered unlawful to make flights over national territory, or to land on its land or water areas, without prior authorization and consequently, aircraft and their flight crews shall be subject to the penalties specified below and to the jurisdiction of its courts, with the exception of cases of duly proved accidents or forced landings.

Article 40. Foreign aircraft not operating in scheduled international air services, and belonging to countries which, either through their domestic legislation or by means of treaties or conventions, grant equal privileges to Dominican aircraft, shall without the need of ob-

taining prior permission, have the right to make flights into or to fly in transit over the country for non-commercial purposes, but the Executive Power reserves the right, on the grounds of flight safety, to require that such aircraft shall land. Also, the Executive Power reserves the right, for reasons of flight safety, to require that aircraft desiring to fly over in accessible regions or over those which lack adequate facilities for air navigation, following fixed routes or obtain special permits for such flights.

Likewise, if such foreign aircraft for remunerations or by charter are used for the transportation of passengers, cargo, or mail outside of their scheduled international services, they shall also have the privilege of taking on and discharging passengers, cargo or mail under the conditions and with the limitations stipulated in the present law or in the regulations issued for its implementation.

Article 41. Scheduled international air services may not be established except with special authorization of the Executive Power, and in conformity with the conditions stipulated in such authorization.

Article 42. Foreign aircraft may not take on passengers, mail or freight for remuneration or for hire on the national territory, in order to transport them to another point on the national territory, except with special authorization of the Executive Power.

Article 43. All aircraft engaged in transportation of passengers or goods must keep on board the following documents:

- a) Registration certificate;
- b) Airworthiness certificate;
- c) Appropriate licenses for each crew member;
- d) Logbook;
- e) License for its radio, if any;
- f) A list of names of passenger, if any with place of embarkation and destination;
- g) A manifest and detailed declaration of the cargo, if any.

Foreign aircraft not included in the provisions of Article 40, which do not perform scheduled services shall, in addition, carry the authorization specified in Article 39.

Article 44. All registered aircraft shall be inspected periodically by the authority or the official designated by the Secretariat of State for War and Navy, and the airworthiness certificate shall be renewed or cancelled at that time. Cancellation of that certificate shall also mean cancellation of the registration.

Article 45. The commander of an aircraft or member of a crew in charge of an aircraft, and the supervisors or managers of airports, airdomes or hangars in which there are aircraft, shall at all times permit entry and inspection by any naval, military, police, customs, health or immigration authority.

Article 46. No aircraft may have radiotransmitters installed unless they are authorized to do so by the Secretariat of State for War and Navy, and such authorization shall state the use to be made thereof, and they may be operated only by members of the flight crew who possess special licenses therefor.

Aircraft authorized to transport passengers, which are under a duty to possess radio-receiving and transmitting equipment, shall be exempt from the above provision.

Article 47. When foreign aircraft operate over national territory and have installations of radiotransmitting and receiving equipment, they may make use of them only in the cases authorized by the laws or by international agreements adhered to by the Republic, and in any case, with prior special permission of the Secretariat of State for War and Navy.

Article 48. No aircraft, whatever may be its nationality, may carry photographic or topographic equipment or instruments for its own use without express authorization of the Secretariat of State for War and Navy.

Article 49. No domestic or foreign aircraft, while in flight over national territory, may transport firearms, munitions, explosives, carrier pigeons, drugs prohibited for use of trade, or any other goods or merchandise whose trade or importation into the Republic is prohibited by law.

Violation of the provisions of this article shall subject the aircraft and the prohibited goods to confiscation, but other liability incurred according to the laws shall not thereby be affected.

Article 50. Aircraft authorized for scheduled transportation of passengers or cargo must exclusively follow the flight routes designated in their authorizations, and may only land on designated land or water areas as provided for in this law and such other provisions as may be enacted by the Executive Power. Only in case of damage, accident, or bad weather may compliance with the above provision be avoided.

Article 51. All aircraft in flight over the territory shall be prohibited from jettisoning packages or other objects. Any person who violates this provision shall be liable for damages or injuries caused thereby, and in addition shall incur the penalties set forth in the national laws.

Exceptions may be made from this provision for balloons, which are not propelled by engine power, and which take such action in order to reduce their ballast, and also aircraft used for transportation of mail and parcel post which are authorized to drop mail pouches in predetermined locations.

Article 52. All aircraft whatever may be their nationality or destination, other than military craft in the service of the Government of the Republic, shall be prohibited from making flights over forts, fortifications, military districts and camps, or over any prohibited air zone which the Executive Power may determine.

Article 53. Flights at less than one thousand five hundred (1500) feet altitude shall be prohibited over populated areas, as well as acrobatic flying or dangerous manoeuvres over towns or over crowds of persons. Such acrobatics and maneuvers may be performed only over airdromes, with prior authorization.

Article 54. All aircraft, whatever their nationality or destination, shall land on land or water areas when signals to do so have been transmitted or sent from any military post, war vessel of the Republic, or airdrome.

Article 55. All aircraft, whatever their nationality, shall be subject to the provisions of the laws on land or maritime public service transportation in all cases not specifically covered in the present law.

Article 56. The liability of the corporation, association or individual, operating air transport lines, shall be regulated with respect to passage or cargo by the provisions of the laws of the Republic concerning land or maritime transportation.

Article 57. The legal provisions on police, health, immigration and customs shall be applicable to air navigation unless there are express exceptions, modifications or divergent provisions in the present law, and provided they are reasonably applicable in view of the special character of such navigation.

Article 58. The corporations, associations or individuals engaged in operation of air transport lines for passengers or goods, must at each location designated on the routes flown by them and for which they have been authorized, establish, and maintain airdromes or airports which are duly qualified and equipped for the comfort and safety of the users of this means of transportation, as well as emergency land fields between such stations.

Article 59. Aircraft used for transportation of passengers or cargo may use the airdromes and airports of the State, provided there is an authorization to do so.

Article 60. In cases of night flights, the corporations, associations, or individuals operating air transport lines, shall illuminate the landing fields and airports, and supply beacons and floodlights in the form and number prescribed by the competent authorities.

Article 61. No aircraft may land on a land or water area except at airdromes or airports legally established, except in cases of forced landings because of damage, bad weather, accidents to persons, or lack of fuel or oil.

Article 62. Corporations, associations, or individuals who own aircraft shall be financially liable for damages, injuries or impairments caused by such aircraft as a result of forced landings which they may have to make.

Article 63. All airports, airdromes, landing and emergency fields shall be under the supervision of the Secretariat of State for War and Navy.

Article 64. The Secretariat of State for War and Navy may require any individual or corporation to extinguish, cover, or protect in a specified manner any light, beacon or floodlight so that it may not cause confusion with light signals serving as guidance to night air traffic.

Article 65. When it is necessary to set up beacons for air traffic which might possibly project their light over the sea, the Secretariat of State for War and Navy shall take steps to avoid confusion with maritime beacons.

Article 66. The laws of the Republic shall be applicable to all crimes and misdemeanors which may be committed by owners, pilots, flight crews or passengers on any aircraft, national or foreign, when found within the territory.

Article 67. When deemed proper for public order or service, the Executive Power may provide that an Army or Naval officer, as representative of the Secretary of State for War and Navy, may inspect, supervise or control the private corporations, associations, or individuals who own aircraft, in accordance with the provisions of this law.

CHAPTER V. FLIGHT PERSONNEL

Article 68. No person may be a member of a flight crew on an aircraft unless he possesses a valid license corresponding to his functions, issued to him or validated by the Secretariat of State for War and Navy.

Such licenses shall be granted to persons who are in possession of a certificate of competency, the Secretariat of State for War and Navy may refuse a permit to fly over the territory, if it is deemed proper to do so.

Article 70. In addition to the certificates of competency referred to in the preceding articles, the members of a flight crew must fulfill the requirements set forth below, and must have their respective certificates of physical fitness. Periodically and on the date designated by the Secretariat of State for War and Navy, members of a flight crew must undergo physical examinations. Licenses of any persons who refuse to comply with this requirement shall be forfeited.

Article 71. The Secretariat of State for War and Navy may cancel the license of any member of a flight crew, without stating a reason, provided it is proved that he habitually consumes alcoholic beverages, drugs or other intoxicants.

Article 72. Pilots commanding an aircraft shall enforce strict compliance with the provisions of the present law, and of the regulations which may be enacted by the Executive Power by the crew under their command.

The rights and duties of pilots and other crew members, among themselves and with respect to pilots and other persons to whom the aircraft on which they are serving is entrusted, shall be governed according to the type of aircraft, by the laws and other provisions of the Republic concerning crews on land or maritime transportation.

Article 73. The Secretariat of State for War and Navy shall issue to members of flight crew and other personnel assigned to civil air navigation services, the licenses enumerated below in accordance with the requirements and under conditions to be established in due time:

- a) Flight crew members:
 - student pilot;
 - private pilot;
 - commercial pilot;
 - commercial pilot first class;
 - pilot for air transport line;
 - navigator;
 - flight mechanic;
 - flight radio-operator.
- b) Other personnel:
 - aircraft maintenance mechanic;
 - control operator for air transportation;
 - supervisor of flight operations (aircraft dispatcher).

Article 74. Subject to renewal of physical fitness certificates, and provided they have not been suspended or revoked, prior thereto licenses issued by the Secretariat of State for War and Navy, shall be valid as follows: for private pilots, 24 months; for commercial pilots, 12 months; for commercial pilots first class, and for pilots of air transport lines, 6 months; and for navigators, flight mechanics, flight radio-operators and control operators of air transportation, 12 months.

Article 75. These licenses may be renewed for the same periods as those indicated above provided the physical condition of the holder thereof is satisfactory, which shall be proved in the same manner employed in issuing the original license. In addition, a commercial pilot and a commercial pilot first class must prove, by duly certified flight logs, that they have performed at least 10 hours of solo flight during the preceding 6 months, in each of the types of aircraft for which they desire to renew their licenses. Pilots on air transport lines must show proof of at least 25 hours of solo flight during the preceding year, and private pilots at least 10 hours during the preceding year and they are required to prove this fact in the same manner as commercial pilots and commercial pilots first class.

Paragraph I—An applicant for renewal of a license within 6 months following the expiration of the last one obtained, may receive the renewal after proving physical fitness and passing of the flight test required for the license whose renewal he seeks.

Paragraph II—Upon application and for duly justified causes, the period of validity for licenses defined in these rules may be extended for 60 days.

Article 76. In the sense of this law, a person performing a solo flight shall be one who is the sole operator at the controls and is in command of an aircraft in flight.

A co-pilot holding a license as a pilot of an air transport line, may credit as solo flying time that in which he has been the sole operator of the controls, even though he was not in command of the aircraft.

Article 77. The requirements and conditions as to age, nationality and good conduct, which are indispensable to applications for any of the licenses issued under the provisions of Article 74 of the present law, the conditions of competency, physical fitness, examinations, experience and expertise necessary to obtain them, as well as the privileges granted to the holders, shall be determined by special regulations which the Secretariat of State for War and Navy enacts for this purpose, as duly approved by the Executive Power, and in conformity with the standards and methods adopted by the International Civil Aviation Organization.

Article 78. The Secretariat of State for War and Navy may revalidate or accept licenses issued in foreign countries by competent authorities provided the requirements under which such licenses were issued or validated were at least the equivalent of the minimum standards established in the preceding articles for granting such licenses.

Article 79. The members of a flight crew shall carry with them the licenses accrediting their status as such, whenever they are performing the functions inherent to their service on the aircraft, and present or exhibit these to any passenger, or official, member of the Army or Navy or any other State or municipal employee, whose duty it is to enforce the observance of the provisions of the present law.

Any member of a flight crew in possession of a license proving such status, must carry with him a precise record of flight hours, in which he must have the date listed below, and which he must sign. These entries may be witnessed by one of the following persons:

- a) An official authorized by the company manufacturing aircraft or engines of approved types.
- b) an official of an authorized flight school

- c) a notary-public
 - d) an airmail carrier of the Republic
 - e) an operations official of the army or navy
 - f) State or municipal aviation inspectors
 - g) any officer of an organization engaged in aircraft operations
- when such officer has direct knowledge of the authenticity of the above statement and the entity or organization to which such officer belongs shall be responsible for his acts.

The above record must contain: date of flight, type of aircraft in which it was made, the registration number or identification of said aircraft, type of engine, duration of the flight and the places between which it took place, and, a notation as to any serious damage which may have occurred to the aircraft. This flight log must be presented by its possessor for examination, during any flight, upon request by any duly authorized member of the Army or Navy, or any State or municipal official in charge of the execution of the provisions in this field.

CHAPTER VI. PENALTIES

Article 80. It shall be deemed a violation of this Law to perform services as a member of the flight crew on any aircraft registered in the Republic without possessing the respective license. It shall also be deemed a violation to perform any services which exceed the terms of the license.

Article 81. Licenses may be suspended or voided for:

- a) Violation of any provision of the present law on civil air navigation, or of any regulation issued thereunder;
- b) Carelessness or negligence while on duty.
- c) Poor physical condition or any demonstration of incompetence in the operation or repair of the aircraft.
- d) While on duty, being under the influence of, or using, or carrying on his person, intoxicating liquors, cocaine and other drugs, the habitual use of which constitutes a vice.
- e) Refusal to show the license as a member of a flight crew when properly requested.
- f) Violation of the air traffic regulations.
- g) Making false representations on the application for a pilot license, or uttering similar falsehoods in any report required by the competent authorities.
- h) Carriage of passengers who are obviously under the influence of intoxicating liquors, cocaine, or other drugs, the habitual use of which constitutes a vice.
- i) Piloting aircraft carrying more passengers than the number authorized on the registration of the aircraft. Children under two years of age are exempted, provided the weight of the maximum net cargo of the aircraft is not exceeded.
- j) Committing any act in regard to aircraft which is contrary to the safety or the public interest, or prejudicial to the morale of pilots or mechanics.
- k) Use or exhibition for fraudulent purposes of a certificate of competency or a civil aviation pilots license.

Article 82. Any violation of the conditions or rules established under the final paragraph of Article 2 of the present law, shall be punishable

by imprisonment of from one month to two years, or a fine of from ten to five hundred *pesos*, or by both penalties simultaneously in serious cases, and there may be a judgment of confiscation in addition. The above shall not prevent the application of more severe penalties in cases of crimes committed against the internal or external security of the Nation.

Article 83. The violation of any provision stipulated in Chapter IV of this Law shall be punishable by a fine of from one hundred to five hundred *pesos*, or imprisonment of from three months to one year, or both, and, the sentence in case the fine is not paid, execution may be had against the aircraft itself, which shall be confiscated and sold at public auction for which the amount of the minimum bid shall be fixed at the amount of the fine levied, plus cost. Other liabilities which may also be incurred at common law shall not thereby be affected.

Article 84. Any violation of a provision of this Law, for which a penalty is not expressly provided therein, shall be punishable by a fine of from ten to one hundred *pesos* in gold, but any other liabilities shall not thereby be affected.

Article 85. This law repeals and replaces Laws No. 1422, promulgated on November 23, 1937, and No. 879 promulgated on April 26, 1945, and any other conflicting law, or part thereof.

OTHER LEGISLATION IN FORCE

1. Law 1915 of January 19, 1949, on civil aviation. Regulates civil, commercial, recreational and educational air navigation over the national territory. Amended by Law 4119 of April 22, 1955. (*Gaceta Oficial*, February 11, 1949)

2. Regulation 6030 of September 16, 1949, enacts the "regulations of the air" or aviation codification in 69 articles. These include matters of air traffic, airports, lights, signals, heights of flights, landing requirements, etc. (*Gaceta Oficial*, October 23, 1949)

3. Regulation 6031 of October 1949, sets forth in 59 articles the requirements for licensing of technical personnel in Civil aviation. (*Gaceta Oficial*, October 23, 1949)

4. Regulation 6417 of March 11, 1950, provides regulations for international air travel. (*Gaceta Oficial*, April 25, 1950)

5. Decree 6932 of November 6, 1950, prohibits flights by aircraft in certain zones of the national territory, if these are not military planes in the service of the Government. (*Gaceta Oficial*, November 11, 1950)

6. Law 3199 of February 7, 1952, provides safety measures to be observed in the proximity of airports. (*Gaceta Oficial*, February 25, 1952)

7. Law 4119 of April 22, 1955, amends Chapter II of Law on Civil Aviation of 1949. This chapter covers matters of organization of the administrative body—Dirección General de Aviación Civil, the Aeronautics Commission, and their duties and powers. (*Gaceta Oficial*, April 30, 1955)

8. Law 4481 of June 21, 1956, amends Article 11, of the Law on Civil Aviation (Law 4119 of April 22, 1955). The amendment concerns functions of the Civil Aeronautics Commission. (*Gaceta Oficial*, June 27, 1956)

9. Law 4676 of April 27, 1957, exonerates Dominican companies of air transportation from payment of import duties and national and municipal taxes on fuel and equipment used in their operations. (*Gaceta Oficial*, May 4, 1957)

10. Decree 5345 of November 27, 1959, creates the Committee to Facilitate Entry and Departure of Aircraft on Landing and Taking Off on International Flights. (*Gaceta Oficial*, December 8, 1959)

11. Regulation 6184 of November 7, 1960, establishes that official foreign aircraft must obtain special permits from the Secretary of the Armed Forces, before being permitted to fly over or land on national territory, territorial waters or adjacent islands. (*Gaceta Oficial*, November 12, 1960)

12. Law 6,094 of November 12, 1962, amends Article 51 of Law 1,915 of January 28, 1949 (Civil Air Navigation Law), which prohibits the throwing or dropping of parcels or objects that may cause damages from airplanes flying over the national territory. A permit is required to drop leaflets. (*G.O.* November 14, 1962)

13. Law 6,109 of November 15, 1962, amends Laws 1,915 of January 28, 1949, and Law 4,119 of April 22, 1955, concerning Civil Air Navigation, to provide that wherever the *Secretaría de Estado de Guerra y Marina* is mentioned, it shall be read as *Secretaría de Estado de Obras Públicas y Comunicaciones*. Law also amends Article 10 of Law 4,119 concerning the Civil Aeronautics Commission. (*G.O.* November 21, 1962)

14. Law 6,110 of October 15, 1962, repeals Law 4,481 of June 21, 1956, which amended Article 11 of Law 4,119 of April 22, 1955, concerning Civil Air Navigation. (*G.O.* November 21, 1962)

ECUADOR

Law of Air Traffic ¹

Art. 1. The State shall exercise complete and exclusive sovereignty over the airspace above its territory including the territorial waters.

Art. 2. Flight of aircraft over Ecuadorian territory shall be free, but shall be subject to the control of the Ministry of National Defense without thereby affecting the provisions of Article 2 of the Law of Civil Aviation.

For reasons of military necessity or public order flight may be prohibited over certain areas of the National territory or, in exceptional cases, over the entire territory of the State.

Art. 3. Aircraft shall be classified as State aircraft and civil [*privadas*] aircraft.

State aircraft shall be deemed:

a) military aircraft which are commanded by personnel in active military service or commissioned for that purpose by the Competent authority; and

b) Aircraft used exclusively in the service of the State, such as mail, customs, and police.

All others shall be deemed civil aircraft.

Art. 4. An airport shall be deemed any place on land or water which is equipped for the take-off, landing, or parking of aircraft.

Art. 5. No aircraft may fly over the territory of the State unless it has a special nationality.

Art. 6. The Director of Civil Aviation shall keep the National Aviation Register. Every month he shall submit copies of all entries made in such register to the Ministry of National Defense.

Art. 7. Aircraft must be registered in the National Aviation Register:

a) When they are wholly-owned by Ecuadorian citizens or by a corporation legitimately constituted in Ecuador, provided it is shown that at least two thirds of its paid stock belongs to Ecuadorian citizens, and that its president or financial administrator is an Ecuadorian citizen;

b) when they have obtained a certificate of airworthiness and have complied with the obligations respecting fees and taxes established by this law and the respective regulations.

Any aircraft jointly owned by persons of different nationalities shall be deemed to have Ecuadorian nationality when the preponderance of its value belongs to Ecuadorian citizens.

Art. 8. The Ecuadorian National Aviation Register shall be published for the information of interested persons and the public in general.

¹ Codified, Jan. 4, 1960, *Constitucion y Leyes del Ecuador* (1960), p. 1353.

Transfers of title and mortgages on aircraft shall be valid only when they are recorded in the National Aviation Register.

Transfers of title and establishment of mortgages on Ecuadorian aircraft if made abroad, shall be performed before the consul of the place who shall transmit them to the Ministry of Foreign Relations. To be valid they must be recorded in the National Aviation Register which may be made through the above mentioned consular officer, who shall record such transactions in the register of the consulate and transmit the pertinent true copies for recordation in the National Aviation Register.

In all cases the legal transactions mentioned above must be recorded on the registration certificate.

The Director of Civil Aviation may not record a legal transaction concerning an aircraft unless there is prior presentation of the registration certificate containing the required annotations.

The regulations shall specify the requirements for recordations and for transfer of title to an aircraft.

Art. 9. Any Ecuadorian aircraft which is flying over the high seas shall be subject to Ecuadorian law.

Legal acts which take place aboard an Ecuadorian or foreign aircraft, while it is within the national territory, shall be subject to Ecuadorian law. Acts taking place on Ecuadorian aircraft outside the national territory shall be subject to the law of the country where they are flying.

Crimes shall be governed by the provisions of the Code of Criminal Procedure.

Births and deaths which occur in flight shall be recorded in the flight log and reported to the authorities of jurisdiction or the duly accredited Ecuadorian consul at the place of landing, depending on whether the event occurred on Ecuadorian or on foreign territory.

For all legal effects such births or deaths shall be deemed to have occurred on Ecuadorian territory and shall be reported to the Director General of (Vital) Statistics.

Art. 10. Mortgages may be established on aircraft and accessories thereof in accordance with the provisions of the Civil Code.

Art. 11. No one may lay out or construct an airport or an installation intended for installation intended for aviation without the respective authorization from the Ministry of National Defense which may not grant it without the consent of the general staff of the Armed Forces.

Airports and installations shall be under the control of the Ministry of National Defense which shall exercise it in accordance with the rules and regulations.

In particular circumstances private airports may be declared works of public use.

Except with the permission of the Director General of Civil Aviation, it shall be prohibited to construct walls, houses, chimneys, electric transmission lines, or any other building or obstructions, or to plant and keep trees at a distance less than nine hundred meters from a runway whose elevation above sea level is less than two thousand meters, and at a distance less than twelve hundred meters from air dromes whose elevation above sea level is two thousand meters or more.

Art. 12. Private aircraft must bear identification and nationality markings, the registration and the name and address of the owner, in conformity with the provisions of the international conventions ratified by Ecuador.

It shall be prohibited to private aircraft to bear identification markings intended for military aircraft.

Art. 13. In order to fly, all private aircraft must have the board documents prescribed by the regulations.

Flight logs shall be kept for two years after the last entry or notation.

Art. 14. All crew members of an Ecuadorian aircraft must have a certificate and a license issued by the authorities of jurisdiction.

Art. 15. No equipment of radio telegraphy or radio telephone may be carried aboard an aircraft without a special license issued by the authority of jurisdiction of the State to which the aircraft belongs.

Such equipment shall be operated only by persons who have a special license therefor.

For certain types of aircraft as defined in the respective regulations the use aboard of equipment of radio telegraphy or radio-telephone shall be compulsory.

Art. 16. Foreign aircraft and national private aircraft shall not be permitted to transport explosives, weapons or ammunition except with a special permit from the Ministry of National Defense.

Art. 17. Transportation and use in flight of photographic equipment shall be subject to regulation.

Art. 18. Transportation of the equipment specified in Articles 15 and 16 may be subject to restrictions by the authority of jurisdiction, whether effected on national or foreign aircraft.

Art. 19. The authority of jurisdiction may impose other restrictions and reservations as commercial transportation of cargo and passengers by foreign aircraft, unless otherwise, provided in international conventions ratified by Ecuador.

Art. 20. No national or international airline may operate over Ecuadorian territory without prior permit issued under the Law of Civil Aviation.

Art. 21. Any foreign or Ecuadorian aircraft arriving from abroad, landing on Ecuadorian territory, or taking off for abroad, shall land and depart from one of the established customs airports for the purpose of compliance and verification required by the customs regulations, except that in the case of forced landing such compliance shall be governed by the second paragraph of article 57 of the Customs Law, for the effects provided for in that law and in order to obtain permission to take-off.

All aircraft flying within the national territory shall be subject to customs supervision and to the provisions of the regulations.

Art. 22. When, because of *force majeure* duly proved, and any aircraft crosses the border at a point other than those designated, it must land at the nearest customs airport located on the route.

Art. 23. The flight crew, aircraft passengers, and the cargo shall be subject to the customs laws.

Art. 24. There shall be exempt from fees, customs duties and other taxes, all fuel and lubricants, and other supplies which are aboard an aircraft arriving on the territory of the Republic, provided they are

needed for continuation of the trip, which fact must be duly recorded in the flight documents.

Art. 25. Aircraft coming from abroad and arriving on the territory of the State to take off again for abroad, shall be admitted and considered in transit, including all its attachments and supplies for the trip.

Art. 26. In addition to the cases specified in the customs laws, all foreign merchandise imported into landing places, and all national merchandise loaded on aircraft leaving for abroad, without compliance with applicable customs provisions shall be deemed contraband.

There shall also be deemed contraband all aircraft, including its crew, coming from abroad which have landed outside the customs airports. When such landing has not been reported to the authority of jurisdiction.

Art. 27. Any foreign or Ecuadorian aircraft must immediately land at the nearest airport when it receives such order by the signal established therefor by the regulations; it must also do so when it realizes that it is flying over prohibited areas specified in Article 2.

Art. 28. Aircraft flying over any place of Ecuadorian territory shall obey orders given it by stations and aircraft of the national aviation service.

Art. 29. All aircraft shall have a right to assistance.

Any person who is capable of rendering aid in the salvage of an aircraft, or of property and persons aboard, is under a duty to do so.

Any person who renders aid shall be entitled to compensation to reimbursement of expenses incurred and to restitution for damages suffered.

Art. 30. Any person who finds an abandoned aircraft or a part thereof, shall immediately notify the nearest governmental authority which, in turn, shall notify the commander of the nearest airport.

Art. 31. Liability for air transportation shall be governed by the general laws insofar as there is no conflict with this law.

Any authorization of transportation shall be contained in a document which shall include the essential information for any contract of air transportation.

Art. 32. Any aviation accident which causes damages or injuries to persons or property, shall be subject to judicial investigation.

Art. 33. It shall be prohibited to jettison from an aircraft in flight any object capable of causing damage, except in a case of obvious necessity.

In any event, the act of jettisoning shall give a right to compensation for the damage caused.

There shall also be a right to compensation for damage caused by objects falling when an aircraft takes off or lands.

Art. 34. The courts of the place where the damage occurred shall have jurisdiction over actions for compensation of damages caused to persons or property by a national or foreign aircraft.

Except for the special provisions of the law concerning certain kind of damages, action must be commenced within two months from the time when the damage occurred.

Art. 35. Except for the special provisions of the law concerning a certain kind of damages, the statute of limitations on an action for compensation therefor, shall be barred even when it was filed in time,

in two years from the date when the cause of action arose or, in the case of a contract for air transportation, from the date on which the last trip under such contract was completed took place or from the date when the contract was concluded, provided that after the date when the damage occurred no further trip has taken place in accordance with the schedules.

When the damages arise from a collision between aircraft, any examination shall be without validity unless it is made before the authority of jurisdiction at the place where the event occurred or at the place of the first landing, and within three days from the date when the claim or protest was made.

The above period shall not apply when it is impossible for the injured person to do so.

As to damages to person or goods transported, the absence of a protest shall not affect any interested party who is not aboard and who, therefore, is not in a position to express his wishes.

Art. 36. Insofar as violations of this law represent violations of the Civil Code or special laws, they shall be penalized in accordance with the former or the latter.

Art. 37. Any person who, without being authorized to do so, orders or gives a signal provided for in Article 27, or removes signals posted by the proper authority shall be punished by a fine of from two hundred to two thousand *suces*.

When such act endangers the aircraft, the penalty shall be imprisonment of from two months to two years and by a fine of from three hundred to three thousand *suces*; and if the catastrophe does result, the imprisonment shall be from three months to two years, and the fine not less than two thousand *suces*.

When it is shown that the act was committed with intent, the penalty shall be, for a first offense, imprisonment of from one to five years, and for the second offense, from three to ten years, and the fine shall in either case be more than three thousand *suces*.

Such penalties shall be doubled when the act results in the death of a person, or increased by one third to one half, if a personal injury results.

Art. 38. In time of war or internal disorder, private airdromes, aircraft and material may be sequestered, whatever the nationality of the owner thereof may be, when they are useful to the air and naval forces of Ecuador, subject to the applicable rules established by the Code of Civil Procedure in regard to expropriation of real property.

Art. 39. No foreign military aircraft may fly over the national territory, or land thereon without authorization from the Ecuadorian government, granted by the authority which, under the Constitution, may properly do so, except in case of a forced landing on the ground or on water.

Any military aircraft which flies over the national territory or lands thereon with authorization, shall enjoy, in principle the privileges customarily granted to foreign warships.

Any aircraft which is forced to land or was requested or invited to land, shall not enjoy any of the privileges referred to in the preceding paragraph.

Art. 40. Any aircraft which violates the prohibition against flying over certain areas of the territory, shall be confiscated and its crew

shall be deemed to be spies and may be held for the proper judicial authorities.

When an aircraft is observed in the distance it shall, at the first indication transmitted to it in compliance with the regulations, land at the nearest airport, and following this first indication shall reduce its speed and descent to a lower altitude. Otherwise, it shall be forced to do so.

Final article. In accordance with Article 137 of the Law on Administration, this codification shall be published in the Official Register and, hereafter, shall be cited in accordance with its new sections.

NOTE.—The Law of Civil Aviation of December 11, 1959, as amended by Emergency Decree-Law No. 38, July 30, 1962. *Registro Oficial*, Aug. 1, 1962, deals with the organization of various regulatory agencies in the field of aviation, and their appropriations. The Spanish text is reproduced in *Constitucion y Leyes del Ecuador* (1960), p. 1363. Ed.

OTHER LEGISLATION IN FORCE

1. Decree-Law 41 of December 8, 1947, is an emergency measure granting exemption of payment of taxes to air carriers. (*Registro Oficial*, January 27, 1948)

2. Decree of November 22, 1951, creates the Board of Civil Aviation of Ecuador, which supervises and controls commercial and civil aviation in the country, and in relations with foreign countries. (*Registro Oficial*, December 4, 1951)

3. Legislative Decree of November 6, 1952, authorizes the Executive to permit the Air Force to transport essential goods for the purpose of making them less expensive and to supply more adequately the needs of the people. (*Registro Oficial*, November 21, 1952 and January 26, 1953)

4. Resolution 5 of March 27, 1953, approves rates or fees to be charged by the Civil Aviation Board for rights to land and take-off. (*Registro Oficial*, May 18, 1953)

5. Decree 1420 of August 15, 1953, adopts a regulation on collection of taxes and fees established by Decree-Law 7 of May 5, 1953. These are imposed on tickets for transportation on domestic and international travel. (*Registro Oficial*, August 18, 1953)

6. Decree 2 of January 13, 1954, provides that the Government shall have authority to supervise and control all civil aviation within the territory of Ecuador. This includes construction, operation and maintenance of airports, services and installations thereon, and detailing the respective duties and functions. (*Registro Oficial*, January 14, 1954)

7. Decree of June 20, 1954, empowers the Air Minister to vary the air routes and control areas which are established in Decree of May 23, 1952. (*Registro Oficial*, June 26, 1954)

8. Resolution 7, of July 8, 1954, adopts the Regulation on Civil Aviation, to harmonize with the convention establishing the International Civil Aviation Organization. (*Registro Oficial*, August 16, 1954)

9. Resolution 4-C of March 26, 1957, approves the rates to be charged by the *Oficina de Habilitación y Registro*, of the Civil Aviation Office, for licenses, registration, etc. (*Registro Oficial*, August 22, 1957)

10. Resolution 5-C of March 28, 1957, enacts the Regulation on operating licenses. (*Registro Oficial*, August 23, 1957)

11. Resolution 52 of June 28, 1957, authorizes the *Dirección General de Inmigración y Extranjería*, to grant credentials to aliens and their families, employed by airlines regularly flying in or out of Ecuador, enabling them to enter without visas on passports each time. (*Registro Oficial*, October 22, 1957)

12. Decree 15-C of December 12, 1957, enacts regulations for operation of air routes and operation permits in Ecuador. (*Registro Oficial*, December 23, 1957)

13. Decree 19 of April 25, 1958, makes changes in administrative agencies concerned with civil aviation. Also gives new schedules of rates for landing fees, and taxes on gasoline. Amended subsequently by Decree 24, of June 30, 1958. (*Registro Oficial*, April 30 and July 10, 1958)

14. Resolution 11-B of May 4, 1958, issues text of the Regulation governing the *Dirección General de Aviación Civil*. (*Registro Oficial*, May 6, 1958)

15. Decree 12-C of October 14, 1957, adopts the Regulation on Agricultural Aviation (spraying, etc.). (*Registro Oficial*, July 30, 1958)

16. Resolution 11-C of April 17, 1958, issues the text of the Regulation of the Air (*Reglamento del Aire*). (*Registro Oficial*, August 13, 1958)

17. Resolution 9-C of January 28, 1959, sets minimum rates for international flights specified herein, which are applicable to all foreign air lines. (*Registro Oficial*, February 3, 1959)

18. Resolution 8 of January 28, 1960, provides that all airlines are required to keep statistics as requested by the *Dirección General de Aviación Civil*. (*Registro Oficial*, March 9, 1960)

19. Resolution 54 of April 26, 1960 clarifies Resolution 8 of January 28, 1960 to provide that all aviation enterprises operating in the country, not just domestic companies, must keep the required statistics. (*Registro Oficial*, June 4, 1960)

20. Decree 941 of May 31, 1960 creates the *Comisión Nacional de Transporte Aéreo Internacional*. (*Registro Oficial*, June 13, 1960)

21. Resolution 71 of June 8, 1960 amends Resolution 98-C of November 14, 1958 to impose further restrictions on maximum flight time allowed for crews of planes in public transportation. (*Registro Oficial*, June 20, 1960)

22. Resolution 94 of April 19, 1961, adopts amendments to the Regulation on Civil Aviation on qualifications and licensing of pilots and co-pilots (*R.O.*, May 11, 1961).

23. Emergency Decree-Law 38 of 7/30/62 amends Articles 29 and 31 of the Codified Civil Aviation Law concerning a 6 per cent tax to be paid on any sale or transaction of air service or transport. (*Registro Oficial*, August 1, 1962)

24. Decree No. 1143, of Nov. 29, 1963, enacting a new Law on Civil Aviation (*Registro Oficial*, No. 122, vol. 1, Dec. 5, 1963, p. 1097, abrogates 1960 Civil Aviation Law (*R.O.* 8-20-1960). It deals with administrative aviation agencies.

EGYPT

DECREE—LAW NO. 57 CONCERNING AIR NAVIGATION, MAY 23, 1935.¹

1. The State shall exercise complete and exclusive sovereignty over the airspace above its territory. The term "airspace" shall include the adjacent territorial waters.

2. Air navigation shall be regulated by decrees.

3. Our Ministry of Communications shall be charged with the implementation of this decree—law which shall enter into force with its publication in the *Journal Officiel*.

DECREE OF MAY 23, 1935, REGULATING AIR NAVIGATION.²

Considering Article 2 of the Decree—Law No. 57 of 1935 concerning Air Navigation:

1. All aircraft shall be prohibited from flying over Egyptian territory or to land thereon without obtaining prior authorization from the Ministry of Communication.

The word aircraft shall mean all balloons, whether captive or free, dirigibles, airplanes, kites and gliders as well as all other contrivances capable of rising or circulating in the air.

2. Authorization shall be granted only to aircraft to which have been issued a valid registration certificate in their country of origin and an airworthiness certificate validly issued or validated by the authorities of this country.

3. Authorization shall be granted under the following conditions:

a) the aircraft shall display in the prescribed manner its nationality and registration marks and a plaque indicating the name and domicile of the owner;

b) the aircraft shall be equipped with all instruments, installations and apparatus prescribed in its respective flight permit;

c) the aircraft shall carry the prescribed documents, and a log book which shall be kept current in the prescribed manner and form;

d) the crew of the aircraft shall consist of ()³ members, shall have the prescribed qualifications, and shall possess valid aptitude certificates and licenses issued or validated by the authority of jurisdiction in the State where the aircraft is registered.—"Crew" shall mean the commander, the pilots, the navigators, the mechanics and all other members of the aircraft crew;

e) the conditions under which an airworthiness certificate has been delivered or validated, must be complied with;

¹J.O. 47. The following texts are contained in *Recueil des Legislations Egyptiennes* (1954), issued in French by the Administration of Civil Aviation, Ministry of War.

²J.O. 47.

³The official French text states that the arabic text here contains the word "prescribed", See subsection f), *infra*. Ed.

f) the regulations issued by decrees and ordinances in implementation of the present decree shall also be complied with.—However, the Ministry of Communication may exempt from one or more of said conditions any kite, glider or other similar contrivance which has no propulsive power.—For purposes of the present article the word “prescribed” shall mean prescribed by the laws and regulations in force in the State where the aircraft is registered.

4. The authorization for an aircraft shall be personal. It shall become null and void in case of change in ownership.—It shall be granted for a certain period or for a particular trip.

5. Independent of the authorization specified in the preceding articles, a special authorization shall be necessary for use of an aircraft in Egypt for the following purposes:

1. Commercial transportation of persons or goods;
2. training flights;
3. all other commercial air enterprises.

6. For test flights for the purpose of issuance of an airworthiness certificate, the authorization shall be replaced by a special permit from the Minister.—For flights for the purpose of training or obtaining a license or aptitude certificate, the Minister may waive the conditions provided for in Article 3.

7. In cases of conviction for violation of the present decree or of the decrees and ordinances issued in implementation thereof, the Minister of Communications may suspend for a fixed period or permanently withdraw any authorization or any airworthiness certificate of an aircraft or any license of the crew issued by him. In such cases he may also revoke any validation he may have extended to certificates or licenses which an aircraft or the crew thereof may possess.—The Minister may also suspend for a fixed period or permanently withdraw any authorization if he considers it necessary in the public interest.

8. An Egyptian aircraft register shall be kept at the Ministry of Communications. In order to be registered therein an aircraft may not be registered in any other State and it must be wholly owned by Egyptian subjects or by a company fulfilling the following conditions:

1. If a partnership, all partners must be Egyptian subjects;
2. If a limited partnership, all active partners must be Egyptian subjects; if a stock corporation, it must have Egyptian nationality and the majority of its directors and its president must have Egyptian nationality.—All aircraft registered in the Egyptian register shall have Egyptian nationality.

9. An aircraft shall be removed from the Egyptian register in the following cases:

- a) when the conditions specified in the preceding article are no longer fulfilled;
- b) in case of change in, or death of the owner;
- c) in case of destruction, loss or unusability of an aircraft.

10. Aircraft registered in the Egyptian register may not circulate outside the limits of Egyptian territory without prior authorization from the Minister of Communications. The provisions of the present decree and the decrees and ordinances issued in implementation thereof shall remain applicable insofar as their application is not in conflict with the laws and regulations of the foreign State.

11. The laws and regulations pertaining to persons entering or leaving Egypt, and to importation and exportation of goods by sea or land transportation shall also apply to persons entering and leaving, and to importation and exportation of goods, by air transportation.

12. In order to enforce the application of the present decree and of the decrees and ordinances issued in execution thereof, officials of the Customs, Public Security, Quarantine Service and the Public Health Administration and all other officials designated by the Minister of Communications may order any aircraft in flight to land. Without prior formality they may also board and examine an aircraft and its contents and prevent it from taking off. For this purpose they shall be invested with the power of officers of the judicial police. Such officials may detain any aircraft, log books, certificates, and licenses, any person or goods on board, until the action required by the authorities of jurisdiction and the formalities specified by the regulations have been performed or fulfilled.

13. Authorizations, certificates and licenses issued or validated under the provisions of the present decree or the decrees and ordinances issued in implementation thereof shall be granted at the entire risk of the grantees, and the government shall not thereby incur any liability.

14. A decree shall regulate the administration of air navigation.

15. If not registered in a foreign State, aircraft belonging to foreign nationals residing in Egypt may be registered in a special register of foreign aircraft for the purpose of being used in Egypt.—The authorization specified in Article 1 shall be granted to them under the conditions determined by an ordinance of the Minister of Communications.—Such aircraft shall be subject to the provisions of the laws and regulations concerning air navigation insofar as they are not incompatible with the conditions pertaining to their registration. However, they may not request the authorization provided for in Article 10.

16. Without affecting more severe provisions of any law or regulation, any violation of any provision whatsoever of this decree or of the decrees or ordinances in implementation thereof shall be punished by imprisonment of not more than seven days and by a fine not exceeding P.T. 100, or by one of these penalties only.—Any aircraft, or instrument, installation or apparatus thereof that constitutes a violation shall be subject to administrative seizure.—In case of conviction because of lack of an authorization, or for any other violation, while the Minister of Communications has suspended or permanently withdrawn an authorization in accordance with Article 7, the aircraft may be attached by the Administration until the authorization has been granted or until the period of suspension has expired.—However, such attachment which is made at the expense, risk and peril of the owner of the aircraft shall terminate when the aircraft is sold or otherwise alienated, or when it is taken outside the limits of Egyptian territory under such conditions as are established by ordinance of the Minister of Communications.

17. The above violations shall be immediately prosecuted and adjudicated.

18. Within their respective jurisdictions, our Ministers of the Interior, of Finances, and of Communications are charged with the enforcement of the present decree which shall enter into force with publication in the *Journal Officiel*.

DECREE CONCERNING ADMINISTRATION OF AIR NAVIGATION,
MAY 5, 1941⁴

Considering Article 14 of the decree of May 23, 1935 regulating air navigation:

1. For purposes of the present decree and the ordinances issued in implementation thereof, and except as otherwise provided herein:

The word "aircraft" shall mean any contrivance which can derive support in the atmosphere due to the reactions of the air;

The word "airship" shall mean any aircraft capable of remaining stationary in the air;

The word "balloon" shall mean an airship (free or captive) without propulsive power;

The word "dirigible" shall mean an airship equipped with propulsive power and a means of direction;

The words "heavier than air craft" (aerodyne) shall mean an aircraft dynamically supported by the reactions of the air on moving surfaces;

The word "airplane" shall mean an aircraft equipped with propulsive power and the support of which results from aerodynamic reactions on stationary surfaces during a given flight operation;

The word "glider" shall mean an aircraft not equipped with propulsive power and the support of which results from aerodynamic reactions on stationary surfaces during a given flight operation;

The term "military aircraft" shall mean aircraft belonging to the army, the navy, or the air force. Any aircraft performing an act of national defense and commanded by anyone in the military service shall be deemed to be a military aircraft;

The term "normal flight" shall mean any flight which does not entail abrupt changes in altitude or trim;

The term "acrobatic flight" shall mean aerial maneuvers voluntarily made which entail abrupt changes in altitude or trim.

2. All aircraft must comply with the general rules of air navigation, and with the regulations concerning lights, daymarkers and signals established by means of ministerial ordinances.

3. All aircraft shall comply with the rules of public safety and of safeguarding persons and property. Such rules shall be established by ministerial ordinances dealing particularly with the following questions:

1. Flight over centers of population;

2. Flight over the sea and inland waters;

3. Acrobatic flights, and other dangerous flights performed during a show;

4. The prohibition of smoking aboard an aircraft;

5. Flight of an aircraft without pilot;

6. Compartments for the crew and for passengers;

7. Towing of aircraft;

8. Jettisoning and dumping from aircraft.

4. Except as provided by agreements or treaties concluded between Egypt and foreign countries, no foreign military aircraft may fly over Egyptian territory or land thereon without first obtaining a special authorization from the Minister of National Defense.

⁴ J.O. 57 of May 8, 1941.

5. No radio equipment may be installed in an aircraft without a special license issued therefor by the authority of jurisdiction of the State in whose register the aircraft is registered. Such equipment may be used only for navigation and safety of the aircraft by crew members possessing a special license therefor issued by the authority specified in the first paragraph, and provided there is compliance with the provisions of the laws and regulations in effect in Egypt.

6. Without authorization from the Minister it shall be prohibited to transport the following articles in an aircraft:

1. Inflammable substances except those necessary for the operation of the aircraft or for giving the prescribed signals;

2. Arms and ammunition;

3. Carrier pigeons;

4. Mail which belongs to the postal monopoly;

5. Any other article designated by ministerial ordinance.

7. Without prior written authorization from the Minister it shall be prohibited to all persons aboard an aircraft to take photographs of all or part of an airdrome, a prohibited area, or an establishment belonging to the navy, the army or the air force.—Photographs or motion picture equipment or any other similar apparatus may be kept by the pilot or the commander in order to prevent their use during the flight of the aircraft.

8. There shall be designated by ministerial ordinance the points between which aircraft must fly and the routes which they must follow in arriving in Egypt from abroad or in leaving Egypt for a foreign destination and in flying over Egyptian territory.—Any aircraft arriving in Egypt from abroad or leaving Egypt for a foreign destination, must land on a customs airport where it shall undergo customs clearance except as follows:

1. When, in consequence of an accident or because of bad weather or in any other case of *force majeure*, an aircraft entering Egypt from abroad or leaving Egypt for a foreign destination, is prevented from following the prescribed routes or must pass far from the designated points, it must land on the nearest Egyptian customs airport or any other airport specially designated for the purpose, and it shall comply with the control measures ordered by the authorities of jurisdiction;

2. When an aircraft is forced to land before arriving at a customs airport or an airport specially designated for the purpose, the pilot must immediately inform the nearest local authority and present the log book as soon as requested to do so.

Goods may not be discharged and passengers may not leave the place of landing without authorization from the local authority of jurisdiction as mentioned above.—Air ordinance of the Minister shall determine the formalities which must be fulfilled at customs airports by aircraft arriving in Egypt from abroad or leaving Egypt for a foreign destination, and it shall designate customs airports and other airdromes appropriate for forced landings.

9. Airdromes designated by ministerial ordinance may be used by aircraft on condition that they comply with the laws and regulations concerning overflight of airdromes and use thereof, and that they pay the fees set by the schedule.—The landing and flight may

not take place except on the airdromes mentioned above without authorization from the Minister and under the stipulated conditions.—The schedule of fees shall be established by ministerial ordinance.⁵

10. A pilot shall immediately inform the authority of jurisdiction of any accident to an aircraft causing the death of, or injuries to a person or seriously endangering the aircraft. When the pilot is unable to do so, this information shall be given by one of the crew members of the aircraft.—A technical inquiry shall be made in order to determine the causes of the accident. Unless the Ministry decides otherwise, the aircraft or the wreckage thereof shall be detained until the end of the inquiry.—Such inquiry shall be made independently of any investigation or proceedings (*instruction*) by the judicial authorities.

11. At the request of the official of the Ministry, the pilot and the crew members of an aircraft shall present any certificate, log book or authorization pertaining to a person or to the aircraft and which they must possess in accordance with the provisions of the laws and regulations in force.—Any aircraft on which persons or goods are transported for pay must carry among its documents:

1. A list of the passengers' names;

2. An air bill of lading and a cargo manifest

12. It shall be prohibited to any pilot, navigator, engineer or other crew member of an aircraft to be in a condition which incapacitates him from work and which is induced by alcoholic beverages, sedatives, stimulants or any other drug. It shall be prohibited to any person showing symptoms of drunkenness to board or to remain on an aircraft.

13. During working hours, agents of the Ministry may enter for inspection any plant manufacturing spare parts and any shop building or repairing aircraft. They may inspect any drawing or plan relating to such articles.

LAW NO. 19 DECLARING A STATE MONOPOLY IN ESTABLISHMENT OF AIRDROMES, MARCH 24, 1920.⁶

1. The establishment of airdromes in Egypt shall be a monopoly of the State.—No land may be equipped or used for the take-off or landing of aircraft except by the Government or with its authorization.

LAW NO. 639 OF 1953 ESTABLISHING AREAS OF APPROACH OF TRANSITION AND SAFETY⁷

Considering the proclamation of the constitution of February 10, 1953, by the General Commanding the Armed Forces and Chief of Staff:

Considering the proclamation of the Republic of Egypt on June 18, 1953, by the Council of the Revolution;

Considering decree-law No. 57 of 1935 concerning air navigation, and decree No. 27 of 1941 concerning establishment of danger zones around airdromes;

⁵ See Ministerial ordinance No. 175 of Jan. 10, 1945, J.O. No. 25 of Feb. 1945.

⁶ J.O. 28.

⁷ The French text used, though labeled a private translation from the official Arabic, is contained in the official *Recueil des Législations Égyptiennes de l'Aviation*. Ed.

Considering law No. 93 of 1948 concerning building regulations;
Considering the views of the Council of State;

On the proposal of the Minister of War and the agreement of the Council of Ministers;

It is ordered as follows:

Article 1. All airdromes designated by the Minister of War shall be subject to the provisions of this law.

Article 2. As regards the application of the provisions of this law the following terms shall mean:

a) *Runway.* A defined rectangular part of the surface of a land airdrome, suitable for taking off and landing of aircraft. There shall be an approach corridor at each end of every runway.

b) *Approach lane.* A part of the surface of the land or the water located at the end of a runway. An approach lane shall be of a rectangular shape the projection of which on the horizontal plane is a symmetrical trapeze in relation to the vertical plane which passes through the axis of the runway and the two base lines of the trapeze are located on a vertical plane perpendicular to the vertical plane passing through the axis of the runway. The base near the end of the runway shall be at a distance of 60 meters from such end, and the other base shall be at a distance of 3000 meters from the first base.

The distances shall be measured horizontally on the elongation of the axis line of the runway. The length of near base shall be 150, 210 or 300 meters, that of the far base 750 or 1200 meters.

c) *Approach area.* A part of the incline whose vertical projection on the ground is the corresponding approach lane. The lower limit of the surface shall be a horizontal line perpendicular to the vertical plane passing through the axis of the runway on the ground or on the water surface. The approach area shall pass through the point of the intersection of the small base of the approach lane corresponding to the vertical plane passing through the axis of the runway.

The slope of this surface measured on the vertical plane passing through the axis of the runway shall be $1/50$, $1/40$, $1/30$, or $1/25$.

d) *Transition area.* An inclined part of the approach area resting on one of its sides. Each side shall have a transition area which rises toward the outside and moves away from the approach area until its intersection with a horizontal plane of 45 meters of height above the median elevation of the airdrome and an inclination of $1/7$ measured on a plane perpendicular to the vertical plane passing through the axis of the runway.

e) *Safety zone.* An area around the airdrome of a width of 400 meters.

Article 3. The Minister of War shall determine for all airdromes possessing one or more runways suitable for landing taking off of aircraft:

- a) Approach lanes located below the approach areas;
- b) Transition lanes whose limits are located below the transition areas;
- c) The degree of inclination of the approach area;
- d) The center of gravity of the airdrome;
- e) The median elevation of the airdrome.

Article 4. The height of structures and installations erected inside the approach lanes and transition lanes may not exceed the height of the respective areas.

Article 5. Prior authorization from the Ministry of War shall be required for the erection of any structures or installations in an area forming a trapeze bounded by the sides of the approach lane, which rests on its longer base and which terminates in a side parallel to the two bases at a distance of 15 kilometers from the end of the runway technically equipped for the landing and taking off of aircraft. However, such authorization shall not be necessary when the height of structures and installations does not exceed a vertical plane above such area, starting from the last point of height of the approach area and rising toward the outside of the end of the runway with an inclination of $1/40$.

Article 6. It shall be prohibited to erect structures and installations, or to install poles or cables of a height of more than 45 meters of the median elevation from the lowest point of the airdrome. It shall also be prohibited to plant trees or generally, to undertake any work constituting an obstacle to air navigation within a circle of a radius of 4 kilometers, and whose center is the center of gravity of the airdrome.

Article 7. Except with prior authorization from the Minister of War it shall be prohibited to erect in the safety zone any structures, to install any poles or cables, to plant any trees, to make any excavations or, generally, to undertake any work constituting a danger to air navigation.

The height of structures, plantings or work in no case shall exceed the twentieth part of the distance separating them from the perimeter of the airdrome.

Article 8. The height of structures, plantings, works, poles or cables located around the safety zone may not exceed the twentieth part of the distance separating them from the perimeter of the airdrome.

Article 9. It shall be prohibited within a circle of a radius of one kilometer and whose center is the center of gravity of the airdrome to light blinding lights or lights susceptible of being confused by a pilot with the lights and beacons prescribed for air navigation or which are such as to prevent clear recognition of lights and beacons.

Article 10. Any violation of the provisions of the present law shall be punished by imprisonment of not more than one month and by a fine not exceeding L.E. 50, or by one of these penalties only. The court shall also order at the expense of the violator the elimination of the object causing the violation.

Article 11. Without thereby affecting criminal prosecution, the Ministry of War, officially and at the expense of the violator, may take all measures necessary to suspend the work or to remove the offending lights.

Article 12. Violations of the present law shall be immediately adjudicated.

Article 13. For purposes of application of the present law, the manager, assistant managers, the supervisors, and the control officers of an airdrome shall have powers of officers of the judicial police.

Article 14. As regards airdromes subject to the present law under ministerial ordinance, the Minister of War may order demolition of

structures and works, removal of plants and other objects on such airdromes insofar as they are in violation of these provisions.

The Minister shall fix the period within which the removal or demolition must be accomplished and the owner shall be informed accordingly through administrative channels. If the latter does not accomplish it with the specified period, it shall be performed at his expense by the Ministry.

Article 15. The demolition or removal provided for in the preceding article shall entitle the owner to payment of a compensation which is fixed by a commission whose membership shall be determined by ordinance of the Minister of War.

The decision of the commission shall be transmitted through administrative channels to the owner who, within 24 hours from notification, may appeal to the trial court of jurisdiction.

There shall be no regular recourse against such a judgment.

Article 16. In case of conflict with Law No. 93 of 1948, mentioned above the present provisions shall apply.

Article 17. Law No. 27 of 1941 is hereby abrogated.

Article 18. The Ministers of War, of Internal Affairs and of Justice, each within his respective jurisdiction, are charged with application of this law which shall enter into force on the date of its publication in the official gazette.

EL SALVADOR

Decree No. 2011, Law on Civil Aviation of December 20, 1955 ¹

TITLE I

CHAPTER I. GENERAL PROVISIONS

Art. 1. Sovereignty. The airspace above Salvadorean territory shall be subject to national sovereignty.

For purposes of this law the term "Salvadorean territory" includes the land area of the Republic of El Salvador, the territorial waters and adjacent islands.

Art. 2. Regulation of air navigation. Civil air navigation over Salvadorean territory shall be regulated by this law and the international treaties and conventions adhered to by this country.

Art. 3. Jurisdiction. For purposes of inspection, supervision, and control of civil air navigation, any civil aircraft on Salvadorean territory or flying over it, its crew, passengers, and goods transported, shall be subject to the jurisdiction of the Salvadorean authorities.

Art. 4. Law applicable to aircraft in flight. The following shall be subject to Salvadorean law:

I. Acts performed and events taking place aboard Salvadorean aircraft in flight, whether over Salvadorean territory, over the high seas or over stateless territory.

II. Acts performed and events taking place aboard Salvadorean aircraft in flight over the territory of a foreign State, except in cases which affect the safety or public order of the subjacent State.

III. Acts performed and events taking place abroad foreign aircraft in flight over Salvadorean territory or stationary thereon, when such acts or events affect the safety or public order of El Salvador or when they cause or may cause consequences on Salvadorean territory.

Art. 5. Civil and commercial transactions. Any civil or commercial transaction and any event of a civil nature taking place aboard a Salvadorean aircraft shall be deemed to have taken place on the territory of El Salvador and the Salvadorean law shall apply.

CHAPTER II. ADMINISTRATIVE RULES

Art. 6. Regulation of civil aviation. The regulation of civil aviation shall fall under the jurisdiction of the Executive Power acting through the Ministry of Defense in matters of technical aviation matters and safety, and through the Economics Branch in economic matters.

The direction and supervision of civil aviation shall be exercised by an administrative agency called Department of Aviation ² which

¹ Pub. in *Diario Oficial*, vol. 169 (1955), p. 9400.

² Changed to "Department of Civil Aeronautics" by Decree No. 107, July 10, 1962, see *infra*.

shall be under the Ministry of Defense.

Art. 7. Powers of the Ministry of Defense. The Executive Power in the Branch of National Defense shall have jurisdiction to regulate in conformity with this law:

I. Construction and operation of airdromes and airports and installations thereon or in adjacent areas.

II. Requirements concerning the nationality and registration markings of aircraft thereon or in adjacent areas.

III. Conditions and procedures for issuance, renewal, suspension, and cancellation of licenses of pilots and technical flight, and ground personnel who perform duties essential for the maintenance of aircraft or other operations directly related to air navigation.

IV. Areas, and conditions thereof, on which aircraft coming from foreign countries may land, and prohibited or restricted flight zones in the national territory.

V. Any other matter related to technical-administrative regulation of civil aviation and public safety.

Art. 8. Special powers. The Executive Power in the Branch of Defense shall have jurisdiction:

I. To establish, modify, or cancel air routes in the national territory.

II. To decide on the granting, extension, suspension, validity, revocation or cancellation of permits to operate air routes.

III. To decide on the granting, extension, validity, revocation or cancellation of permits or licenses for the operation of airdromes and airports, air transport services, aviation communications, radio-aids to air navigation and auxiliary services.

IV. To decide on the granting, extension, suspension, validity, revocation or cancellation of permits for the establishment and operation of any kind of private air service.

V. To designate as areas prohibited to air navigation such regions or places which, because of their inaccessibility or lack of adequate aviation installations and aids are dangerous for air operations.

VI. To appoint delegations to represent El Salvador at any kind of international aviation conference.

The resolutions referred to in the preceding paragraphs shall be passed with prior consent of the Department of Aviation of the Ministry of Defense or on its proposal. In the case of air routes or operating permits for public air transport services, there shall further be required a prior opinion of the Ministry of Economics insofar as the economic aspects of such services are concerned.

VII. To enforce strict compliance with this law and the regulations issued thereunder, and with treaties, agreements, or conventions on civil aviation which the Government of El Salvador has signed and ratified in accordance with the Constitution.

Art. 9. Powers of the Ministry of Economics. The Executive Power in the Branch of Economics shall have jurisdiction to regulate in conformity with this law:

I. Conditions and requirements of an economic nature to be fulfilled by national or foreign civil aviation enterprises.

II. Commercial conditions under which public air transport services of passengers and cargo must be rendered.

III. Any other matter related to the economic regulation of civil aviation.

Art. 10. Economic regulation of air transport. The Executive Power in the Branch of Economics shall have jurisdiction:

I. To decide on the establishment, jurisdiction, or cancellation of public air transport services and on the granting of operating permits for such services.

II. To approve the rates for transportation of passengers, cargo and mail which civil aviation enterprises must keep in effect in this country, as well as the rates applicable to agricultural air work.

III. To approve airport fees and fees which owners or operators of aviation ground installations want to charge for rendering services of aeronautical radio communications, air transport, meteorology, use of air navigation facilities and other auxiliary services.

In the case of airports or national or municipal enterprises a prior opinion of the Ministry of the Interior is required.

IV. To enforce compliance with economic obligations undertaken by the Government of El Salvador under a treaty, agreement, or convention on civil aviation.

In the study and decision of the subject matter of this article, the guide shall be the healthy, orderly and systematic development of air transportation as an essential factor for the national and central American economic integration, and the advisability of avoiding practices of unfair competition, unnecessary duplication and uneconomical services.

Art. 11. Development of aviation. The Executive Power may give economic aid to national air transport enterprises, to aviation clubs, to schools of flight instruction, and to national manufacturers of aircraft and engines in order to further the development of civil aviation in the country. Such aid shall be granted in accordance with the provisions of the General Budget and Salary Law of the General Fund and other special laws after hearing the interested parties and those who may be affected thereby, and only when the Ministry of Defense, on an opinion of the Ministry of Economics and with the agreement of the Executive, declares that the enterprise or entity in question is of public use and requires immediate assistance.

CHAPTER III. THE DEPARTMENT OF AVIATION

Art. 12. Powers of the Department of Aviation. The powers of the Department of Aviation shall be:

I. To promote the safety of air navigation and transport and for this purpose there shall be prescribed and revised from time to time:

a) Flight rules concerning

1. Air Navigation;

2. Protection and identification of aircraft;

3. Flight rules for aircraft including flight and cruising altitudes, minimum weather conditions, rules for visual and instrument flight and anything relating to the control of air traffic over the national territory.

b) Requirements for the granting, renewal, validation and cancellation of licenses of the technical aviation personnel, or those concerning maximum hours or periods of work of flight personnel.

c) Regulatory provisions and minimum rules in regard to:

1. Use of equipment, use of labor, inspection, repairs, service and operation of aircraft, aircraft engines, propellers, and vital parts or pieces;

2. Equipment and facilities necessary for such inspections, services, and repairs;

3. Frequency and manner of making such inspection, maintenance and repairs.

d) Rules and procedures applicable to auxiliary services for air navigation including communications, radio navigation, meteorology, signals on routes and airdromes, and aid and rescue operations.

II. To grant licenses and certificates of competence to aviation ground personnel and to flight crews, to record, suspend, cancel, and keep the respective register such licenses and certificates of competence.

III. To keep the national registers of registration and airworthiness of aircraft and to issue authenticated copies and certificates.

IV. To authorize and supervise the construction of airdromes and airports, whether public or private, and to determine the conditions of their operation.

V. To supervise national and private airdromes and to administer the former.

VI. To authorize structures, installations, and plantings in areas with aerial restrictions.

VII. To authorize construction of hangars, shops, offices and installations on airdromes and airports and to determine whether they comply with pertinent rules and regulations.

VIII. To further the development of civil aviation and to facilitate the establishment of aviation clubs, the training and development of civil pilots and to supervise the technical and flight activities of aviation clubs and to give information on their legal establishment.

IX. To supervise instruction plans and the operation of civil establishments for flight instruction.

X. To further and support the development of Salvadorean technicians in all branches of aviation. For that purpose it shall grant study scholarships and present to the Executive Power candidates suitable to receive scholarships offered by international organizations or foreign governments for the instruction of technical aviation personnel.

XI. To examine and certify the documentation and to make inspections and tests of aircraft, the engines, instruments and equipment thereof, when there is an application to admit them to air navigation over the national territory and to give information on the procedure and conditions for such permit.

XII. In accord with the Director General of telecommunications, to determine frequencies for aeronautical radio communications assigned to various air transport enterprises.

XIII. To investigate air accidents which occur in the country in order to establish their causes and to reduce or eliminate the possibility of their recurring by means of appropriate regulations.

XIV. To establish systems of signals and rules of flight which must be observed in the Republic.

XV. To inform the Ministry of Defense of the establishment, modification, and cancellation of air routes and corridors in the national territory.

XVI. To inform the Ministry of Defense of application for permits to take aerial photographs over the national territory.

XVII. To inform the Ministry of Defense of the granting, suspension or cancellation of permits to operate air routes, on a prior opinion of the Ministry of Economics, in the cases where it is required under this law.

XVIII. To grant permits for special transit flights of foreign civil aircraft over Salvadorean territory.

XIX. To authorize special flights of Salvadorean civil aircraft in those cases in which in conformity with this law and the regulations issued thereunder, the Department of Aviation has jurisdiction to issue such authorizations.

XX.³ To inform the Ministry of Defense of the application of penalties, for violations of this Law and the regulations issued thereunder.

XXI. To propose the appointment of persons suitable for delegations to represent El Salvador in all kinds of international conferences on civil aviation.

Art. 13. Personnel of the Department of Aviation. The Department of Aviation shall have the technical staff which, in the opinion of the Ministry of Defense, is necessary for its efficient operation.

The head of the Department of Aviation and the entire staff of that agency shall be appointed by the Ministry of Defense exclusively and strictly taking into account their experience and competence in civil aviation and their suitability for their respective positions and duties.

Art. 14. Ties with commercial enterprises. No person who is associated with commercial enterprises of air transportation or who have any tie, interest or relationship with any such enterprise, may be an official or employee of the Department of Aviation, except in the case of advisers specially employed for the performance of technical work for which the Department of Aviation does not have sufficiently well trained personnel.

Art. 15. Annual Departmental report. The Department of Aviation shall annually submit to the Ministry of Defenses a report on its activities to be included in the report which the Minister of Defense must submit to the legislative assembly. Such report shall include, *i.e.*, the studies and data compiled by the Department which are deemed useful in the solution of problems relating to the advancement and regulation of civil aviation, together with recommendations for new laws and amendments to existing laws.

Art. 16. Adoption of international rules. The Ministry of Defense shall propose to the Executive Power the adoption by Executive agreement of any rule, proceeding or method of air navigation approved or recommended by the International Civil Aviation Organization.

³ As amended by Decree No. 107, July 10, 1962, see *infra*.

CHAPTER IV. AIRCRAFT

FIRST SECTION. CLASSIFICATION OF AIRCRAFT

Art. 17. Aircraft. Salvadorean aircraft shall be classified as State aircraft and private aircraft. State aircraft are those intended for service of the Public Power, such as the military, police and customs. All others are private aircraft.

Art. 18. Aircraft used for State service. Private aircraft permanently or temporarily used for a State service shall be deemed State aircraft.

Art. 19. Classification of private aircraft. Private aircraft shall be classified as public transport aircraft and private service aircraft.

Aircraft of public transport shall be private aircraft used for the transport of persons, cargo or mail under an operating certificate granted by the Executive Power in conformity with this Law.

Aircraft used for the development of agriculture in all its phases shall be equipped as public transport aircraft.

Other private aircraft, not included in the preceding paragraphs, are private service aircraft.

Art. 20. Private service aircraft. Private service aircraft are private aircraft used for tourism, aerial work, private services of the enterprise or the individual who owns them, for industrial purposes, instruction and scientific application of aviation in the sense of Articles 146 and 147 of this Law.

SECOND SECTION. NATIONALITY AND REGISTRATION

Art. 21. Nationality. Private aircraft shall have the nationality of the State in whose register they are recorded.

Recording of an aircraft in the Salvadorean aircraft register and the granting of its registration shall confer Salvadorean nationality on it.

Art. 22. Sole nationality. No aircraft may have more than one nationality and one registration.

Art. 23. Requirements for acquisition of nationality. To acquire, change or cancel the nationality or registration of a Salvadorean private aircraft the formalities established by this Law and the regulations issued thereunder must be fulfilled.

Art. 24. Temporary flight permit. Aircraft registered in another State may acquire Salvadorean nationality or registration upon cancellation in the foreign register. However, when the owner of an aircraft lawfully imports it into El Salvador, and applies for registration in the Salvadorean aircraft register, a temporary flight permit may be granted not to exceed ninety days, provided he shows compliance with the requirements of cancellation in register of the country of origin of the aircraft.

Art. 25. Certificate of nationality and registration. Registration of an aircraft in the Salvadorean aircraft register may be applied for by the owner of the aircraft or by his representative. Following recordation of the aircraft, the registration shall be granted and a nationality and registration certificate shall issue for it which identifies it and proves its registration.

Art. 26. Compulsory registration. All Salvadorean private aircraft of whatever kind must have Salvadorean registry.

Art. 27. Nationality and registration marks. All private aircraft registered in El Salvador must bear distinctive marks of nationality and registration in the form specified in the pertinent regulation.

The nationality mark for Salvadorean private aircraft shall be the letters "YS". The registration mark shall consist of a group of numbers added to the nationality mark and which shall be specified by the Department of Aviation of the Ministry of Defense in conformity with the pertinent regulations.

Art. 28. Effects of cancellation of registration. Aircraft registered in El Salvador shall lose Salvadorean nationality by cancellation of their registration in the Salvadorean aircraft register.

Such registration must be cancelled when the aircraft has been registered in a foreign country, when its owner no longer fulfills the requirements to be owner of Salvadorean aircraft, or when the aircraft has been completely destroyed or presumed lost in conformity with the law.

Art. 29. Right to recordation and registration. Only Salvadorean natural or legal persons may record or register in the Salvadorean aircraft register any aircraft used for services of public transport or aerial work for pay. Tourist aircraft used exclusively for private services without pay, in addition to being registered by the persons referred to in this Article, may also be registered by foreigners legally residing in this country.

Art. 30. Use of national insignia. Salvadorean commercial aircraft must show the national insignia in the regulation form.

THIRD SECTION. AIRWORTHINESS

Art. 31. Certificate of airworthiness. Any aircraft flying over Salvadorean territory must have a certificate of airworthiness issued or validated by the country where the aircraft is registered.

Art. 32. Competent authority. The Department of Aviation of the Ministry of Defense shall issue the certificates of airworthiness to Salvadorean aircraft registered in El Salvador.

Certificates issued in a foreign country shall be recognized or validated in El Salvador in accordance with the rules of international law.

Art. 33. Inspection. The certificate of airworthiness will be issued upon prior written approval by an inspector of aircraft appointed by the Department of Aviation of the Ministry of Defense who shall personally verify the condition of aircraft in the form established by regulation.

Art. 34. Contents. The certificate of airworthiness shall consist of two parts: in the first shall be noted the characteristics of the aircraft and the letters and number of its registration, and in the second shall be indicated the number of hours for which it is authorized to fly and any change in vital parts or pieces, or major repairs to the aircraft. The last part shall bear the signature of the inspector of jurisdiction.

Art. 35. Temporary certificate. A temporary certificate of airworthiness may be issued with the approval of the engineering or technical inspector appointed for that purpose. Regulations shall specify the maximum duration of such certificates.

Art. 36. For the granting of revalidation of a certificate of airworthiness the aircraft shall be tested in flight and on the ground as necessary to determine its flight safety in accordance with the applicable regulation.

Art. 37. Test flights. For purposes of testing or proving an aircraft, the Department of Aviation of the Ministry of Defense shall grant a special permit in writing.

No passengers may be carried in test flights, nor may they take place over populated areas.

Art. 38. Repair of aircraft. In the repair or rebuilding of an aircraft, no parts or pieces may be used the life or usefulness of which has not been completely established.

In order to utilize used parts or pieces, it must also be technically proved that there is sufficient safety margin for the aircraft.

Art. 39. When used parts or pieces may be approved for the rebuilding or repair of an aircraft, their use must in all cases be approved by the inspector or technical official of the Department of Aviation of the Ministry of Defense.

Art. 40. Inspection of aircraft. The inspector or technical official of the Department of Aviation of the Ministry of Defense shall use great care in the inspection of the aircraft without thereby affecting the responsibility of the persons who supervised or made the repairs or changes.

Art. 41. Cancellation of certificates. The Department of Aviation of the Ministry of Defense may cancel or suspend certificates of airworthiness when the aircraft does not fulfill the necessary requirements.

CHAPTER V. SALVADOREAN AERONAUTICAL REGISTER

Art. 42. Aircraft register. The Department of Aviation of the Ministry of Defense shall keep a register called Salvadorean Aeronautical Register which shall consist of two sections, one called National Register of Aircraft and the other Aeronautical Administrative Register.

Art. 43. Register of aircraft. In the National Register of Aircraft shall be recorded :

- a) Original documents, legal facts or acts which prove ownership in an aircraft or which transfer, modify or extinguish it;
- b) Mortgages and injunctions on, or decreed against aircraft;
- c) Rental and charter contracts for aircraft which are public documents;
- d) Decommissioning or loss of aircraft, and major changes thereon;
- e) Insurance policies on aircraft;
- f) In general, any legal act or fact which may alter an aircraft or refer to it.

Art. 44. Registrations. The nationality and registration marks of aircraft, and changes and cancellations shall be noted in the margin of the description of ownership.

Art. 45. Administrative register. In the Aeronautical Administrative Register shall be recorded :

- a) Certificates of airworthiness of national aircraft;
- b) Licenses of technical aviation personnel and certificates of qualification of such personnel;

(c) Operating certificates, authorizations to furnish unscheduled air transport service, permits or authorizations to furnish private air services, permits for temporary or transit flights and cancellations and modifications thereof;

(d) Other documents of administrative importance, recordation of which is required by this Law and the regulations issued thereunder.

Art. 46. *Cancellation on the register.* The registration of an aircraft may be cancelled:

- a) On written application by the owner of the aircraft when there is no lien on it. Otherwise, the written consent of the mortgagee shall also be required to make the cancellation effective.
- b) By order of the competent authority;
- c) In the case of duly proved destruction or loss of an aircraft;
- d) In the case of abandonment of an aircraft declared by the Ministry of Defense;
- e) For any other reason specified by the regulations.

Art. 47. *Regulation of the register.* The pertinent regulation shall determine the administrative organization and operation of the Salvadorean Aeronautical Register.

[Added by Decree No. 2382, April 5, 1957, *Diario Oficial*, April 30, 1957, p. 3799].

The fees for the Salvadorean Aeronautical Register shall be as follows:

- a) Registration of aircraft, for each aircraft engine, twenty five colones (\$25.00);
- b) For recordation of original documents, legal facts or acts which prove ownership in an aircraft or which transfer, change or extinguish it, five colones (\$5.00);
- c) Recordation of rental or charter contracts, when the value of the contract does not exceed ten thousand colones (\$10,000.00), five colones (\$5.00).

For any excess over ten thousand colones (\$10,000.00), there shall be due, for each thousand or fraction of a thousand, one Colón (\$1.00);

- d) Recordation of contracts by which mortgages on aircraft are established when the value of the contract does not exceed ten thousand colones (\$10,000.00), five colones (\$5.00).
- For any excess over ten thousand colones (\$10,000.00), there shall be due, for each thousand or fraction of a thousand, one Colón (\$1.00);
- e) Recordation or revaulation of certificates of airworthiness, twenty five colones (\$25.00);
- f) Recordation of operating certificates:

- 1) Temporary, five colones (\$5.00)
- 2) For a term, five colones (\$5.00)
- 3) Regular, thirty colones (\$30.00)
- g) Recordation of cancellation or modification of registration of aircraft or operating certificates, five colones (\$5.00)
- h) Recordation of licenses or certificates of competency of technical aviation personnel:

- 1) Flight personnel, twenty five colones (\$25.00)
- 2) Ground personnel, ten colones (\$10.00)

The same fees shall be due for the recordation of these documents in the case of revalidation or validation;

i) Recordation of other documents not included in the preceding paragraphs, when the value of the act stated therein does not exceed ten thousand Colones (Q10,000.00), or cannot be determined, five Colones (Q5.00)

For any excess over ten thousand Colones (Q10,000.00) there shall be due, for each thousand, one Colon (Q1.00);

j) Certification of recordations, for each entry, whether they be made separately or jointly, five Colones (Q5.00)

There shall be exempt from payment of the respective fees, recordations relating to aircraft of the State, or to property or rights belonging to the nation or when the recordations, modifications, or cancellations were ordered for reasons of the public interest by the competent authority.

Art. 48. Notification of cancellation. The Ministry of Defense, through the Ministry of Foreign Relations, shall monthly inform the countries with which El Salvador has aviation treaties of cancellation of registrations in the Salvadorean Aeronautical Register.

CHAPTER VI. AERONAUTICAL LICENSES

Art. 49. Technical aviation personnel. The technical aviation personnel shall consist of the flight personnel and the specialized ground personnel assigned to the civil aviation service.

Art. 50. Licenses. In order to exercise their profession or office, aviation personnel must have licenses and certificates of competency issued by the Department of Aviation of the Ministry of Defense under the conditions determined by the regulations or declared valid by the State of registration of the aircraft.

Art. 51. Validation of licenses. The Department of Aviation of the Ministry of Defense may validate or recognize licenses issued abroad by a competent authority when the requirements under which they are issued or declared valid, are at least equal to the minimum requirements of the rules required in El Salvador for issuance of such licenses.

Art. 52. The crew includes all of the personnel performing services aboard an aircraft.

Members of the crew are the commander or captain of the aircraft, or the chief pilot, the pilots and co-pilots, navigators, flight mechanics, flight radio operators and auxiliary flight personnel.

The flight personnel includes those members of the crew who perform essential services in the operation of the aircraft.

Auxiliary flight personnel are those crew members who have no function as to the flight, but attend to the passengers, crew members, cargo or equipment of the aircraft.

Art. 53. Requirements for issuance of licenses. The Ministry of Defense shall determine by regulation the categories of pilots, the characteristics of aviation licenses and aptitude certificates, the general conditions for the granting of licenses to members of the flight personnel and the ground personnel, and the general requirements of status, nationality and conduct required to obtain aviation licenses and the conditions of qualification, experience, physical aptitude, skill,

and the examinations necessary to obtain such licenses. The respective regulation shall also prescribe the term, conditions of renewal, revalidation, validation, suspension and revocation of such licenses.

CHAPTER VII. AIR TRAFFIC

Art. 54. Observance of laws. Every pilot in command of an aircraft flying over Salvadorean territory must observe the laws and regulations governing air navigation in El Salvador as well as the location of prohibited or restricted areas.

Art. 55. Requirements of nationality and registration. No foreign aircraft is permitted to fly and operate in Salvadorean territory unless it complies strictly with the provisions of the law of its country in regard to nationality and registration, gross weight, safety equipment and all other requirements specified in its certificate of registration, certificate of airworthiness and other pertinent documents, as well as with the provisions of this law and the regulations issued thereunder.

Art. 56. Entry into the national territory. Any national or foreign aircraft on a flight coming from a foreign country must land in an international airport duly authorized by the Government of El Salvador which is equipped with services of immigration, customs and sanitation for the dispatch and inspection of the aircraft, its crew, passengers and cargo.

Art. 57. Documents which aircraft must carry. Any civil aircraft flying over Salvadorean territory must be provided with the following valid documents and certificates:

- a) Certificate of registration
- b) Certificate of airworthiness
- c) Proper licenses for each crew member
- d) Flight log
- e) If equipped with radio, the respective license for the transmitter.
- f) If carrying passengers, a list of names and places of departure and destination.
- g) If carrying cargo, a manifest and detailed declaration thereof.

Art. 58. Flight over prohibited areas. It shall be prohibited to fly over areas which have been declared prohibited to air navigation by the Government of El Salvador.

Art. 59. Duty to follow designated route. The Department of Aviation of the Ministry of Defense, for reasons of flight safety, may require that foreign aircraft which want to fly over inaccessible areas or which do not have proper facilities for air navigation, follow predetermined routes and obtain special permits for the execution of such flights.

Art. 60. Duty to land. When for some reason, it is necessary in the judgment of the competent authority that an aircraft flying over Salvadorean territory lands or sets down on water, its commander or pilot shall do so as soon as he is given the order by radio or by signals.

Art. 61. Violations. The pilot or commander of any aircraft flying over a prohibited area must, as soon as he notices it, land on the air-drome nearest to the prohibited area and suitable for the aircraft.

Art. 62. Emergency landing. The pilot or commander of any foreign aircraft who, for reasons of emergency believes that he must land on an airdrome which is not in international service, or at some other place on Salvadorean territory, must immediately notify the military authorities or some other authority at the place of landing which shall have a duty to notify by the fastest possible means the Department of Aviation of the Ministry of Defense so that this agency may take appropriate measures.

Art. 63. Use of photographic equipment. It shall be prohibited to crew members and to passengers of any aircraft to take photographs of military objectives or prohibited areas. For the use of special photographic equipment on national or foreign aircraft it shall be necessary to obtain a permit from the Department of Aviation of the Ministry of Defense.

Art. 64. Notification of restricted areas. The Department of Aviation of the Ministry of Defense shall inform interested parties of the areas or regions over which the flight of aircraft is prohibited or restricted.

Art. 65. It shall be prohibited to execute acrobatic flights or maneuvers of a dangerous character above cities or centers of population.

Art. 66. Military aircraft. Operations of military aircraft over the national air routes, in zones of traffic control, or on civil airdromes shall be subject to the provisions on air traffic contained in this Law and the regulations issued thereunder.

CHAPTER VIII. COMMERCIAL OPERATIONS

Art. 67. Limits of use. Aircraft must be operated within the limitations of their certificate of airworthiness.

Art. 68. Use of equipment. Civil aircraft may not be used for any other purpose than that for which the respective registration has been issued and to which the operating permit refers.

Art. 69. Operations manual. Salvadorean air transport services must submit their flight operations manual to the study and approval of the Department of Aviation of the Ministry of Defense.

Art. 70. Preserving books. Air transport enterprises must keep the books relating to operations of their aircraft at the disposal of the Department of Aviation of the Ministry of Defense for a term of two years from the last entry or annotation made therein.

Art. 71. Radio equipment. Any aircraft intended for a public service of transporting passengers or cargo must be provided with a radio receiver and a radio transmitter approved by the competent authority and any failure of such equipment shall be a compelling reason to interrupt or cancel the flight.

Art. 72. International traffic prohibited. The international transportation by air of articles which are not in free commerce under treaties or conventions signed and ratified by the Government of El Salvador in accordance with the Constitution, shall be prohibited.

Art. 73. Prohibited transportation. It shall be prohibited to transport on aircraft intended for passenger service any person in a state of drunkenness.

The transportation of persons under the influence of drugs, or narcotics, persons suffering from a contagious disease, mental patients or bodies, shall be governed by the provisions of this Law or

the regulations issued thereunder and, further, by the legal provisions of such country as may be applicable in a particular case.

In the case of aircraft intended for international transportation of passengers, the transportation referred to in this article shall be governed by the provisions of the international conventions ratified by the Government of El Salvador in accordance with the Constitution.

Art. 74. Transport of explosives. It shall be prohibited to transport on aircraft intended for passenger service any explosives and highly flammable materials which, by their nature, may endanger the safety of the flight.

Such transportation may be made only with a permit granted by the competent authorities and on special flights on which no passengers are carried.

The transportation of weapons and war material shall be governed by special provisions issued on the matter by the Executive Power through the Defense Branch.

Art. 75. Mixed transport. The Department of Aviation of the Ministry of Defense may authorize transportation of cargo in the cabin of an aircraft when there are in such cabin adequate provisions to avoid danger and annoyance of any kind to the passengers.

Art. 76. Access to cockpit. There shall be a strict prohibition against access to the cockpit during flight of any person other than the crew, except on invitation of the captain or with his prior approval.

CHAPTER IX. SERVICES OF AID TO AIR NAVIGATION

Art. 77. Classification. Services of aid to air navigation shall be those of traffic control, aviation radio communications, meteorological information, services of day and night beacons and any others necessary to assure safety and regularity of air navigation.

Art. 78. Control of aid services. The Ministry of Defense has jurisdiction as to control of air traffic, meteorological services, aviation communications and radio aids to air navigation. In the exercise of this jurisdiction it shall specify the means which are necessary for greater flight safety and efficiency, in order to protect human life and property. It may, when in the public interest, grant permits for the establishment of such services to technical organizations which shall be considered auxiliary to the Department of Aviation and affected with the public interest, like photogrammetric flights, emergency flights in cases of disaster etc.

Art. 79. Prohibition of monopolies. No license or permit for the operation of a public air transport service shall confer property in, or an exclusive right to the use of air routes, corridors, airdromes, airports, or services of aid to air navigation.

Art. 80. National aviation communications network. The Department of Aviation shall specify the means it deems necessary to establish the national aviation communications network and the services of aid to air navigation, and it shall see that all owners and operators of civil aircraft comply at all times with the safety requirements established by this Law or the regulations issued thereunder.

Art. 81. Control of aviation radio communications. The operation of the systems and equipment of aviation radio communications now in existence in the country, and the installation and operation of any to

be established in the future, shall be subject to the supervision of the Department of Aviation.

Persons or entities engaged in air transportation, owners of aviation radio communications, shall have a duty to observe the instructions of the Department of Aviation as to adequate distribution of such equipment, in order to improve the systems of telecommunications along the national and international airways.

CHAPTER X. AIRDROMES

Art. 82. Control of airdromes. All civil airdromes and airports in the country shall be subject to control, inspection, and supervision by the Department of Aviation.

Art. 83. Classification. Civil airdromes and airports shall be classified as national, municipal, and private, in accordance with their legal ownership. Pertinent regulations shall classify the airdromes and define technical conditions and requirements for each class.

Art. 84. Public service. All civil airdromes in the country shall be open to public service in accordance with the specifications for each kind and on the basis of the rates approved by the competent authority.

Art. 85. Private airdromes. For the construction and operation of privately owned airdromes a permit from the Department of Aviation shall be required. Private airdromes which, in the general interest, are deemed of public use, may be subject to expropriation.

[Added by Decree No. 2382, April 5, 1957, *Diario Oficial*, April 30, 1957, p. 3799]. The fees imposed for fitting out airdromes shall be as follows:

a) Annual fitting out or refitting of airdrome bases, twenty-five (¢25.00) colones;

b) Annual fitting out or refitting of first line airdromes, ten (¢10.00) colones.

The fees mentioned shall be paid in the form established in Art. 47, last paragraph of this Law.

Art. 86. Construction of airdromes. Only Salvadorean natural or legal persons may obtain permits to construct and operate airdromes in this country. Their use may be restricted during wars or national emergency, and at such time the Ministry of Defense shall take over control.

Art. 87. Use of airdromes. Civil aircraft may not land on military airdromes in the country unless they obtain a special permit therefor from the Ministry of Defense.

In case of emergency civil aircraft may land on military airdromes but their crews must immediately notify the competent authority and prove the emergency conditions which caused the landing.

Art. 88. International airports. To have international character, an airport must be thus declared by the Executive Power after establishment of the respective international services of immigration, customs and health and it must fulfill all technical requirements specified in Annex No. 14 of the Convention on International Civil Aviation.

Art. 89. Airport commander. [Amended by Decree No. 2346, February 19, 1957, *Diario Oficial*, March 5, 1957].⁴ On international

⁴ Further amended by Decree No. 107, July 10, 1962. See *infra*.

airports and civil dromes owned by the State, the highest authority shall be the Chief of the Department of Civil Aeronautics who shall propose the necessary technical and administrative measures.

The Ministry of Defense shall appoint for international airports, a manager who shall be under the jurisdiction of the Department of Civil Aeronautics, and who shall coordinate the administrative activities in agreement with the Chief of the Department of Civil Aeronautics, the immigration authorities, customs, health and air police authorities, who shall be subordinate to their respective departments and shall exercise their functions independently."

Art. 90. Structures on airports. The building of any kind of structure and installation on civil airdromes shall be subject in each case to approval and authorization by the Department of Aviation.

Art. 91. Aircraft of the State. Owners of private civil airdromes shall permit free use thereof to aircraft of the State.

Art. 92. Restrictions. Structures and installations on land adjacent to, and neighboring on airdromes, within the zones of protection and safety thereof, shall be subject to restrictions established by respective regulations and to restrictions, imposed by the Department of Aviation for safety reasons.

Art. 93. Structures and airdromes. Within the limits of a civil airdrome and within a distance of five thousand meters, there may not be any structures or plantings whose height exceeds that established by the respective regulation.

Any new structure or forest planting in such zone must, further, be previously approved by the Department of Aviation of the Ministry of Defense.

CHAPTER XI. PUBLIC AIR TRANSPORT SERVICES

FIRST SECTION. GENERAL PROVISIONS

Art. 94. Classification of services. Air services are classified as:

- a) Public air transport services;
- b) Private air services.

Public air transport services shall be those which are furnished by an enterprise which is duly authorized by the State to transport from one place to another by air passengers or goods for a fixed price.

Art. 95. Air Transport Services. Public air transport services are divided into:

- a) National air transport;
- b) International air transport.

Both kinds of service may be;

- 1) Scheduled;
- 2) Non-scheduled;
- 3) Passenger;
- 4) Cargo;
- 5) Mixed, or passenger and cargo.

Art. 96. Scheduled air transport. Scheduled air transport service shall consist of a series of flights containing the following characteristics:

- a) It is made by aircraft for transportation of passengers, mail or cargo for pay in such manner that the public has permanent access thereto:

b) It is made for the purpose of serving the traffic between two or more points which are always the same, either:

- 1) By following a published time table, or
- 2) By flights so regular or frequent as to constitute a series which may be recognized as systematic, and the routes approved by the Department of Aviation must be followed.

Transport services which do not have all characteristics specified above, shall be deemed non-scheduled air services.

Art. 97. Scheduled international air service. Scheduled international air service consists of a series of flights which, in addition to the characteristics specified in the preceding article, pass through the airspace of two or more States.

International services which do not have all characteristics specified above, shall be deemed non-scheduled air services.

Art. 98. Salvadorean air transport services. Only natural or legal persons of Salvadorean nationality shall have a right to operate public air transport services by means of aircraft which fly the flag of El Salvador.

Art. 99. Domestic traffic. Commercial transportation of passengers or cargo between any two points on national territory shall be reserved to Salvadorean aircraft.

Art. 100. Routes, frequencies, and rates. Any public air transport service must be rendered in accordance with routes, flight frequencies, time tables, fees, and rates approved by the competent authority.

Art. 101. Rates. Rates and fees for air transportation of passengers and merchandise within the country, in addition to being approved by the Ministry of Economics, shall be binding on all aviation enterprises serving the same routes.

No air transport enterprise may charge for its services amounts or sums which are different from those specified in the official rate tables except in special cases provided for in this Law or the regulations issued thereunder.

Art. 102. Publication of rates. Air transport enterprises must print, publish and maintain for the benefit of the public, together with its routes, flight frequencies, time tables and rates, such information and conditions as are required in regard to their application by the Department of Aviation.

Art. 103. Use of national currency. The rates shall be expressed in national currency, but in the case of international air transport they may also be expressed in the currencies of the countries of origin of the enterprises in which case there shall also be required the additional information required by the respective foreign law.

Art. 104. Abandonment of routes. No air transport enterprise may alter or abandon an entire air route or part thereof, unless it obtains the permission of the Department of Aviation after notification of, and a hearing for interested parties.

Any interested party may address the Department of Aviation in writing, either in support of, or in opposition to such abandonment or change.

Art. 105. Temporary suspension. Notwithstanding the provisions of the preceding article, the Department of Aviation may authorize suspensions or changes in air transport services if it deems it to be in the public interest.

Art. 106. Statistical information. Air transport enterprises must present monthly to the Department of Aviation a detailed report on hours flown, kilometers flown, number of passengers, and cargo carried and other statistical information required by the regulations.

Art. 107. Requisition of aircraft. In case of war, state of emergency or public calamity or when for some unusual reason the Government needs the air transport services of enterprises of Salvadorean nationality, all aircraft may be requisitioned and they must put at the disposal of the Government all their flight crews and ground personnel which may be needed for the operations.

Art. 108. Acquisition of property of an enterprise. In the case of Salvadorean enterprises the Government of El Salvador may acquire, at the end of the permit or license, all property and rights related to the air transport service of the enterprise in question and even the enterprise itself. The price shall be fixed by agreement, or if that is not possible, by the terms of the law.

Art. 109. Transportation of air mail. The Executive Power shall grant contracts for transportation of air mail by means of bids in the legal form issued by the Postmaster General and in which only air transport enterprises with an operating certificate may participate.

Art. 110. Reason for termination. Operating certificates shall terminate for any of the following reasons:

I. When the air service is interrupted in whole or in an important part without prior authorization from the Department of Aviation or without good cause.

II. When the operating certificate or when any of the rights established therein or the property used in the air service in question is alienated, assigned, transferred, mortgaged or in any manner encumbered, without prior authorization from the Ministry of Defense.

III. In the case of national air transport services, when the holder of the operating certificate changes his Salvadorean nationality.

IV. When the nature or conditions of the air service are substantially modified or altered without prior authorization from the Ministry of Defense.

V. For any other reason of termination stipulated in the regulation issued under this law or in the operating certificate.

Art. 111. Salvadorean enterprises. National air transport enterprises must be domiciled in El Salvador, they must be duly recorded in the Public Register and they must be organized in accordance with the laws of the Republic.

Art. 112. Certificate of operation. [Amended by Decree 2928, *Diario Oficial*, September 28, 1959.] To operate any air service of public transportation, a traffic permit is required to be issued by the Executive Power pursuant to this Law and its regulations.

The traffic permits shall be known as "Certificates of Operation" and shall be of four categories:

- a) Provisional;
- b) Temporary;
- c) Regular;
- d) For the indefinite periods.

The provisional certificates may be granted until a regular certificate is obtained, in special cases fixed by this Law or regulations. The maximum duration for such certificates shall be six months.

The certificates of operation may be issued also for temporary services in which case the date of expiration shall be inserted. The maximum duration shall be one year.

Regular certificates shall be considered valid up to ten years computed from the date of issue, renewable for like periods in the discretion of the competent authorities. When the certificate has been suspended, revoked or cancelled, or renewal or extension shall be in order.

Certificates of operation for indefinite periods may be issued by the Executive to Salvadorean airlines, provided their operations are controlled by the technical and economic provisions of this Law. The State reserves the right to suspend, modify, cancel or revoke such certificates at any time.

The provisions of the preceding paragraph shall not be effective against corporate persons whose partners or stockholders are foreigners for the major part, or when they represent more than 50% of the capital of the company.

Art. 113. The application for operation certificates shall contain the information and the proof of experience and safety required by the respective regulation.

Art. 114. Authorizations. The regular operation certificates shall be issued in the form of an Executive Resolution, countersigned by the Ministers of Defense and Economy.

Provisional and temporary certificates shall be issued by the Minister of Defense, based on an opinion by the Minister of Economy.

Art. 115. Contents of certificate. The certificates of operation shall specify:

a) The terminal points of the route, as well as the intermediary points if any, indicating which are commercial stops and which are merely technical stops:

b) The class and frequency of service to be rendered;

c) Terms, conditions and limitations to guarantee duly the safety of transportation at the airports and on the air routes set forth in the certificate:

d) Insurance or other security contracted by the airline to guarantee payment of the compensations listed in Articles 254 through 321 of this Law;

e) Conditions and restrictions which may be required in the public interest.

Art. 116. Date for commencement of service. In every operation certificate the airline should be notified of a reasonable time, never to exceed three months from the date of issue, in which it must initiate operations.

If service is not commenced within the said period, the Ministry of Defense may revoke the certificate after a warning to the interested airline.

Art. 117. Exclusive rights. No certificate shall confer ownership or exclusive right to the use of any air space, air routes, airports, or auxiliary facilities or services to navigation.

Art. 118. Duties of the companies. The airline companies are obliged to supply services authorized in their certificates of operation in a safe, adequate and efficient manner, and must possess, for this purpose, the equipment and aeronautical facilities required for said services.

No airline may grant unjust advantages or preferences to any person, company, place or airport, nor may they subject them to any treatment which may be discriminatory, partial or unjust.

Art. 119. Transfer of certificates. No certificate of operation may be validly transferred without the approval of the Executive Power, which shall authorize such transfer only when required in the public interest.

Art. 120. Change of routes. Any authorization which involves obtaining or modifying routes, or changes in the stops on approved routes, shall be considered to be a regular certificate and subject to the same procedures and formalities for authorization of such certificates, as provided in this Law and its regulations.

Art. 121. Illegal applications. Any application for an operation certificate shall be refused in the following cases:

I. When it concerns corporations, if the applicant has not accredited the legal establishment of the company, or its nationality and capital.

II. If the aeronautical personnel, equipment and installations to be used in the service in question fail to satisfy the regulation requirements.

III. If they fail to prove the fitness of the applicant and his financial and technical capacity to carry on the offered service.

Art. 122. Amendment and suspension of certificates. The Ministry of Defense may, at the request of the Department of Aviation or on its own initiative, alter, amend, modify or suspend any operation certificate, wholly or partially, if the need or interest of the public so requires.

In any case, the resolution shall be adopted only after notice and a hearing with the interested parties, and based on opinion of the Ministry of Economy, unless it is a case of lack or lapse of insurance, or violation of the limitations of same, in which cases the suspension shall be immediate.

Art. 123. Revocation and cancellation. The Ministry of Defense may revoke or cancel any certificate, wholly or partially for intentional non-compliance with the provisions of this Law or its regulations, or of any of the terms, conditions or limitations in the certificate of operation.

Nevertheless, no certificate may be revoked or cancelled without giving the interested persons a reasonable term, fixed by the Department of Aviation in the Ministry of Defense, so that they may adjust themselves within this time to the regulatory terms, conditions or restrictions agreed upon: cancellation shall be immediate and permanent if the operator has made one or more flights without being protected by the insurance required in Articles 254 through 321.

All interested parties may address themselves in writing directly to the Department of Aviation in the Ministry of Defense, in favor or against the alteration, amendment, modification, suspension, revocation or cancellation of a certificate of operation.

The decision shall be made after hearing the opinion of the Ministry of Economy.

Art. 124. Refusal of Certificates. No certificates for the operation of air transport services shall be issued in the following cases:

I. When it is a case of a foreign company to which its own Government has not granted the respective authorization to undertake the proposed international service.

II. When the Government, whose nationality the applicant company bears, does not grant reciprocity to Salvadorean airlines, or when the authorization for service is contrary to national interest or to the international agreements signed by the Government of El Salvador and constitutionally ratified.

III. If in the judgment of the competent authority, the traffic needs are completely satisfied so that it is obvious that it would be a case of anti-economic service which would, through ruinous competition, eliminate established airlines.

IV. When it is a case of non-scheduled airline company, where the proposed service would constitute unfair competition to the established regular airlines.

Art. 125. Multiple applications. When several applications are presented for the operation of a public air transport service, preference shall be given to the applicant who guarantees the greatest safety, efficiency and continuity of service, in conformity with the public need.

It is understood that there are simultaneous applications when their services are to be established between points on the same route or within the same zone, and tell subsequent applications are filed within five days following the presentation of the first.

SECTION THREE. SPECIAL AUTHORIZATIONS

Art. 126. Special flights. Any airline company authorized to render regular air services, may undertake special or specified flights, with advance authorization in each case from the Chief of the Department of Aviation according to the provisions of this law.

Art. 127. Non-scheduled flights. The Department of Aviation may grant permission for non-scheduled flights of commercial character, but when these are to be made between points communicated by a regular airline the permission shall be issued only in case these established companies are not in a position to render the service themselves, which must be proved by satisfactory information.

Art. 128. Experimental flights. The Department of Aviation may authorize flights which are purely for recognizance and technical study along unexplored routes for the purpose of gathering data and evidence concerning the possible establishment of air transport services. These authorizations shall be granted for thirty-day periods, which cannot be extended.

Art. 129. Lease of foreign aircraft. When a natural or corporate person of El Salvador proves that for lack of flight equipment it is necessary to lease temporarily an aircraft of foreign registration, the Department of Aviation may authorize the use of such aircraft for public transportation or aviation services within the country, for which purpose it shall issue a provisional traffic permit. This permit shall be granted for a maximum term of six months, which may be extended in the discretion of the competent authority.

Art. 130. The owners or possessors of foreign aircraft in private service used exclusively for tourism or recreation, and which wish to fly

over Salvadorean territory or land thereon for non-commercial reasons, must give reasonable notice in advance to the Department of Aviation in conformity with the respective regulation.

Art. 131. Traffic permit. A provisional traffic permit, conforming to the provisions of the respective regulation, shall be issued to the owners for foreign aircraft which come to the country for tourist purposes.

SECTION FOUR. INTERNATIONAL AIR TRANSPORTATION

Art. 132. International permits. The certificates which the Executive Power may issue for the operation of international services of air transportation shall be in accord with the terms of the treaties or agreements on civil aviation which have been signed and ratified by El Salvador.

In the absence of treaties or agreements, such permits shall observe the principles of equitable reciprocity and the Executive Power must see that no commercial rights shall be granted to a foreign airline to operate on Salvadorean territory:

a) When its concession implies danger to the national security;

b) If reciprocity is not guaranteed on behalf of the foreign government in question;

c) In all other cases contemplated in Article 124 of this Law.

Art. 133. Conditions and procedure. Certificates of operation for international air services shall be subject to the same procedures and conditions, and confer the same benefits governing those authorized for domestic air transport except as concerns coastal air services.

Art. 134. International routes. For the purposes of determining an interair route it shall suffice to indicate the airports of entry and departure on territory of El Salvador, as well as the point or points on foreign soil on which the aircraft touches prior to landing or after taking off from Salvadorean territory. With respect to international trunk services, the Department of Aviation may require anyway that the route be described from terminal to terminal and all intermediate stops.

Art. 135. Flights in transit over El Salvador. Any foreign aircraft whose owner or operator wishes to fly over Salvadorean territory in transit or to land thereon without disembarking the passengers, cargo or mail, must:

I. Give notice in advance and in reasonable time to the Department of Aviation, either directly or through the consuls of El Salvador accredited abroad.

II. Comply with the requirements for safety established in this Law or its regulations, as well as those legal provisions of their own country with respect to nationality and registration marks, rescue equipment and accessories, and they must have an airworthiness certificates, licenses for the flight crew, and other pertinent documents.

III. Comply with the legal provisions of El Salvador on customs, immigration and health.

Art. 136. Exportation of aircraft. The owners of civil aircraft in El Salvador who wish to take them abroad, either temporarily or for exportation, must obtain a permit from the Department of Aviation.

Art. 137. Special commercial flights. The Department of Aviation may issue permits for special commercial flights of international character, but when these flights are to be made between points already communicated by a Salvadorean company duly certified to carry on regular international air services, such permits shall only be granted when the Salvadorean company is not in a position to render this special service in question.

Art. 138. Inspection of aircraft. An aircraft on international flight upon landing or taking-off may be inspected by competent Salvadorean authorities, and the documents examined which it must have for the aircraft and the crew.

Art. 139. Designation of airports. The entry and departure of aircraft on international flights must be made through airports designated by the Department of Aviation, which have been declared by the Executive Power to be airports for international service.

Art. 140. Fees and rates. Foreign aircraft in international service of air transportation shall pay the same amounts which are paid by Salvadorean aircraft, according to the respective schedules, for landing, weather service, air traffic controls, aeronautical communications, and radio-aids to air navigation.

Art. 141. Representation of foreign airlines. Foreign companies in international air service operating in El Salvador must maintain permanently in the country a representative with adequate power to appear before the administrative and judicial authorities of El Salvador for the purpose of answering complaints filed against them in matters related to air transportation.

Art. 142. Customs inspection. The legal provisions in force in the field of inspection and fiscalization of customs, immigration and health are applicable to companies in international services.

Art. 143. Aircraft documents. Immediately upon landing on Salvadorean land or water, the commander or pilot of an aircraft coming from abroad, or the land agent of same, shall present to the respective authorities the following documents:

- a) List of the crew;
- b) Passenger list and statement of their personal baggage;
- c) Cargo manifest;
- d) Mail manual;
- e) Clearance and exit permit at the last stop;
- f) If the aircraft comes from the place or country affected by an epidemic, the corresponding health certificate shall be required.

In the latter case, the aircraft, the crew and passengers, and the effects being transported shall be subject to the health regulations of the Republic and to those of the Pan American Sanitary Code.

Art 144. Take-off documents. The pilot, representative or agent of a public airline company leaving for abroad, must present to the competent authorities the following documents at least thirty minutes before take-off:

- a) Flight plan;
- b) Crew list;
- c) Passenger list and statement as to personal baggage;
- d) Cargo manifest;
- e) Mail manual;
- f) Clearance and exit permit;
- g) Health permit.

Art. 145. Emergency landings. If, in case of any emergency an aircraft in international flight is obliged to land at an airdrome that is not international, it should immediately notify the aviation authorities at that place, or in absence of same, the nearest authorities, so that they may provide the necessary measures to prevent the unloading of the aircraft without fulfilling the requirements of law. The extraordinary expenses incurred for this reason by the Government shall be charged and payable to the owner or operator of the aircraft.

CHAPTER XII. PRIVATE AVIATION SERVICES

Art. 146. Definition. Private aviation services are those which have as their sole and exclusive objectives:

- a) Tourism for personal purposes and without remuneration;
- b) Aviation work such as aerotopography, aerophotography, commercial advertisement and similar matters;
- c) Private services of a company or private affairs of the aircraft owner, without remuneration and distinct from those of public transportation and agricultural spraying;
- d) Industrial activities for or without compensation, differing from public transportation.
- e) Training through duly authorized private aviation schools, whether for compensation or not;
- f) Scientific application of civil aviation to such matters as educational flights, determination of hurricane paths, flights of locusts and migratory birds, and others.

Art. 147. Authorization. In order to perform private aviation services for compensation, authorization is required from the Ministry of Defense, based on a prior opinion of the Department of Aviation.

Art. 148. Terms. The authorizations for private air services for compensation shall be granted for a maximum initial period of two years, which may be renewed.

Art. 149. Requirements. The owners and operators of aircraft of private service comply with the safety requirements which the present Law and its regulations establish for public air transport services.

Art. 150. Prohibition. The aircraft in private service may not, in any case, perform services of public air transportation.

Art. 151. Insurance. Prior to initiating its operations, the individual or corporate person authorized to render private air services for compensation must accredit before the Ministry of Defense that he has posted guaranty for the payment of liability which he may incur for damages caused to third persons on the ground, through insurance or security deposited as a bonded person, which shall be adequate to repair such damages.

Art. 152. Suspension or cancellation. The Ministry of Defense may amend, suspend, revoke or cancel any authorization for a private air service on the grounds of non-compliance with the provisions of this law or its regulations, or of any of the terms, conditions or restrictions contained in the respective permit.

Nevertheless, no authorization shall be revoked or cancelled without giving the interested parties a reasonable time within which to present their allegations or any evidence that they believe proper in support of their interests.

Art. 153. Aircraft of personal use. Owners or operators of aircraft of private service used for personal purposes and without remuneration, and which are not included in Article 159, shall not require special authorization to fly. It shall suffice if they obtain the respective registration and that their licenses, certificates of airworthiness and log books are valid.

Art. 154. Guarantees. Owners and operators of aircraft referred to in Article 158 must comply with all the provisions on safety for air navigation included in this Law and its regulations. In addition they must guarantee, through insurance or security deposited by bonded person, adequate coverage for liabilities they may incur for damages to persons or property of third persons on the ground.

CHAPTER XIII. AGRICULTURAL AVIATION

Art. 155. Definition. Agricultural aviation shall be considered to be that branch of aeronautics organized, equipped and trained to protect and promote the development of agriculture in all of its aspects, for the following relevant objectives:

- a) Preparation of the soil through use of fertilizers and improvers of soil;
- b) Seeding;
- c) Combating agricultural diseases;
- d) Application of deleafing materials, fertilizers, insecticides, weed killers and hormones;
- e) Artificial seeding for rain; and
- f) Any other scientific application of aviation for agrarian purposes as may be approved by the competent authorities.

Art. 156. Authorization. Authorization for aviation services in connection with agricultural aviation, as well as the equipment and flight personnel participating in said services and operations, shall perform in conformity with the Regulation on Agricultural Aviation.

Art. 157. Public use. [Amended by Decree 2732, *Diario Oficial*, October 24, 1958]. Activities of agricultural aviation shall be considered as of public use. Therefore, the importation of planes, motors, equipment, apparatus, materials, repair parts, accessories, fuel and lubricants shall not be subject to tax of any kind, including in such exemption consular fees or fees for approving of any documents necessary for registration.

The Executive Power shall develop the training of pilots, mechanics, and other specialized technical personnel in this branch of aviation.

Art. 158. Liability. All individual or corporate persons operating aircraft devoted to agricultural operations shall be financially liable for the damages caused to the person or property of third persons on the ground caused by the application of dangerous chemical substances, or by the falling of the plane or by objects dropping or thrown from it.

The Ministry of Defense shall not grant permission to any individual or corporate person wishing to devote himself to any of the activities of agricultural aviation, if the applicant does not prove to the satisfaction of the Ministry that it or he is covered by insurance or bond sufficient to repair the damages and losses referred to in this Article.

CHAPTER XIV. AVIATION CLUBS, SCHOOLS, AND FACTORIES

Art. 159. General requirements. Civil aviation activities by individual or corporate persons devoted to the training of pilots or aviation ground staff, or to the development of air tourism, may develop it through a permit granted by the Minister of Defense, provided the following requirements are observed:

I. With respect to corporate persons, that they prove their legal personality to be duly authorized.

II. With respect to schools or training centers for aviation personnel, that they prove compliance with all the requirements of the respective regulation.

III. In all cases, that they prove fitness and technical capacity to the satisfaction of the Ministry of Defense.

Art. 160. Public Use. The following shall be considered of public use:

I. Aviation schools and centers of aviation research.

II. Aviation clubs.

III. The establishment of factories and manufacturing plants of aircraft, engines, accessories, and of aviation repair shops.

In every application for permission or grant to establish factories and manufacturing plants for aircraft, engines and accessories, or aeronautical repair shops, the opinion of the Department of Aviation shall be sought. The concessionaires shall be obligated in all cases to govern their activities in conformity with the regulatory provisions and those on safety dictated by the Executive Power through the corresponding department.

Art. 161. Aviation school. Aviation instruction in the country shall be entrusted to schools or training centers which may function in conformity with the Regulation of Schools of Technical Aeronautics to be enacted by the Executive Power.

Art. 162. Classification. The aviation schools may be official or private but in either case shall be governed by the provisions of this law and its regulations.

The Department of Aviation shall approve in advance the respective courses of study and teaching.

Art. 163. Instructors. The faculty of civil aviation schools shall be authorized by the Department of Aviation through issue of the corresponding licenses to give instruction in the form provided in the respective regulation.

Art. 164. Tests. The Department of Aviation shall accept for the issuance of such licenses, the results of examinations given in aviation schools which have been approved by the Ministry of Defense, reserving to itself the right to reexamine if it deems it proper.

Art. 165. Approval given by the Ministry of Defense to an aviation school may be cancelled at any time if any irregularities in the teaching or in the granting of certificates of competency are discovered.

Art. 166. The owners or operators of tourist aircraft to be devoted to recreation and personal transportation without profit, shall not require permits to develop their aviation activities: it shall suffice that they obtain the respective registration in the Department of Aviation and that they maintain in force their licenses, certificates of airworthiness and log books. They must comply, however, with all provisions as to safety of air navigation contained in this Law and its regulations.

Art. 167. Aviation Clubs. Aviation clubs shall be organized as civil associations and their activities shall remain subject to the supervision and vigilance of the Ministry of Defense, which shall promote the steps for its recognition as a corporate body, provide technical counsel when requested, and grant them the privileges and exemptions from aeronautical fees as may be compatible with the law.

Art. 168. Supervision. The supervision of the Ministry of Defense over these clubs shall be performed through the Department of Aviation, which shall regulate the organization and functioning of same and shall control their air and technical activities.

Art. 169. Tax exemption. No taxes of any kind shall be imposed on the importation of planes, engines, equipment, apparatus, materials, repair parts, fuels and lubricants destined for the use of the aviation clubs whose corporate personalities have been recognized by the Executive Power.

Art. 170. By-laws and internal regulations. Before they can become effective the by-laws and internal regulations of the aviation clubs must be approved by the Department of Aviation, being subject to the regulations of said department.

Art. 171. Penalty. The Department of Aviation may request the Executive Power to cancel the Decree which acknowledged the legal personality of an aviation club if the latter fails to comply with the regulatory provisions in force.

Art. 172. International tourist flights. The owners or operators of foreign tourist aircraft desiring to traverse Salvadorean territory must notify the airport commander of their arrival at the international airport where they are to land, with the necessary advance notice, so that the personnel of immigration, customs and health may be present at the airport to carry out the legal inspections and procedures.

The notice mentioned above must contain the following information:

- a) Registration and nationality of the aircraft;
- b) Mark and category of aircraft;
- c) Name of pilot and other crew members, if any;
- d) International airport of entry;
- e) Estimated time of arrival;
- f) Names and nationality of persons on board.

The owner or operator of any foreign civil aircraft desiring to overfly Salvadorean territory without landing shall secure the corresponding authority to do so from the Ministry of Defense.

CHAPTER XV. INVESTIGATION OF AIR ACCIDENTS

Article 173. Jurisdiction. The Department of Aviation shall make investigations of air accidents which occur on Salvadorean territory. Once the investigation has been concluded in accordance with the provisions of the respective regulation, the Department shall determine the probable cause of the accident, and, as the case may be, shall impose the proper administrative penalties. When it is in order to do so, it shall inform the competent judicial authorities concerning the facts.

Article 174. Participation in the search. The activities of search and salvage in cases of accidents suffered by aircraft shall be of public interest and; therefore, the authorities as well as the airlines and pri-

vate persons are under duty to participate in them within their respective powers and capabilities, in accordance with the provisions of the respective regulation.

Article 175. Expenses of rescue. The operations of search and salvage shall always be performed under the direction and control of the Department of Aviation, and the expenses which may be incurred, when it is a case of an accident to an aircraft of public transportation, shall be charged to the airline, which must pay even when the rescue and the search have been unsuccessful.

Article 176. First measures. Any person having knowledge of an air accident must notify the nearest authority, which shall be obliged to communicate the facts to the Ministry of Defense by the most rapid channel.

In the absence of an aircraft pilot, or of a competent aviation official, the first authority reaching the place of the accident shall take control of the aircraft, the baggage, cargo and mail, and shall provide whatever may be necessary for the protection and aid of the passengers and crew.

Article 177. Inspection. The aircraft inspector, or lacking this, the nearest airport commander shall be obliged to come personally to the place where the accident has occurred, to take the proper measures and notify the Department of Aviation immediately.

Article 178. Salvage Centers. The Department of Aviation shall create auxiliary centers for search and salvage at the places it deems proper.

Article 179. Notification of Accidents. The owners or possessors of civil aircraft and their legal representatives and agents, and the pilots in command of the respective aircraft are all under duty to notify the Department of Aviation immediately concerning any accident suffered by their aircraft.

Article 180. Reports. As soon as they have precise information on an accident suffered by their aircraft, or when they consider one of them to be lost, airlines are under duty to issue a report to the interested persons with the information they have on the matter.

Article 181. Loss of Aircraft. An aircraft shall be considered to be lost in the following cases:

- 1) By declaration of the owner, possessor or operator, subject to verification by the Department of Aviation.

- 2) When three months have elapsed from the date on which the last official or private news was received about the aircraft whose whereabouts are unknown.

In either case, the Department of Aviation shall declare the loss of the aircraft and cancel its entry in the Salvador Aeronautical Register. From the moment of cancellation, the statute of limitations shall commence to run with respect to the corresponding civil actions.

Article 182. An aircraft shall be considered as abandoned:

- 1) When so declared by the owner, possessor, or operator to the Department of Aviation.

- 2) When it remains for a period of ninety days in an airdrome without being operated and not under the care, either direct or indirect, of its owner, possessor or operator.

- 3) When it lacks registration, and the name of the owner and the place it comes from are unknown.

The Department of Aviation shall make a declaration of abandonment, and, through the competent authorities, shall dispose of the aircraft and of equipment found on it.

Article 183. Assistance. In case of an air accident, any national or foreign aircraft may come to the aid of the victims without need of obtaining special permission, but it shall be under duty to communicate immediately with the Department of Aviation by the most rapid channel.

Article 184. Conveyance of messages. Radio, telegraphic and radio-telephonic messages concerning an air accident must be sent directly to the Department of Aviation, and shall be handled as official and urgent.

Article 185. Rescue parties. Civil and military authorities of the country are under duty to send rescue parties upon being notified of an air accident, offering first aid immediately to the victims and establishing military or civilian guards at the place of the accident until the arrival of the investigators appointed by the Department of Aviation.

Article 186. Protection of aircraft. If accidentally or by *force majeure* an aircraft is forced to land on Salvador territory, the commander or pilot of the aircraft, or in his absence any member of the crew, shall see that no merchandise or baggage is unloaded, and that the passengers do not leave the place of landing until they have permission to do so from the competent authorities, unless it is made necessary because of rescue operations.

Article 187. Protection of mail. The correspondence being transported by an aircraft which has suffered an accident, or which makes a forced landing, may be picked up; but in that event, it must be delivered as soon as possible to a responsible employee of the postal service of El Salvador, who shall sign a receipt for it.

TITLE II

CHAPTER I. AIR TRANSPORT CONTRACTS

Article 188. Definition of enterprise. An airline enterprise is any natural or corporate person who, in a permanent manner, engages in carriage by air for compensation, or is constituted for such a purpose.

Article 189. Carrier. For the purposes of this Law, a carrier shall be any natural or corporate person effecting air transportation for compensation.

Article 190. Definition of employee. An employee is any agent or subordinate of the carrier acting in his name or in his behalf in the performance of the functions corresponding to his employment, whether or not they fall within the field of his duties.

Article 191. Operator. For the purposes of this Law, an operator is any natural or corporate person who, in his own right or through its employees, uses an aircraft for the carriage of persons or cargo.

The term operator does not include the charterer, unless the charter contract expressly specifies that the charterer assumes all of the obligations of operator and all of the rights to issue orders to the crew of the aircraft as to operations of same during the entire period of the charter.

If the name of the operator does not appear in the Aeronautical Register of Salvador, or in the national register of the aircraft, it shall be deemed that the owner is its operator, unless proved to the contrary.

Article 192. Last Carrier. The carrier performing the last stage of the transportation included in a transportation contract shall be considered to be the last carrier in cases where the carriage is effected by several carriers. Nevertheless, when the transportation in fact concludes at a point prior to that of the destination provided for in the transportation contract, the last carrier shall be considered the one performing the carriage up to the point where it actually terminated.

Article 193. Owner of aircraft. A natural or corporate person in whose name the aircraft is registered in the respective national aeronautical register shall be considered to be its owner.

Article 194. Air carriage contract. Under an air transportation contract, the carrier binds himself, for a specified price, to take any passengers or things belonging to others from one place to another by air routes and to deliver the latter to the persons to whom they are consigned.

Article 195. Domestic Transportation. Domestic air carriage shall be governed by the provisions of the present Law, or otherwise by the pertinent provisions of the Commercial Code on land transportation, and by special statutes in force in this matter.

All transportation shall be considered as domestic where, pursuant to an agreement, between the parties, both the place of departure and the place of destination are located within the territory of El Salvador, without provision for stops on foreign soil.

Article 196. Unforeseen landing. When the places of departure and destination are located on Salvadorean territory, the carriage shall not lose its character as domestic by the fact that the aircraft, through *force majeure*, is obliged to make an unforeseen landing on foreign territory.

Article 197. International Transportation. International air transportation, in the absence of international treaties, conventions or agreements, shall be governed by the principles established in this Law.

International transportation shall be considered to be that in which, pursuant to an agreement between the parties:

a) The places of departure and destination are situated in the territories of two different States;

b) The places of departure and destination are situated on the territory of the same State, but one or more stops are scheduled on the soil of another State.

Article 198. Combined Transportation. Air transportation effected by a succession of several carriers shall be considered as a single transportation when the parties have treated it as a single operation.

Article 199. Visas. In the case of international air transportation, a carrier may not take on passengers who do not prove that they are duly authorized to land at the place of destination and at the scheduled stops when the country where the stop is to be made requires a travel visa.

Article 200. Charter party. Charter party is a transportation contract by which the total capacity of the aircraft is chartered, sup-

plied with crew, for a specified trip or series of trips (charter per party), or to undertake trips ordered by the charterer during a specified period of time (charter for a period of time).

Article 201. Charterer. A charterer is the contracting party celebrating a charter contract with the operator of the aircraft, which is the subject matter of such a contract.

Article 202. Carrier of a Chartered Aircraft. In charter cases, the carrier is the party designated as such in the charter contract. In the absence of such designation, for the purposes of this Law, the operator of the aircraft shall be considered as the carrier, whether or not his name appears as such in the documents covered in Articles 204, 206, and 211, respectively. He shall be responsible also for delivery of the passenger tickets and the baggage checks, in accordance with the provisions of Articles 204 and 206, as well as of indicating on the checks the data required by Article 206.

Art. 203. Relations between the operator and the charterer. In cases where the charterer sub-contracts the transportation on the chartered aircraft, both he and the operator shall be jointly liable as carriers, as provided in Chapter V, Title II, of this Law, except for provisions of Article 274, and without prejudice to the rights and duties existing between them in matters of indemnity, contribution or collection. In these cases, both the operator and the charters may protect themselves as to all the exceptions provided in this law, and as to all limitations of liability to which a carrier may have a right, according to this law.

Article 204. Passenger ticket. In carriage of passengers, the carrier is under duty to issue tickets containing the following specifications:

- a) The place and date of issue;
- b) The points of departure and destination;
- c) Stops desired by the passenger;
- d) The names and addresses of the carrier and passengers.

Article 205. Loss of ticket. The lack, irregularity or loss of the passenger ticket shall not affect the transportation contract, which shall continue to be governed by the provisions of this Law.

Nevertheless, if the carrier accepts a passenger without issuing the corresponding ticket, it shall not have the right to the protection provided in the present Law which excludes or limits its liability.

Article 206. Baggage check. In the transportation of baggage, with exception of hand luggage which the passenger keeps in his possession, the carrier shall be under duty to issue a baggage check in two parts, one for the traveller and one for the carrier, which shall specify the following:

- a) Place and date of issue;
- b) Points of departure and destination;
- c) Name and address of the carrier;
- d) Number of passenger's ticket;
- e) Indication that the delivery of baggage shall be made to the holder of the check;
- f) Number and weight of the pieces of baggage;
- g) Total value declared, when such a declaration is made.

Article 207. Loss of check. The lack, irregularity or loss of a baggage check shall not affect the existence or validity of the transporta-

tion contract, which shall continue to be governed by the provisions of this Law.

Nevertheless, if the carrier accepts baggage without issuing the corresponding check or if it issues one without the information indicated in sections c), d), and f) of Article 206, the carrier shall not have a right to the protection provided by this Law which excludes or limits its liability.

Article 208. Waybills. All carriers of cargo have a right, without prejudice to the provisions of the second paragraph of this Article, to request the shipper or sender to issue or deliver a document known as "air waybill."

Nevertheless, the lack, irregularity or loss of said document shall not affect the existence or validity of the transportation contract, which shall continue to be governed by the provisions of the present Law, without prejudice to the provisions of Article 212.

Article 209. Issue of waybill. The issue of a waybill shall be governed by the following rules:

I) It shall be issued by the shipper or sender in three original copies, and shall be delivered together with the cargo.

II) The first copy shall be indicated "for the carrier" and shall be signed by the shipper or sender. The second copy shall be indicated "for the consignee," shall be signed by the shipper or sender and the carrier, and shall accompany the merchandise. The third copy must be delivered by the carrier to the shipper or sender after the merchandise has been accepted.

III) The signature of the carrier must be affixed at the moment of the acceptance of the merchandise.

IV) The signature of the carrier may be replaced by a rubber stamp; that of the shipper or sender may either be printed, or replaced by a rubber stamp.

V) If the carrier, at the request of the shipper or sender, issues the air waybill, it shall, except for proof to the contrary, be considered as acting on behalf of the shipper or sender.

Article 210. Multiple waybills. The carrier has the right to request the shipper or sender to issue different waybills for the various pieces.

Article 211. Contents of air waybill. The air waybill must contain the following data:

- a) The place where the document has been issued and the date of issuance;
- b) The points of departure and destination;
- c) The stops scheduled, with reservation of the right of the carrier to stipulate that these may be changed in case of need;
- d) The name and address of the shipper or sender;
- e) The name and address of the first carrier;
- f) The name and address of the consignee, when required;
- g) The category of merchandise;
- h) The number of pieces, form of containers, special marks and numbers on the pieces;
- i) The weight, amount, volume or dimensions of the merchandise;
- j) Apparent condition of the merchandise and containers;
- k) The price of transportation, if stipulated; the date and place of payment and person who must pay;

l) If the shipment is made on bases of reimbursement, the price of the merchandise and eventually, the total charges of carriage and other expenses;

m) The amount of declared value, when such a declaration is made;

n) The number of copies of the air waybill;

o) The documents transmitted to the carrier to accompany the air waybill;

p) The time for transportation, and a brief statement as to the routes to be followed, if so stipulated.

Article 212. Omission of waybill. If the carrier accepts merchandise without the issuance of an air waybill, or if this does not contain all of the above information required in Article 211, sections a) through i), inclusive, the carrier shall not have the right to the protection of the stipulations in this Law which exclude or limit its liability.

Article 213. Liability of the shipper or sender. The shipper or sender is liable for the accuracy of the information and statements concerning the merchandise covered by the air waybill.

Consequently, he shall be liable for all damages suffered by the carrier or any other person, resulting from said defective, inaccurate or incomplete information and statements.

Article 214. Proof of waybill. The air waybill shall be given full faith, unless there is proof to the contrary, of the celebration of the contract, the receipt of the merchandise and the conditions of the carriage.

The contents of the air waybill concerning weight, dimensions and containers of the merchandise, as well as the number of pieces, shall constitute full faith except for proof to the contrary; those which refer to the quantity, volume and condition of the merchandise shall not constitute evidence against the carrier except in cases of verification by it in the presence of the shipper or sender, and incorporated in the air waybill, or which concern statements concerning the apparent state of the merchandise.

Article 215. Loss of waybill. The lack, irregularity or loss of the air waybill shall not affect the existence or validity of the transportation contract, which shall continue to be governed by the provisions of Article 212.

Article 216. Rights of the shipper or sender. The shipper or sender has the right, subject to observance of all obligations arising from the transportation contract, to dispose of the merchandise, either by withdrawing it from the airport of departure or of destination, or holding it during the course of the trip in case of landing, or having it delivered to a person other than the indicated consignee or the air waybill, at the point of destination or on the route, or to request that it be brought back to the airport of departure, provided this does not damage the carrier or the other shippers or senders, and always under obligation to reimburse the carrier for all expenses incurred thereby.

Article 217. Notice to shipper or sender. In case it is impossible to carry out the orders of the shipper or sender, the carrier must notify him immediately.

Article 218. Liability of the carrier. If the carrier performs the orders for disposal of the merchandise given by the shipper or sender, without requiring the presentation of a copy of the waybill, it shall be liable for the damage caused by this fact to the regular holder of the waybill, except for a right of action against the shipper or sender.

Article 219. When the right of the shipper or sender ceases. The rights of the shipper or sender ceases at the moment in which the right of the consignee commences, in accordance with the provisions of Article 220. Nevertheless, if the waybill or the merchandise are refused by the consignee, or if the latter is not located, the shipper or sender shall recover his right to dispose of the merchandise.

Article 220. Delivery of merchandise. Except in the cases indicated in the preceding article, the consignee has the right, from the time of arrival of the merchandise at the point of destination, to request that the carrier send him the waybill and deliver the merchandise, after payment of the freight charges and other expenses, in observance of the transportation conditions indicated in the waybill.

Article 221. Notice to consignee. Except for stipulation to the contrary, the carrier must notify the consignee of the arrival of the merchandise.

Article 222. Loss of merchandise. If the carrier acknowledges that the merchandise has been lost, or if, at the end of seven days following the date on which the merchandise should have arrived, it has not been received, the consignee is authorized to assert against the carrier the rights granted to him in the transportation contract.

Article 223. Actions by the carrier and consignee. The carrier and consignee may assert the rights conferred on them respectively by Articles 216, 217, 218, 219, 220, 221 and 222, each in his own name, on the condition that they observe the obligations imposed by the contract.

Article 224. Rights of third persons. Articles 216, 217, 218, 219, 220, 221, 222 and 223 shall not prejudice in any way the relations of the shipper or sender and of the consignee with each other, or in their relations with third persons whose rights derive either from the carrier or the consignee.

Article 225. Repealing provisions. Any clauses repealing the stipulations of Articles 216, 217, 218, 219, 220, 221, 222 and 223 must be incorporated in the waybill.

Article 226. Repealing clauses. The shipper or sender is obliged to provide information and to attach to the air waybill any documents, prior to sending the merchandise to the consignee, which are necessary for the observance of customs, port and police formalities. The shipper or sender is liable to the carrier for all damages which may result from the lack, inadequacy or irregularity of said information and documents, except in the case in which the fault may be imputed to the carrier or his agents.

The carrier is not under obligation to corroborate whether or not the information and documents are accurate or sufficient.

CHAPTER II. LEGAL STATUS OF THE AIRCRAFT COMMANDER

Article 227. Aircraft commander. All aircraft devoted to public transportation services shall be under the control of a commander or captain named by the operating enterprise from among the pilots composing their flight personnel.

Article 228. Liability of the commander. The commander or captain is responsible for the administration, care, order and safety of the aircraft, the crew, passengers and their baggage, the cargo and the mail transported. This responsibility commences as soon as he takes charge of the flight and ceases at the end of same, when the airline representa-

tive or other competent authority takes charge of the aircraft, passengers, cargo, baggage and mail.

Article 229. Powers of the commander. The commander or captain of the aircraft may:

I) Issue orders or instructions for the control and management of the aircraft;

II) Maintain order on the aircraft and issue on board the restrictive measures necessary to control disorderly persons, those who commit misdemeanors, or who refuse or fail to render the services corresponding to them.

III) Arrest persons committing crimes, recording information on these acts, and delivering the offenders to the competent authority at the place of the nearest landing.

IV) Suspend a crew member in his functions for serious grounds.

V) Jettison materials in order to save the aircraft from immediate danger.

VI) Vary the route in case of accident or *force majeure*.

Article 230. Duties of the commander. The following are the duties of the commander or captain of the aircraft.

I) To record all births, deaths and other acts which may have legal consequences, and which occur on board during the flight, entering these in the corresponding log book.

II) To adopt the necessary measures to maintain during the trip good flight conditions, equipment and supplies on the aircraft; and to adopt the necessary measures for safety, in case of landing outside of the regular, scheduled airports.

III) To ascertain whether the aircraft and crew possess the documents and books required by the laws and regulations.

IV) To ascertain whether the aircraft and its equipment have been carefully inspected and are in perfect operating conditions.

V) To be in possession of the weather reports on his route; and he should not undertake a trip if he lacks satisfactory reports, at least up to the first point of landing.

VI) To supervise the distribution of the stowage, and prevent a greater weight than that authorized.

VII) To refuse merchandise in obviously bad condition, which may constitute a danger to the aircraft or a serious nuisance to the passengers and crew, and also to refuse prohibited objects.

VIII) To prevent the boarding of persons in abnormal physical or mental conditions which might endanger the order or safety of the flight.

Article 231. Reports. In the cases contemplated in Section I of the preceding Article, the commander or captain of the aircraft may inform the competent Salvadorean authorities at the first place of landing on national territory, or the competent foreign authorities and the Salvadorean consul at the nearest place, if the landing is made outside the country, concerning the facts.

CHAPTER III. OF SALE AND LEASE OF AIRCRAFT

Article 232. Sale of aircraft. The sales and purchases of aircraft must be made in public written instruments.

Article 233. Judicial sale of aircraft. All judicial sales of aircraft must be made at public auction, which shall be advertised by publica-

tion three times at five-day intervals in the *Diario Oficial* and in one of the daily newspapers of large circulation in San Salvador, following a notice to the Aviation Department.

Article 234. Acquisition by adverse possession. An aircraft may be acquired by adverse possession. For this purpose, the rules on chattels in the Civil Code shall be applicable.

Article 235. Lack of registration. Lack of registration in the Salvador Aeronautical Register, insofar as concerns possession, transfer and ownership of aircraft or of property rights established thereon, shall have the same effect as the Civil Code provides for lack of registration of property and property rights which must be registered in the Register of Real Property and Mortgages.

Article 236. Joint ownership. Two or more persons may be joint owners of a single aircraft. Each owner, independently of his co-owner, may alienate his share or rights.

Article 237. Leasing of aircraft. The leasing of a civil aircraft may be made in a public written instrument, or in a private document certified by the Department of Aviation.

Article 238. Periods of lease. The leasing of aircraft may be made for one or more flights, or for a specified time.

Article 239. Exportation of aircraft. A Salvadorean aircraft may not be sold, donated, leased or given for bailment to a foreigner, without prior authorization from the Department of Aviation.

Upon requesting this authorization, indication must be given of the purpose for which the aircraft is to be used and the place where this will occur.

Article 240. Lease to foreigners. Salvadorean aircraft may not be leased or given in bailment to foreigners domiciled in El Salvador without authorization of the Department of Aviation, which shall set the maximum period for the duration of such a contract.

CHAPTER IV. AIRCRAFT MORTGAGES

Article 241. Aircraft mortgages. Aircraft and complete units of an airline may be subjects of mortgage. This mortgage shall be governed by the pertinent provisions of the Civil and Commercial Codes, insofar as not covered by this Law.

Article 242. Pledges. The motors, propellers, repair parts, radio apparatus, instruments and other aviation equipment may be the objects of pledges. In order for a pledge to be constituted, these must be delivered to the creditor in accordance with the ordinary legal procedures.

Article 243. Effects against third persons. Mortgages and pledges shall be effective against third persons from the date of their recording in the Salvador Aeronautical Register. A certified copy of the respective entry shall be delivered to the Commercial Register for the legal purposes in order.

Article 244. Contents of contract. Contracts for mortgage and pledge shall contain, in addition to the requirements of the applicable laws, a description of the aircraft and of the pledged equipment, a notation of the marks of nationality and registration, the name of the manufacturer and the series number, or in absence of this, the information which can serve to identify in an unmistakable way the aircraft and other items in the mortgage and pledge.

Article 245. Attachment of aircraft. In cases of attachment or other judicial embargo on aircraft devoted to public transportation services, the authority issuing the decree must provide the necessary measures to see that the service is not interrupted and shall immediately notify the Department of Aviation.

Article 246. Establishment of mortgage. The establishment of mortgages on aircraft shall be made in public written instruments, recorded in the Salvadorean Aeronautical Register. The date and hour of presentation of the respective mortgages shall decide the order of preference.

Article 247. Preference in mortgage credits. A mortgage credit shall be preferred over any other credit, except the following:

- a) Judicial costs incurred for preservation of the aircraft.
- b) Compensation for assistance or salvage.
- c) Fees, charges or taxes owed by the aircraft.
- d) Expenses incurred by the aircraft commander pursuant to his powers and which were indispensable for the continuation of the trip.
- e) Wages owed the agents and employees on board the aircraft.

Article 248. Action on preferred lien. If an aircraft is destroyed or has been expropriated, the mortgage creditor may file his preferred claim on the insurance and on the compensation due the owner from the tort liability or expropriation.

Article 249. Exportation of mortgaged aircraft. Aircraft which are mortgaged in the country may not be transferred abroad without express consent of the creditor, who must grant authorization in a public written document, or in a private document certified by the Department of Aviation.

Article 250. Alterations on mortgaged aircraft. Without the express consent of the mortgage creditor, the characteristics of construction and motor propulsion of an aircraft may not be varied.

Article 251. Prohibition. No shares or partial rights on an aircraft may be mortgaged.

Article 252. Extinction of mortgage. A mortgage is especially cancelled for the following reasons:

I) By the loss of the aircraft or its total destruction, without prejudice to the provisions of the preceding articles.

II) By judicial sale, provided the creditor has been notified in conformity with the general laws.

Article 253. In cases of donation, usufruct and life income, the procedure shall be in conformity with the laws in force, as is true in other cases or situations not contemplated in the present Law.

CHAPTER V. CIVIL LIABILITY (TORT)

SECTION ONE

Article 254. Damages to passengers. The carrier is obliged to indemnify for the damages and losses occasioned by the death or injury suffered by a passenger, if the act causing the injury took place during the period lapsing between the moment when the passenger came aboard the aircraft to the moment in which he disembarked or when said aircraft was stationed at any airport or other landing place, and including the place of a forced or accidental landing.

For the purposes of this Law, the term "injury" includes bodily injury, organic or functional, as well as those affecting the mental faculties.

Article 255. Gratuitous transportation. In cases of gratuitous transportation or free of charge, the liability of the carrier is limited only to damages arising from gross negligence or fraud.

Article 256. Amount of compensation. The airline must pay the following amounts to successors for the damages referred to in Article 254:

I) For death, the sum of forty thousand (C40,000.00) *colones*.

II) For injuries which cause total permanent disability of the entire body, the sum of thirty thousand (C30,000.00) *colones*.

III) For injuries which cause partial permanent disability of a principal limb, up to a maximum of fifteen thousand (C15,000.00) *colones*.

IV) For injuries which cause temporary partial disability, incapacitating him for customary or specialized work, up to a maximum of five thousand (C5,000.00) *colones*.

The amounts of compensation listed in sections III and IV of this Article, shall be governed pursuant to the table of compensations in the respective regulation.

Article 257. Insurance coverage. The liability referred to in Articles 254 and 255 must be covered through protection insurance against all risks causing bodily organic or functional injuries: total or partial, permanent or temporary, disabilities: death produced by external and accidental means, or as a consequence of suppurative infections of injuries derived directly from the transportation. This insurance should be contracted through a duly authorized institution, so that the risk may be covered to the satisfaction of the Department of Aviation.

Article 258. Nullity. Any clause which attempts to exonerate the carrier of liability, or to fix limitations less than those established by this Law, is null and void, but the nullity of this clause shall not imply that the contract of transportation is void, which shall continue to be governed by the provisions of the present law.

Article 259. Negligence or fraud. Without prejudice to the provisions of Articles 254, 256 and 257, the victim of an accident or his successors may legally claim full compensation established by other laws, when the competent judicial authority has decided in the respective case that there has existed negligence or fraud in violation of this Law or its regulations, on the part of the airline or of its crew or employees.

Article 260. In all aviation accident cases causing death or injury to passengers, the insurer shall immediately pay the compensations established in Article 256 as soon as the death or injuries have been legally established by the competent authorities. In the absence of insurance, the carrier must satisfy the compensations in point, pursuant to the provisions of this Law.

Article 261. Validity of insurance. The Department of Aviation shall see that insurance for risks in air transportation is maintained in force for the period of the concession or authorization, and during the time that the registration of the aircraft is valid.

Article 262. Insurance contracts. The insurance contract for air transportation of passengers shall be exempt from all taxes, charges or fees.

Article 263. Subsequent damages. The liability covered in Article 254 shall be applicable also to damages and losses occurring after the period of transportation specified in said article, if such damages are the direct result of an act occurring during said period.

Article 264. Limitation of actions. In the case of death or injury to a passenger, the person or persons having the right to sue for compensation should do so within one year from the date on which the act occurred which forms the basis of the claim.

Article 265. The carrier is obliged to compensate damages and losses suffered by a passenger as a consequence of delay in transportation, if such delay takes place during the period between the hour in which the trip was to be commenced, according to the provisions of the contract of transportation, up to the time in which the trip was completed.

Any delay, or any alteration in a route, which has already been agreed upon or is standard for the trip in question, which delay is caused by accidental reason or *force majeure* justified on the basis of protection of human life, safety measures, adverse weather conditions or orders issued by the competent authorities, etc., shall not be considered as violations of the transportation contract, and the carrier shall not incur liability by the mere fact of such delay or alteration of route.

Article 266. Limitations on liability for delay. In case of delay to a passenger, the carrier's liability for compensation is limited to the maximum amount, equivalent to double the fare for the entire trip, as provided in the contract for transportation in question.

Article 267. Claims for delay. In the case of damages caused a passenger based on delay in the transportation, the claim should be made in writing within the fourteen days following the date on which the delay occurred which forms the basis of the claim.

Article 268. Fault or negligence of the victim. No liability whatever shall be imputed to the carrier for accidents provoked intentionally by the victim, nor for those occurring upon boarding or leaving the aircraft when it is parked or in motion, when there is gross negligence on the part of the victim or violations by him of the safety regulations.

Article 269. In the case of successive or combined transportation, the carrier accepting passengers, baggage or cargo for carriage, is liable to the successive carriers. The carrier shall be subject to the provisions of this Law and shall be considered as a party to the contract of transportation.

SECTION TWO. DAMAGES TO CHECKED BAGGAGE AND CARGO

Article 270. Damages to checked baggage and cargo. The carrier is under duty to compensate for damages and losses resulting from the loss, destruction, injury or delay to the cargo or checked baggage, if the act causing the damage took place during the period between the time in which the cargo or checked baggage was placed in the custody of the carrier at the place of departure up to the time in which they were received in customs, or other place for receipt at the location pro-

vided in the transportation contract; but if the complete transportation terminates at a place other than the one provided in the contract, the carrier shall be liable for it up to the time in which the cargo or checked baggage are received as determined by the customs authorities or any other establishment authorized to receive it at the place when the air transportation terminated. All losses, destruction, injury or delay shall be presumed, unless the contrary is proved, to have been caused by an act occurring during the time in which the cargo or checked baggage were under the custody of the carrier or of one of his employees during the specified period.

Article 271. Hand luggage. The carrier is liable for compensation for damages and losses arising from the loss, destruction, damage or delay of hand luggage, if the act causing the damages took place during the period between the time in which the passenger boarded the aircraft up until the time at which he left it, when the aircraft was stationed at any airport or other landing place, including the place of forced or accidental landing.

Article 272. Subsequent damages. The liability mentioned in Articles 270 and 271 shall continue as to damages or losses suffered after the termination of the respective transportation periods specified in said articles, if such damages resulted directly from an act occurring during one of those periods.

Article 273. Limitations on liability. The liability of the carrier in cases of loss, destruction damage or delay with respect to cargo or checked baggage, is limited to a maximum amount of compensation to fifty (C50.00) colones per kilogram of gross weight.

The liability of the carrier in case of loss, destruction, damage or delay with respect to hand luggage shall be limited to a maximum total amount of seven hundred fifty (C750.00) colones, as compensation to the owner of the hand luggage.

Article 274. Exemption from liability. Despite the provisions of Article 270, the carrier shall not be liable if it is proved that both it and its employees took all available measures to avoid the damages, or that it was impossible for either to take such measures.

In the case of hand luggage, the carrier is liable only in accordance with Article 271 if the passenger proves that the damage occurred as a result of the fault of the carrier or its employees.

Article 275. Supplementary transportation. Air transportation does not include land, maritime or river transportation outside of the airport.

Nevertheless, when such transportation is effected in the performance of the contract for air transportation during the carriage, delivery or transshipment of baggage or cargo, it is presumed that the damage occurred during the air transportation, except for proof to the contrary.

Article 276. Combined transportation. In the case contemplated in Article 198, with respect to checked baggage or cargo, the passenger or the shipper may have a cause of action against the carrier performing the first part of the transportation, and the passenger or consignee, as the case may be, shall have a right of action against the last carrier. In addition, either may claim against the particular carrier performing the transportation at the time in which the destruction, damage or delay occurred. These carriers shall be jointly liable to the passenger, shipper or sender, or to the consignee, as the case may be.

Lacking evidence to the contrary, the loss, destruction, damage or delay with respect to baggage or cargo shall be presumed to have taken place during the transportation performed by the last carrier.

Article 277. Presumptions. The receipt of baggage or cargo without any protest on the part of the passenger or consignee shall constitute a presumption, except for proof to the contrary, that the effects were delivered in good condition and in accordance with the transportation contract; but if at the time of the receipt the passenger or consignee makes a reservation in writing, addressed to the carrier, in the sense that the baggage or cargo has not yet been examined, such a presumption shall not lie.

Article 278. Averages. In the case of damages to the baggage or cargo, the person having the right to have the transported pieces delivered to him shall file his claim with the carrier within the three days following the date of receipt in the case of baggage, and within seven days, in the case of cargo.

In the latter case, it is an essential requirement that the Customs Appraiser incorporate a reference to the fact in the customs policy.

Article 279. Loss or delay. Claims for loss or delay of baggage or cargo must be made within fourteen days following the date on which, pursuant to the transportation contract, the effects were to have been placed at the disposal of the passenger or the consignee, or of the person having a right to the delivery.

Article 280. Claims form. The interested carrier must be notified in writing of all claims.

Article 281. Effects of failure to claim. When no claim is filed within the corresponding periods mentioned above, no action may be brought against the carrier unless it is proved guilty of fraud.

SECTION THREE. DAMAGES TO THIRD PERSONS

Article 282. Damages to third persons. The operator of any civil aircraft flying over Salvador territory is financially liable for damages and injuries caused to persons or property of third persons on the ground.

Persons suffering the damages have a right to reparation under the conditions fixed by this Law, merely by proving that they resulted from an aircraft in flight, or were caused by a person or thing falling from it. Nevertheless, there shall be no right of reparation if the damages are not a direct consequence of the act from which they result, or if they are due to the mere fact of the passage of the aircraft across the airspace in observance of the regulations on air traffic.

Article 283. Definition of operator. For the effects of the liability mentioned in the preceding article, an operator shall be considered to be the person using the aircraft at the time the damage is caused. Nevertheless, an operator may also be considered to be the person who has, directly or indirectly, conferred on another the right to use the aircraft, reserving to himself the control over the navigation.

Any person is considered using an aircraft who does so personally or through agents in the performance of their duties, whether or not they act within the limitations of their powers.

Article 284. Aircraft in flight. For the purposes of this Law, an aircraft is considered to be in flight from the moment in which motor

force is applied to lift it, to the moment when the landing run is completed. If it concerns an aircraft lighter than air, the expression "in flight" is applied to the period between the moment in which it leaves the ground up until the moment that it is again moored to it.

Article 285. Presumptions as to owners. A registered owner in the Registration records of the aircraft shall be presumed to be the operator and, as such, liable unless it is proved in a case to decide as to his liability that another person is the operator, and he takes the proper measures to prove this in the said case.

Article 286. Joint liability. If the person who was the operator at the time that the damages were caused does not have an exclusive right to use the aircraft for a period of more than fourteen days, computed from the moment at which he had the right to use it, the person conferring the right shall be jointly liable with the operator, both being bound jointly and individually as to the conditions and limitations of liability provided in this Law.

Article 287. Lack of consent. If a person uses an aircraft with [without?] the consent of the one having the right to control its operation, the latter, unless he proves that he has taken adequate measures to avoid such use, is jointly liable with the illegal user for damages caused to third persons on the ground, both of them being jointly and severally liable under the conditions and limitations of liability provided in this Law.

Article 288. Force majeure. A person liable for damages to third persons pursuant to this Law is not obliged to repair damages which were a direct result of armed conflict or civil commotions, or if he has been deprived of the control of the aircraft by *force majeure*.

Article 289. Fault attributable to injured person. A person who is liable for damages to third persons pursuant to this Law, shall be exempt from liability if he proves that the damages were caused solely by fault of the person suffering them or of his agents. If the person liable proves that the damages have been caused partially by fault of the injured person or of his agents, the compensation shall be reduced proportionately to the measure to which his fault has contributed to the damages. Nevertheless, there shall be no exemption or reduction if, in the case of fault on the part of the agents, the person suffering the damages can prove that they were acting outside of their powers.

If the damages arising from the death or injury to a person serve as a basis for an action brought by another, the fault of the former or of his agents, shall also have the effects provided in the preceding paragraph.

Article 290. Collision. If two or more aircraft in flight collide or interfere with each other, and damages result which must be repaired pursuant to Article 282, or if two or more aircraft jointly cause such damages, each of the aircraft shall be considered as the originator of the damage, and the respective operator shall be liable under the conditions and limitations of liability provided in this Law.

Article 291. Exceptions. Persons mentioned in Articles 285, 286 and 287 may file exceptions available to the operator under this Law.

Article 292. Amount of compensation. The amount of indemnity for damages and injuries which must be repaired according to Article

282 and which shall be paid by persons who are liable pursuant to this Law, shall not exceed per aircraft and accident as follows:

a) Twenty-five thousand (C25,000.00) *colones* for aircraft whose weight does not exceed 1,000 kilograms;

b) Twenty-five thousand (C25,000.00) *colones*, plus twenty-five (C25) *colones* per kilogram over 1,000, for aircraft weighing more than 1,000 but less than 6,000 kilograms;

c) One hundred thousand (C100,000.00) *colones* plus fifteen (C15) *colones* per kilogram over 6,000 for aircraft weighing over 6,000 but less than 20,000 kilograms;

d) Two hundred fifty thousand (C250,000.00) *colones* plus ten (C10) *colones* per kilogram over 20,000 for aircraft weighing more than 20,000 but less than 50,000 kilograms;

e) Five hundred thousand (C500,000.00) *colones*, plus five (C5) *colones* per kilogram over 50,000 for aircraft weighing more than 50,000 kilograms.

Article 293. Definition of "weight." For the purpose of this Law, "weight" shall mean the maximum weight of the aircraft authorized to take off by an airworthiness certificate, excluding the effect of ascension gas when used.

Article 294. Compensation per person. Compensation in case of death shall be forty thousand (C40,000.00) *colones* per person. In case of injuries, compensation shall not exceed twenty-five thousand (C25,000.00) *colones* per injured person.

Article 295. Intentional damages. If an injured person proves that his injuries were caused by a deliberate act or omission on the part of the operator or his agents, performed with intention to cause the damage, the liability of the operator shall be unlimited.

Article 296. Illicit use of aircraft. If a person unlawfully takes an aircraft and uses it without consent of the person having the right to give it, his liability shall be unlimited.

Article 297. Total compensation. When, in accordance with the provisions of Articles 286 and 287, two or more persons are responsible for the damage, or in the case of a recorded owner who is not the operator but yet is considered to be liable by virtue of the provisions of Article 285, persons who are injured shall not have the right to a total compensation greater than the maximum which may be collected from the persons liable, pursuant to the provisions of this Law.

Article 298. Limitations on total compensation. In the cases mentioned in Article 290, a person who has been injured shall have the right to indemnity up to the limits corresponding to each of the aircraft involved, but neither operator shall be liable for an amount exceeding the limits applicable to his own aircraft unless his liability is unlimited pursuant to Article 295.

Article 299. Distribution of indemnity. If the sum of the compensation fixed exceeds the limits of applicable liability, according to this Law, the following rules shall be observed, keeping in mind also the provisions of Article 294:

a) If the compensations refer solely to a case of death or injuries, or only to property damage, these shall be reduced in proportion to the respective amounts;

b) If the compensations refer to death or injuries and also to property damages, half of the amount to be distributed shall be

devoted, with preference, to cover compensation for death and injuries, and if the amount is not sufficient, it shall be distributed proportionately among the various credits in the case. The remaining amount of the total to be distributed shall be prorated between the compensation due for damages to property and the uncovered portion of the other compensations.

Article 300. Insurance. The operator of any national or foreign civil aircraft flying over territory of El Salvador, must be insured with respect to its liability for damages to third persons on the ground up to the limits stipulated according to the weight of the aircraft, in Article 292.

Article 301. Insurance contracts. Insurance shall be considered satisfactory if it fulfills the present Law and has been contracted through an insurer authorized by the Government of El Salvador, or of the country of registration of the aircraft, when it concerns foreign aircraft, or by the government of the country in which the insurer is domiciled or has its headquarters, and whose solvency has been satisfactorily demonstrated.

Article 302. Other security. In the absence of insurance, any of the following guarantees shall be considered satisfactory if they observe the requirements indicated in Article 320:

a) A deposit in cash deposited in the *Banco Central de Reserva*.

b) A bond issued by a banking institution, duly authorized for this purpose by the Government of El Salvador, or by the government of the country of registration of the aircraft, when it covers foreign aircraft.

c) With respect to foreign aircraft, a guaranty of the State where the aircraft is registered, if said State promises not to invoke immunity or exception of any nature in any suit brought with respect to said guarantee.

Article 303. Statement of insurer. All civil aircraft flying over Salvadorean territory must carry a document issued by the insurer, in which it is stated that insurance has been contracted in accordance with this Law, and which specifies the person whose liability is covered by the insurance, accompanied by a certificate issued by the Ministry of the Treasury in the case of Salvadorean aircraft, or by the competent authorities of a State where the insurer has his domicile or principal headquarters, declaring the financial solvency of the insurer.

If another category of security has been deposited in accordance with Article 302, a certificate on this matter shall be issued by the Ministry of Defense, in case of Salvadorean aircraft, or by the competent authorities of the State of registration of the aircraft in cases of foreign aircraft.

Article 304. Exceptions. According to Articles 301 and 302, the insurer and guarantors of the operator's liability may only file exceptions in any complaints based on the application of this Law, as follows:

a) When the damage occurred after the insurance or the guarantee had lapsed. Nevertheless, if the period expired during a flight, it shall remain effective until the first landing included on the flight plan, but not to exceed twenty-four hours; if they lapse for reasons other than expiration of the time for which they were taken out, or because of change of operator, they shall be kept in force up to fifteen days after notice to the authority certifying

to the solvency of the insurer that the guarantee has lapsed or until the certificate which was mentioned in Article 303 is removed, if this takes place prior to the termination of said fifteen days;

b) When the damage has occurred outside the territorial limits covered in the insurance or guarantee, unless the flight outside of such limits was due to accident or *force majeure*, justifiable assistance or attributable to defective piloting, operation or navigation.

Article 305. Change of operator. When a certificate of insurance or guarantee is required pursuant to Article 303 and there is a change in the person of the operator during the period of validity of the insurance or guarantee, the provisions of this Law shall be applicable to the new operator, unless he is the legitimate user, or is already covered by other insurance or guarantee, but only up to fifteen days from the date on which the insurer or guarantor has notified the authority issuing the certificate that such insurance or guarantee has lapsed, and until the certificate has been removed, if this takes place prior to the termination of this period.

Article 306. Effects of insurance. The existence of insurance or guarantee in accordance with Article 300, shall be effective only to the benefit of the person suffering the damages.

Article 307. Action against insurer. Without prejudice to the action which may be brought directly by virtue of the provisions applicable to insurance or guarantee contracts in the Commercial Code, a third person who has been damaged may bring an action directly against the insurer or the guarantor only in the following cases:

a) When the insurance or guarantee continues in force, subject to provisions of Article 304;

b) Bankruptcy of the operator.

Article 308. Direct action. In case of direct action brought by the injured person, the insurer or guarantor may not take advantage of any causes for nullity or cancellation occurring prior to the damages or injuries, outside of the exceptions allowed in the preceding article.

Article 309. Right to recover. Provisions in the preceding articles do not affect the right of the insurer or guarantor to bring an action for recovery against the other person.

Article 310. Amount of security. In the case of an operator of a single aircraft, security is sufficient if it amounts to the equivalent of the applicable limits stipulated in Article 292. If the operator has several aircraft, the amount of the security must be equal at least to the sum of the limits applicable to aircraft subject to the highest limitations.

Article 311. Increase in security. As soon as an operator is notified of a claim for compensation, the security shall be increased to a total amount equivalent to the following:

a) The amount of the required security, according to Article 310;

b) The amount of the claim, without exceeding the limit of applicable liability.

This increased security shall be maintained until the claim is settled.

Art. 312. Exemption from attachment. The amounts owed to the operator by the insurer shall be exempt from attachment or embargo

by the creditors of the operator until the claims of injured persons have been satisfied in accordance with this Law.

Art. 313. Procedure. If, within the period of six months from the date of the occurrence from which the damage originated, the plaintiff has not filed a judicial action or has not informed the operator of his claim, he shall only have the right to be compensated out of the amount which remains undistributed after other claims have been satisfied where claimants have observed the requirements.

Art. 314. Action against heirs of operator. In case of the death of a person liable for damages in accordance with this Law, action may be brought against his successors.

Art. 315. Exceptions. The provisions of this Law shall not be applied to injuries on the ground if the liability for some is governed by a contract between the victim and the operator, or the person with a right to use the aircraft at the time the damages occurred, or by the law protecting an employee, applicable to the labor contract celebrated between such persons.

Art. 316. State aircraft. The precepts of this Law concerning damages caused by aircraft in flight to third persons on the ground shall not be applicable to damages caused by State aircraft.

SECTION FOUR

General Provisions

Art. 317. Applicable Law. Civil liability of national or foreign enterprises in international air transportation shall be governed by international agreements in force in the Republic. In absence of such agreements this liability shall be governed by the present Law and other applicable laws of the Republic when the accident or the damages and losses have occurred on Salvadorean territory.

Art. 318. Limitation of actions. In all cases of contractual or excontractual liability covered by this law, the right to compensation is extinguished in the period of two years computed from the date on which the act giving rise to the damages occurred, or, in lieu of this, the date on which the transportation commenced during which this act occurred.

Whatever the cause of the suspension or interruption of the statute of limitations is alleged, the action is extinguished by the passage of three years from the date on which the act causing the damages occurred.

Art. 319. Agreement between the parties. In all cases of contractual liability covered by this Law, a higher limit of compensation may be fixed by special agreement between the carrier and the passenger, or with the shipper or sender.

Art. 120. Preference. The security deposited in conformity with this Law for reparation of damages arising from contractual or excontractual responsibilities, shall especially and with preferred status be subject to the payment of the corresponding compensations established in this Law.

Art. 321. Damages on the ground. Damages caused by aircraft on the ground shall be governed by the common or ordinary law.

TITLE II. VIOLATIONS

Art. 322 [Amended by Decree 2380, *Diario Oficial*, April 20, 1957.] *Jurisdiction.* The Minister of Defense is empowered to enforce strict compliance with the laws and regulations related to civil aviation.

"It shall be the jurisdiction of the Department of Civil Aeronautics to impose legal and regulatory penalties in regard to matters treated in this law."⁵

The Minister of Defense has the power to apply the legal and regulatory penalties in the field covered by this Law, the application of which may take place through the manager of the airport, duly authorized by the above official.

In the application of penalties, the procedure shall be administrative.

Art. 323. Inspection. The Ministry of Defense shall organize and regulate the inspection service of civil aviation throughout the country, for the purpose of guaranteeing the safety conditions in air navigation.

Art. 324 Dangerous flights and violations of administrative rules. A fine of one hundred (C100.00) *colones* to one thousand (C1,000.00) *colones* shall be imposed on any commander or pilot of a civil aircraft who, without special authorization and not justified by *force majeure*, should:

a) Fly over cities or population centers at a height lower than that prescribed by the Regulation on Air Traffic;

b) Undertake acrobatic flights or dangerous low altitude or spiralling flying over cities or population centers;

c) Operate an aircraft without nationality or registration marks;

d) Operate an aircraft without a certificate of airworthiness, or when said certificate has not been duly renewed;

e) Operate or crew an aircraft without the license or certificates of fitness required according to the category, class or type of aircraft involved, or when such documents have not been duly renewed.

In all of the above cases, in addition to the fine, the license of the responsible pilot shall be suspended.

Art. 325. Violation of international rules. A fine of one hundred (C100.00) to one thousand (C1,000.00) *colones* shall be imposed on the owner, possessor or operator of civil aircraft for permitting the aircraft to fly:

a) Without nationality or registration marks;

b) Without certificate of airworthiness or without registration certificate, or when these documents have lapsed;

c) With a crew of persons lacking the proper aviation licenses.

Art. 326. Alteration of marks and transportation of prohibited things. A fine of one thousand (C1,000.00) *colones* to five thousand (C5,000.00) *colones* shall be imposed on an owner, possessor or operator of a civil aircraft in the following cases:

I. For altering or changing the nationality or registration marks of aircraft without authorization from the Department of Aviation;

⁵ Amended by Decree No. 107, July 10, 1962. See *infra*.

II. For registering an aircraft in the register of another State without having obtained the cancellation of the Salvadorean registration;

III. For ordering a commander or pilot of an aircraft to commit acts implying violation of this Law or regulations;

IV. For interning a foreign aircraft in the country or for taking aboard a Salvadorean aircraft, without observing the requirements set forth in this Law and its regulations;

V. For failing to notify the Department of Aviation, in a prompt manner, concerning accidents occurring to their aircraft;

VI. For permitting their aircraft to disturb or impede air transport or airport traffic;

VII. For transporting firearms, dangerous articles, inflammables, explosives and similar materials without the proper authorization.

VIII. For transporting cadavers, contagious or mental patients, without proper authorization;

IX. For using or permitting the use of apparatus for aerophotography on board the aircraft, without proper authorization.

Art. 327. Crimes against the safety of navigation. A fine of one hundred (C100) *colones* to one thousand (C1,000) *colones* shall be imposed on the pilot or commander of any civil aircraft in the following cases:

I. For disobeying the orders or instructions received with respect to air traffic;

II. For carrying a crew on the aircraft without the proper licenses, or when these are suspended or lapsed. A similar penalty is imposed on other members of the flight crew under the same circumstances;

III. For permitting any person who is not a member of the flight crew to participate in the operations of the aircraft;

IV. For abandoning an aircraft, its passengers, cargo and other effects, at a place which is not the terminal and without justification based on serious reasons;

V. For having a crew on board in a state of drunkenness. A similar penalty is imposed on any member of the flight staff under the same circumstances.

VI. For permitting a member of the flight crew to participate in the operation of an aircraft while drunk;

VII. For overflying prohibited zones;

VIII. For permitting the use of aerophotographic apparatus on board the aircraft in flight, without proper authorization;

IX. For jettisoning or unnecessarily permitting the jettison of objects or ballast from the aircraft;

X. For undertaking exhibition flights, technical test flights or training flights without proper authorization;

XI. For failing to notify the Ministry of Defense immediately concerning accidents which occur.

Art. 328. Flights over prohibited zones. A fine of one thousand (C1,000) *colones* to five thousand (C5,000) *colones* will be imposed on a pilot or commander of any foreign civil aircraft overflying Salvadorean territory in the following cases:

I. For failing to land at the civil airports designated in their permits, or in the authorization for the corresponding flight.

II. For undertaking or permitting the undertaking on board of aerotopographical or aerophotographical charting without proper authorization.

Art. 329. A fine of one thousand (Q1,000) *colones* to ten thousand (Q10,000) *colones* shall be imposed on air transport lines operating with permission or concession of the Government of El Salvador in the following cases:

I. For operating in violation of officially approved rates, itineraries, frequencies and schedules;

II. For refusing to transport any person or cargo without a legitimate reason therefor;

III. For preventing or attempting to prevent any aircraft from using an airdrome or airport which has been declared open to public service by the Ministry of Defense;

IV. For violation of the duties contained in the permits or concessions but which, in the judgment of the competent authorities, do not deserve a decree of forfeiture;

V. For failing to protect and maintain their flight equipment, airdromes, auxiliary engines and other services related to the safety and efficiency of transportation, as provided in the regulations;

VI. For failing to follow the air routes and to authorize use of the airports which have been fixed pursuant to the respective permissions or concessions of the Ministry of Defense.

GENERAL AND TRANSITIONAL PROVISIONS

Art. 1. The importation of repair parts and aviation equipment into El Salvador for installation or use on the aircraft of airlines operating in the country through concessions of the Executive Power under the provisions of this Law shall not be taxed in any manner, nor shall the importation of fuel, lubricating oil and other consumable supplies used in the mechanical equipment and apparatus of these aircraft.

Art. 2. Exemption from importation duties, including fees for visas of the necessary registration documents, shall apply to the articles enumerated below when said articles are destined for the use of a Salvador airline:

1. Aircraft and auxiliary vehicles, such as tractors, trucks and cranes, as well as their accessories and repair parts.

2. Fuel, lubricating oil and other consumable supplies used in the mechanical equipment and apparatus of these aircraft and auxiliary vehicles.

3. Equipment and materials necessary for radiocommunication services, offices and other agencies of the Salvadorean enterprises.

Art. 3. The air transport lines referred to in the preceding articles, whether Salvadorean or foreign, may not transfer to third persons any article introduced in the country under franchise, unless they have authorization in advance from the Ministries of Defense and Treasury, and following payment of the corresponding importation duties.

Art. 4. Airline companies presently operating in the country are given sixty days, computed from the date on which this Law becomes enforceable, to request from the Ministry of Defense their respective

operation certificates in conformity with the provisions of the present Law.

The application of an airline having been presented, it may continue to render services until a reply has been received concerning the certificate of operation. If said application is not presented within the fixed period, the Ministry of Defense shall proceed to the immediate cancellation of the concession, authorization or permit which allowed the airlines to operate in El Salvador.

Art. 5. A period of thirty days, computed from the date of publication of this Law, is granted in order for all members of the technical aviation personnel, who have been employed in professional tasks without any license, or with a license based on the former aviation laws or regulations, to request from the Department of Aviation their respective licenses. This period having elapsed without application by the interested party, the Department of Aviation shall proceed to take the proper measures to see that they shall not render any aviation services in the country.

Art. 6. The ordinary courts of the Republic shall have cognizance of and decide in summary actions cases involving air navigation or air commerce in general.

Art. 7. All laws, decrees, regulations and provisions contrary to the provisions of this Law are hereby repealed.

Art. 8. The present Law shall become effective on the first day of January of nineteen hundred fifty-six.

SAN SALVADOR, *December 23, 1955.*

Decree No. 107⁶

Art. 1. The term "Department of Aviation of the Ministry of Defense" shall be replaced by "Department of Civil Aeronautics" throughout the Law on Civil Aeronautics enacted by Legislative Decree No. 2011 of December 22, 1955, published in the *Diario Oficial* No. 237, Vol. No. 169 of the 23rd of the same month and year. Such amendment shall include all regulatory and legislative decrees issued subsequent to said law concerning civil aviation.

Art. 2. Number XX of Article 12 and Article 89 of the Law on Civil Aviation are amended to read as follows:

"XX. To inform the Ministry of Defense on the application of penalties for violations of this Law and the regulations issued thereunder."

Art. 89. On international airports and civil airdromes owned by the State, the highest authority shall be the Chief of the Department of Civil Aeronautics who shall propose the necessary technical and administrative measures.

"The Ministry of Defense shall appoint for international airports, a manager who shall be under the jurisdiction of the Department of Civil Aeronautics, and who shall coordinate the administrative activities in agreement with the Chief of the Department of Civil Aeronautics, the immigration authorities, customs, health and air police authorities, who shall be subordinate to their respective departments and shall exercise their functions independently."

⁶ *Diario Oficial*, Vol. No. 196, July 10, 1962, p. 6570.

Art. 3. The second paragraph of Article 322 of the same law shall read as follows:

"It shall be the jurisdiction of the Department of Civil Aeronautics to impose legal and regulatory penalties in regard to matters treated in this law."

Art. 4. Decrees No. 2346 and 2380 issued by the Legislative on February 19 and April 4, 1957, respectively, are hereby abrogated.

Art. 5. This decree shall take effect eight days from from its publication in the *Diario Oficial*.

OTHER LEGISLATION IN FORCE

1. Decree 77 of 3/14/61 amends Article 85 of the Aviation Law regarding the construction and operation of private airfields. It also adds Article 330 to the same law to provide penalties for illegal use of private fields. (*Diario Oficial*—March 22, 1961)

2. Text, approval and ratification of the constitutive charter of the *Corporación Centroamericana de Servicios de Navegación Aérea*. (*Diario Oficial*—September 14, 1961)

3. Decree 346 of 10/17/61 establishes the *Comisión Nacional de Aeronáutica Civil* as a semi-autonomous agency. (*Diario Oficial*—November 22, 1961)

4. Decree 77 of March 14, 1961, amends Article 85 of the Air Law regarding construction and operation of private airdromes. Also adds a new article at the end of the Law (Article 330) providing penalties for illegal use of private airdromes. (*Diario Oficial*—March 22, 1961)

5. Decree 107 of July 6, 1962, amends articles of the Air Law of 1955 changing the name of the administrative office from Departamento de Aviación del Ministerio de Defensa, to the Departamento de Aeronautica Civil. (*Diario Oficial*, July 10, 1962)

6. Decree 234 of December 20, 1962, changes again the name of the Departamento de Aeronautica Civil (supra) to the Dirección General de Aeronautica Civil, as a dependency of the Ministry of Public Works. The change should be incorporated throughout the text of the basic air law. (*Diario Oficial*, December 20, 1962)

ETHIOPIA

Order No. 25 of 1962

AN ORDER TO PROVIDE FOR THE CREATION OF A CIVIL AVIATION ADMINISTRATION¹

CONQUERING LION OF THE TRIBE OF JUDAH, HAILE SELASSIE I, ELECT
OF GOD, EMPEROR OF ETHIOPIA

Whereas, there is a need to develop an efficient organization for the technical administration and economic regulation of civil aviation in a manner which will most effectively assist the economic development of Our Empire;

Now, Therefore, in accordance with Article 27 of Our Revised Constitution, and on the advice of Our Council of Ministers, We hereby order as follows:

1. This Order may be cited as the "Civil Aviation Order, 1962".

2. There is hereby created and established within the Ministry of Public Works and Communications an independent Administration, to be known as the Civil Aviation Administration. The Civil Aviation Administration shall have its own budget and shall act independently under the supervision of Our Minister of Public Works and Communications.

3. The Civil Aviation Administration shall comprise:

(a) an Administrator of Civil Aviation, who shall be responsible for the execution of policies established by the Civil Aviation Board and the enforcement of regulations promulgated by Our Minister of Public Works and Communications pursuant to this Order and other relevant laws. The Administrator of Civil Aviation shall be appointed by Us;

(b) A Civil Aviation Board, consisting of not less than five (5) members, and a Chairman from among these members, all as appointed by Us from time to time. The Board shall make recommendations on civil aviation policies and the administration of civil aviation matters. The Board shall determine the necessary rules for its procedures; and

(c) necessary staff and personnel.

4. The Civil Aviation Administration shall, in accordance with relevant laws, be responsible for:

(a) the establishment and enforcement of civil aviation policies and programmes;

(b) the establishment of such administrative organization as is necessary and conducive to the proper execution and administration of all civil aviation policies and programmes;

(c) the preparation and presentation of its budget; and

¹ Pub. in *Negarit Gazeta*, Aug. 27, 1962, vol. 21, No. 17.

(d) the discharging of such additional functions as may be vested in it by law.

5. Our Minister of Public Works and Communications may, upon the recommendation of the Civil Aviation Board, issue such regulations as are necessary and conducive to the proper execution of this Order.

6. This Order shall come into force upon the date of its publication in the *Negarit Gazeta*.

This 27th day of August, 1962.

Decree No. 48 of 1962

THE CIVIL AVIATION DECREE

CONQUERING LION OF THE TRIBE OF JUDAH. HAILE SELASSIE I, ELECT OF GOD, EMPEROR OF ETHIOPIA

Whereas, it is Our desire to establish conditions which will foster and encourage the development of civil aviation throughout Our Empire and, through such progress, to secure the maximum benefits afforded by modern air transportation; and

Whereas, a basic law is required in order to permit the regulation and control of civil aviation throughout Our Empire in the international interests; and

Whereas, there is need to provide for the proper discharging of the obligations under various international agreements and treaties to which Our Empire is, or may become, a party, and particularly under the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944, which is a part of the Supreme Law of Our Empire as defined in Article 122 of Our Revised Constitution; and

Whereas, we have ordered the establishment of a Civil Aviation Board by Order No. 25 of 1962 to establish and determine civil aviation policies and programmes; and

Whereas, we have ordered the establishment of a Civil Aviation Administration by said Order No. 25 of 1962 to execute and enforce Civil Aviation policies and programmes;

Now, therefore, in accordance with Article 92 of Our Revised Constitution and upon the advice of Our Council of Ministers, we hereby decree as follows:

1. This Decree may be cited as the "Civil Aviation Decree, 1962".

2. (a) The Civil Aviation Administration of Our Government shall, in accordance with the law and under the supervision of Our Minister of Public Works and Communications, have the power to control and regulate the manufacture, possession, use, operation, sale, import and export of all aircraft in or over the territory and territorial waters of Our Empire, and to determine the conditions under which aircraft registered in Our Empire may be operated over the high seas or territory not within Our Empire.

(b) Without limiting the generality of the foregoing, the Civil Aviation Administration shall have, in accordance with law, the power to:

(i) license pilots and other persons engaged in the navigation of aircraft, and to suspend and revoke such licenses;

(ii) register, identify, inspect, certify and license all aircraft;

(iii) license, inspect and regulate all airports and air navigation facilities and services;

(iv) determine the conditions under which aircraft may be used or operated;

(v) determine the conditions under which goods, mail and passengers may be transported in aircraft;

(vi) prohibit navigation of aircraft over prescribed areas within and without Our Empire, either at all times or at such times or on such conditions only as may be specified by regulation, and either absolutely or subject to such exceptions or conditions as may be specified;

(vii) determine the areas within which aircraft coming from any place outside Our Empire may land, and the conditions to be complied with by any such aircraft;

(viii) regulate and control aerial routes and to determine their use;

(ix) enforce such laws, rules and regulations as may be enacted or prescribed with respect to the safe and proper navigation of aircraft in or over the territory or territorial waters of Our Empire, and of aircraft registered in Our Empire, wherever such aircraft may be;

(x) determine the economic requirements with which operators of various classes of aircraft shall comply;

(xi) determine the terms and conditions under which concessions or rights will be granted to or issued for the commercial operation of aircraft;

(xii) determine the rates to be charged for the use of aircraft and aeronautical facilities and services provided by or on behalf of the Imperial Ethiopian Government, and the rates for the use of such other facilities, property or services in connection with civil aviation as the Civil Aviation Administration may deem appropriate;

(xiii) determine the rates and tariffs to be applied in respect of the commercial operation of aircraft; and

(xiv) investigate any accident arising out of, or in the course of, air navigation of any aircraft in or over the territory or territorial waters of Our Empire or of any aircraft registered in Our Empire, wherever located.

6. Our Minister of Public Works and Communications may, upon the recommendation of the Civil Aviation Board, issue regulations:

(a) to ensure observance of the provisions of the Convention on International Civil Aviation opened for signature at Chicago on 7 December, 1944 and of any Annexes thereto which are, or may be from time to time, accepted by Our Empire, and any other International Convention or Agreement related to Civil Aviation to which Our Empire is or becomes a party; and

(b) generally, for the better carrying out of the provisions hereof.

4. (a) Any regulations issued under Article 3 hereof may authorize the Civil Aviation Administration to issue directions

with respect to such matters as may be prescribed in said regulations.

(b) Without limiting the generality of the foregoing, the Civil Aviation Administration may be authorized by regulations:

(i) to construct or provide for, establish, maintain and operate airports, air navigation and meteorological facilities and all services necessary for the safe, regular and economical operation of civil aircraft into or over the territory and territorial waters of Our Empire;

(ii) to collect or arrange for the collection of such charges for the use of airports and air navigation facilities and services and such other charges as may be established pursuant to such regulations; and

(iii) to establish, collect or arrange for the collection of fees in connection with the issuance of licenses, certificates and other documents required by regulations issued pursuant hereto.

(c) Regulations issued under Article 3 hereof shall, if deemed necessary or appropriate by Our Minister of Public Works and Communications upon the recommendations of the Civil Aviation Board, be published in the Negarit Gazeta.

5. Any person who violates the provisions of this Decree shall be punished under the provisions of the Ethiopian Penal Code of 1957.

6. This Decree shall come into force on the date of its publication in the Negarit Gazeta.

This 27th day of August, 1962.

FINLAND

AVIATION LAW OF MAY 25, 1923, No. 139¹

Article 1. Aviation within the territorial boundaries of Finland may take place only in conformance with this law and regulations and instructions issued pursuant thereto.

Article 2. Aviation within the territorial boundaries of Finland shall be performed only with aircraft of Finnish nationality or which fulfill the provisions of Article 5.²

By aircraft shall be meant such airplanes, motor balloons and free balloons which can be utilized as vehicles of conveyance.

Article 3. An aircraft shall have Finnish nationality when it is registered in a Finnish public register and provided with nationality and registration markings, or when it is owned by the State or has been transferred to the State for its exclusive use.

Article 4 (As amended by law of April 15, 1932, No. 106). An aircraft may be registered only if it has Finnish owner.

Finnish owners shall be deemed the Finnish State, Finnish nationals, Finnish companies, associations, other corporations and foundations.

If the owner is a company, association, other corporation or foundation, the members of its board of administration must be Finnish nationals resident in Finland who are shareholders in the company, or members of the association or corporation. In special cases the Cabinet³ may allow an exemption from this provision, but not for the chairman of the board of administration and not for more than one third of other members of it.

Necessary data concerning the aircraft and its owner and concerning the acquisition of an aircraft by him shall be entered in the Register. The Register shall be kept by an official as provided for by the regulation.

Article 5. An aircraft of other than Finnish nationality may navigate within Finnish territorial boundaries when:

a) the aircraft possesses a nationality and registration certificate or analogous certificate issued by the competent authority of a foreign country with whom a treaty has been concluded granting a right to aircraft of such country to navigate within the territory of Finland;

¹ Published in *Suomen Asetuskokoelma*, in Swedish in *Finlands Författningssamling* No. 139. 1923.

² The Finnish Aviation Law contains only general provisions. Particular provisions concerning nationality, foreign aircraft, registration of aircraft, airworthiness, crew, etc., are contained in the Regulation on Aviation, Mar. 12, 1937, No. 127, as amended, issued by the President of the Republic.

³ According to the Constitution of Finland the Cabinet consisting of the Prime Minister and ministers, shall decide upon matters which, according to the law, are within its competence and are not explicitly assigned by the Constitution or Laws to the President of the Republic, ministers, or subordinated authorities (Art. 35 to 41 of the Constitution).

b) the aircraft has been granted a special authorization to navigate within Finnish territory.

Article 6. The owner of an aircraft shall be liable for damages for injuries to persons and property which are not transported by the aircraft, resulting from the operation of the aircraft, even if the injury is not caused by him.

If the person who suffered the injury was involved in causing the injury, the court shall determine the manner and the extent of damages to be paid in each case according to the circumstances.

Article 7. When an injury is caused by two or more aircraft, the owners of such aircraft shall be jointly and severally liable. The court shall determine the extent of the liability of each owner with due regard to the circumstances.

If under the preceding provision there is damage to an aircraft, or injury to a person or property conveyed by one of the aircraft, Article 6 shall not apply.

Article 8. Any person who operates the aircraft of another owner without permission shall be liable for damages resulting from such use.

Article 9. Any person other than the owner authorized to operate an aircraft in his possession, shall be jointly liable with the owner for any damages resulting during such period of operation; the owner shall have a right of recovery against the operator.

Article 10. Payment of damages for bodily injury or death under the present law shall be determined in accordance with the provisions of Chapter 9, Articles 2 and 3 of the Criminal Code.

Article 11. A cause of action for damages under the present law shall be commenced within two years from the date of injury. If a person, against whom liability for damages has been established, desires to take action against another person in accordance with the provisions of Articles 7 or 9, such cause of action shall be commenced within one year from the date such damages have been paid in full if the payment took place without legal action; otherwise, from the date when a judgment establishing such liability entered into legal force.

If the cause of action was not commenced within these dates the right of legal action shall be forfeited; nevertheless, when mutual claims for damages are involved as a result of the same accident, the claims of one person may be settled up with the claims of another person, without such failure to commence a lawsuit being an obstacle.

Article 12. The cause of action referred to in the preceding article shall be commenced in the lower court in the circuit where the accident occurred or where the defendant has his residence or dwelling place.

Article 13. The owner or operator of an aircraft shall have recourse against any person who caused the injury for the amount paid according to the present law.

Article 14. Further provisions for the execution of this law shall be enacted by regulations.⁴

⁴ See *supra*, footnote 2. Air transportation is regulated by the Law on Transportation by Air of July 3, 1937, No. 289; mortgages, liens and other rights in aircraft are governed by the law of June 15, 1928, No. 211, and sequestration of an aircraft by the law of March 24, 1949, No. 257.

Article 15. Any person who operates an aircraft in violation of the provisions of Article 2 shall be punished by a fine equivalent to detention of not more than two hundred days, in particularly aggravating circumstances by imprisonment of up to six months.

Article 16. (As amended by law of June 15, 1928, No. 210)

The decisions on entries in the Aviation Register may be appealed before the District Court of Åbo.

The declaration of intent to appeal from the decision shall be made before the Register Office within eight days and an appeal shall be submitted to the same office within thirty days from the date the decision was made or the action executed. The appeal and other material concerned, as well as the opinion of the Register Office, shall be submitted by this office to the District court without any delay.

The decision of the District Court may be appealed to the Supreme Court. The appeal shall be submitted to the District Court within thirty days from the decision, and submitted by the District Court to the Supreme Court together with all pertinent material.

FRANCE

PRELIMINARY

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

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

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

According to information received from the respective U.S. Embassies, the following countries (formerly French Colonies) apply the French air law.

CAMEROON

Cameroon still operates under the provision of the civil aviation law of France. However, according to the Cameroon Director of Civil Aviation, a new civil aviation code for Cameroon has been drafted and will be submitted to the next session of the Cameroon Federal Assembly for consideration and approval. The text of the proposed code will conform with similar new codes to be adopted in all the countries of the Union of Metropolitan Africa in order that they may have a common and uniform civil aviation code.

GUINEA AND IVORY COAST

Guinea and Ivory Coast continue to operate under the French air law.

MALI

Mali continues to operate under the French air law promulgated in Dakar by the former French administration for French West Africa. A communiqué of the Council of Ministers, published on March 11, 1963, advised that, with the assistance of a French technical advisor, a selective revision of some of the civil air regulations was under consideration.

CODE OF CIVIL AND COMMERCIAL AVIATION OF NOVEMBER 30, 1955

ENABLING DECREE

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

The minister president,

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

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

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

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

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

Article 1. The legal provisions concerning civil and commercial aviation contained in the legal texts enumerated in the final provisions of the code² shall be codified under the title: Code of Civil and Commercial Aviation, in accordance with the legal text attached to this decree.

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

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¹ Published in *Journal officiel de la République Française*, Dec. 6, 1955, p. 11815.

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

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CODE OF CIVIL AND COMMERCIAL AVIATION

BOOK I—AIRCRAFT

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

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

Title I—Registration, Nationality, and Ownership of Aircraft

*Chapter I—Registration and Nationality of Aircraft*³

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

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

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

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

³ Certain provisions of Titles I and IV of Book I, of the Code, specifically Articles 12 and 13 of Title I, and Article 54 of Title IV, have been modified and amended by Law No. 63-1352, of Dec. 31, 1963. *Journal Officiel* of Jan. 3, 1964. The above chapter heading is new, as the headings for Chapter II, and Chapter III.

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

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

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

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

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

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

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

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

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

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

Chapter II—Mortgages and Servitudes on Aircraft

Article 12. Aircraft as defined in Article 1 may only be mortgaged by agreement between the parties. Insofar as [aircraft] belong to the owner of the aircraft, a mortgage attaches to the airframe, the engines propellers, board instruments and all other parts permanently installed on the aircraft, whether they are fixed thereon or are temporarily detached.

Article 12-1. A mortgage may be imposed by a single instrument on all or part of an air fleet belonging to the same owner, provided the varying elements constituting the fleet are specified.

Article 12-2. A mortgage may be extended to cover spare parts fitting the type of one or more aircraft mortgaged, provided such parts are specified.

Such spare parts must be kept in one or more places which have been made public as provided for in Article 12-3. When they are used on any aircraft for which they intended, they must be replaced immediately. The creditor shall be notified of such use.

Article 12-3. Spare parts mentioned in the preceding article shall include all parts constituting aircraft, engines, propellers, radio sets, instruments, equipment, furnishings, parts of these elements and, more generally, all articles of whatever nature, kept as replacements for parts constituting aircraft, provided they are specified.

Appropriate methods of publication at the respective place of posting notices, must duly notify third persons of the kind and the extent of the servitude imposed on such parts and must mention the register in which a mortgage is recorded as well as the name and the address of the mortgagee.

An inventory specifying the kind and number of such parts shall be attached to the document recorded.

Article 12-4. A mortgage is void unless it is in writing. The act establishing it, may be authenticated or under private seal. It must specify all elements which are subject to the mortgage. It may be on order; in that case, endorsement shall transfer title to the mortgagee.

Unless there is a stipulation to the contrary, a statement in the bill of sale of an aircraft that all or part of the sale price is still due the vendor, shall constitute a mortgage for him as guarantee for the amount stated as remaining to be paid, provided the vendor requests recordation of such mortgage in the form provided for by decree.

An aircraft under construction may be mortgaged only when prior recordation thereof with the service in charge of the register has been made. This declaration shall include the principal characteristics of the craft under construction; a receipt shall be issued therefor.

Article 12-5. In case of loss or crash of an aircraft, and unless there is an agreement to the contrary, the mortgagee shall be subrogated for the amount of his mortgage for the insured as regards the right of compensation payable by the insurer.

Prior to making any payment, the insured must request an official statement of mortgage recordations. No payment shall discharge him if it is made in disregard of the rights of creditors listed on such statement.

Article 12-6. All mortgages must be recorded in the registration list. They shall be without effect in regard to third persons until the time of their recordation.

Cancellation or any modification in a mortgage by agreement between the parties or by a judgment shall also be recorded in such register.

Article 12-7. When there are two or more mortgages on the same aircraft, their precedence shall be determined by the order of their dates of recordation.

Mortgages recorded on the same day shall be of equal rank regardless of the hour of their recordation.

Article 12-8. Recordation shall keep a mortgage valid for ten years from the date thereof. Such effort shall cease when the recordation is not renewed before the expiration of such period.

Article 12-9. Recordation of a mortgage shall guarantee, in the same precedence as the mortgage itself, interest for three years in addition to the current year.

Article 12-10. Recordation of mortgages shall be cancelled where there is a legal act stating the agreement of the parties or a final judgment in the matter.

Article 12-11. Except in the case of judicial sale in accordance with the provisions specified in a decree, registration of an aircraft may not be stricken from the register when recorded rights have not been cancelled prior thereto.

Article 12-12. Creditors whose mortgage on an aircraft has been recorded, shall follow their security in whatever hands it may pass, for the purpose of collection and payment in the order of their respective recordation and after privileged creditors, subject to the provisions of Articles 12-13 and 12-16.

Article 12-13. Only the following debts shall have preference over mortgages in aircraft:

- 1) Court costs incurred in the sale of an aircraft and in the distribution of the price received, in the common interest of the creditors;

- 2) Payment due for salvage of an aircraft;

- 3) Necessary expenses for the preservation thereof.

Article 12-14. The privileges specified in the preceding article shall affect the aircraft or the insurance payment mentioned in Article 12-5. They shall follow the aircraft in whatever hands it may pass.

They shall be extinguished three months after the event which gave rise to them unless the creditor makes prior recordation of the debt in the register of the aircraft, after having given friendly notice of the amount or, in the absence thereof, after having commenced a legal action therefor.

They shall further be extinguished, independently of the normal methods of extinction of privileges:

- 1) By judicial sale of the aircraft executed in the form provided for by decree;

- 2) In case of voluntary transfer properly recorded in the register, at the latest, two months after publication of the transfer in the *Bulletin officiel du registre du commerce*, and in a newspaper carrying legal notices at the domicile of the vendor, unless, prior to expiration of such period, the creditor has given notice of such debt to the vendee at the domicile stated by him in the pertinent publications.

Article 12-15. Debts specified in Article 12-13 shall be privileged in the order in which they appear in that article.

Debts of the same order shall be of equal rank and shall be paid at the same rate in case of insufficient funds.

However, debts mentioned in Article 12-13, paragraphs 2, and 3, shall be paid in inverse order as regards the events which gave rise to them.

Article 12-16. Privileges other than those enumerated in Article 12-13, shall rank after mortgages whose recordation precedes the arising of such privileges. However, in the case of sale in France of an aircraft mortgaged in a State party to the international convention for the recognition of rights in aircraft signed at Geneva on June 19, 1948, the rights provided for in Article 1 of that convention which exist on the aircraft may be exercised only in recognition of the rights of the persons who suffered damages on the ground as provided for in Article VII-5 of that convention.

Article 12-17. Except in the case of judicial sale in the manner provided for by decree, the registration of an aircraft may not be trans-

ferred to another State except by prior extinction of recorded rights or with the consent of the persons entitled thereto. Until this condition has been fulfilled, the official in charge of the register must refuse any cancellation.

Chapter III—Attachment and Judicial Sale of Aircraft

Article 13. When there is an attachment of an aircraft that is registered in a State party to the international convention for the recognition of rights in aircraft, no judicial sale may be had when the rights that have preference over those of the attaching creditor cannot be satisfied by the sale price or when they are not assumed by the purchaser.

However, when a mortgaged aircraft causes damage to third persons on the ground on French territory, the provisions of the preceding paragraph may not be invoked against such persons or their representatives in attacking the aircraft which caused the damage or another aircraft of the same owner.

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

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

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

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

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

Title II—Navigation of Aircraft

Chapter I—The Right of Circulation

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

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

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

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

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

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

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

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

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

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

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

Chapter II—Landing

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

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

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

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

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

Chapter III—Regulation of Navigation of Aircraft

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Title III—Damages and Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

quest shall be forwarded by the public ministry⁴ to the minister in charge of civil and commercial aviation.

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

Title IV—Criminal Provisions

Article 44. Any owner shall be subject to a fine of from 180,000 to 3,000,000 francs)^{4a} and to imprisonment of from six days to one month or to either one or the other of these penalties if he has:

- 1) put or kept in service any aircraft without obtaining a certificate of registration or of airworthiness.
- 2) put or kept in service any aircraft without the sign of identification provided for in Article 4.
- 3) knowingly caused or permitted to fly any aircraft whose certificate of airworthiness has ceased to be valid.

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

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

- 1) piloted an aircraft without certificate or license;
- 2) destroyed a logbook or knowingly entered in such logbook any inaccurate notations;
- 3) violated Article 23;
- 4) knowingly piloted an aircraft under the conditions provided for in Article 44.

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

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

Article 47. Any pilot who does not comply with the provisions of Article 19, subsection two, concerning landing after leaving a prohibited area shall be punished by a fine of from 180,000 to 3,000,000 francs and by imprisonment of from fifteen days to three months.

Article 48. Any person who possesses or operates an aircraft, or a pilot who affixes or causes to be affixed on the aircraft any mark of registration which is not in conformity with the airworthiness certificate, or who omits or causes to be omitted, or renders or causes to be rendered illegible any correctly affixed mark, shall be punished by a fine of from 300,000 to 7,200,000 francs and with imprisonment of from six months to three years. Any person shall be subject to the same penalties who affixes or causes to be affixed on any private aircraft any distinctive mark reserved to public aircraft or who uses any private aircraft to which such signs have been affixed.

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

⁴The public ministry (ministère public) is the equivalent of the public prosecutor in criminal cases. Ed.

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

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

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

Article 51. There shall be punishable by a fine of from 36,000 to 180,000 francs inclusively, and further according to the circumstances by imprisonment of from one to five days:

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

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

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

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

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

Any convicted person shall make the deposit of such certificates either to the clerk of such court or to the clerk of the court where such person is domiciled, within five days following the date when the conviction becomes final, or he shall be punished by imprisonment of from six days to one month and a fine of from 18,000 to 360,000 francs regardless of any penalties incurred under Article 45 in the case where he flies an aircraft during the term of prohibition. Such fines may not be combined.

Article 53. Any voluntary and unnecessary jettisoning of any object liable to cause damage to persons and to property on the ground shall be prohibited aboard aircraft in flight and shall be punished by a fine of from 180,000 to 1,080,000 francs and imprisonment of from six days to two months or either one of these penalties, even if such jettisoning

^{1a} For amounts generally augmented by 50 percent. See Dalloz. Code des Transports (1959). Ed.

has caused no damage, and this shall not prevent more severe penalties which may be incurred in the case of a delict or crime.

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

*Article 54-1.*⁵ Without thereby affecting more severe penalties, if applicable, there shall be punished by the penalties provided for in Article 406 of the Criminal Code any person who destroys or unlawfully removes, or attempts to destroy or unlawfully remove any aircraft or spare parts which are subject to a duly recorded mortgage.

Any fraudulent act to deprive a creditor of his security shall be punished by the same penalties.

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

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

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

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

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

⁵ New. See *supra* note 1. Law No. 63-1352 also contains the following final provisions:
"Art. 2. In the application of this law, due regard shall be given to the administrative and judicial organization of the overseas territories and the rules of procedures in effect in these territories."

"Art. 3. All provisions in conflict with this law are repealed, particularly Articles 12 and 13 of the Code of Civil Aviation and, as regards overseas territories, Articles 14 and 15 of the Law of May 31, 1924, made applicable to these territories by the decree of May 11, 1928."

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

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

BOOK II—AIRPORTS

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

Title I—Restriction in the interest of navigation

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

Title II—Airports open to public airflight

Chapter I—Establishment

Articles 72 and 73. [Abrogated by Decree No. 59-92, of January 3, 1959. See *infra*.]

Article 74. [Amended by Decree No. 60-275 of March 25, 1960. See *infra*.]

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

a) the layout and the types of equipment to be used which shall concern primarily the understructure;

b) the financial arrangements for the execution of the work and the operation;

c) the proper measures for maintenance of the airport, its annexes and installations in a condition required by safe aerial navigation and for exercise of proper policing;

d) the proper conditions to assure permanency of operation and adaptation of the airport to the needs of aerial traffic.

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

Article 77. The State shall be responsible for:

a) the procurement, maintenance, and operation of the installations intended to insure control of air traffic on an airport;

b) the costs and indemnities which might result from restrictions imposed in the interest of aerial navigation;

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

Article 78. [Amended by Decree No. 60-275 of March 25, 1960. See *infra*.]

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

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

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

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

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

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

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

Chapter II—Classification

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

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

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

Chapter III—Operation

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

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

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

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

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

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

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

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

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

Chapter IV—Fees

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

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

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

The fees must be commensurate with the services rendered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Title III—The Airport of Paris

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This regulation shall also determine the rules of financial control to which the airport is subject under the conditions set forth in the decree No. 55-733 of May 26, 1955, and the rules concerning accounting procedures of the airport.

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

Title IV—The Airport of Basle-Mulhouse

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

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

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

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

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

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

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

Title VI—Penal Provisions

Article 110. Whoever remains on or enters into any land prohibited by the general regulations and orders of airports affected with a pub-

lic service, or whoever permits cattle, carriage, pack or riding animals to remain thereon, shall be subject to the penalties provided for in Article 471, number 15, of the Criminal Code and, in addition, may be deprived of any right to damages in the case of an accident.

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

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

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

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

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

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

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

BOOK III—AIR TRANSPORTATION

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

Title I—Transportation Contract

Chapter I—Transportation of Goods

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

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

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

*Article 117.*⁶ Liability of the carrier of goods or baggage shall be governed, in the case of transportation by air, solely by the provisions

⁶ Articles 117, 118, 119, and 123 have been replaced in accordance with the provisions of the Warsaw Convention of Oct. 12, 1929 by Law No. 57-259 of Mar. 2, 1957, entitled "Liability of the carrier in case of air transportation" (J.O. Mar. 3, 1957, p. 2402). Article 3 of Law No. 57-259 makes the law applicable in Algeria and the territories under the minister of overseas France. It also abrogates all contrary provisions.

of the Convention of Warsaw of October 12, 1929, or of any convention which modifies it and is applicable in France, even if the transportation is not international in the sense of that convention.

Article 118. For the application of Article 25 of said convention, the fault considered as equivalent to intent is inexcusable fault. Any deliberate fault is inexcusable which implies knowledge of the probability of damage and its reckless acceptance without valid reason.

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

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

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

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

Chapter II—Transportation of Persons

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

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

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

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

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

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

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

Chapter III—Rental

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

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

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

Title II—Air Carriers

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

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

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

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

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

Such carriers must present for his prior approval:

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

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

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

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

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

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

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

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

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

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

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

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

Article 133. Control by the State of air carriers shall be exercised as follows:⁷

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

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

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

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

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

Title III—The "Compagnie Nationale Air France"

Chapter I—Incorporation

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

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

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

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

1) Interested public groups and organizations in France and the French Union;

⁷ See Decree No. 62-197 of February 19, 1962 for jurisdiction of Labor Division of Post Office Department under Art. 96 of the Labor Code, Book 2. (J.O., March 14, 1954.)

2) French nationals or legal persons.

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

Chapter II—Administration

Article 139. [Modified by Decree No. 61-458 of May 8, 1961.] The Compagnie Nationale Air France shall be managed by a council of administration named by decree of the council of ministers and including the following:

1) Four administrators, officials designated as follows:

One by the Prime Minister;

Two by the minister in charge of civil aviation;

One by the minister of finance and economic affairs.

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

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

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

3) Four administrators, designated as follows:

One by the personnel of the technical and administrative staff;

One by the flying personnel;

One by the employed personnel;

One by the labor personnel.

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

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

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

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

In case it is necessary to replace any council members, the new members shall remain in office until the date of expiration when the term of office of the replaced members ordinarily would have expired.

This provision shall apply only to appointments made after the effective date of this decree [May 8, 1961].

[For new Article 139b see *infra* Decree No. 60-411 of April 29, 1960.]

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

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

The chairman of the council of administration may be dismissed at any time for serious culpable acts by a decree of the council of ministers

upon the report of the minister in charge of civil and commercial aviation.

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

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

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

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

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

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

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

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

The general plans for intended expenses arranged over several years;

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

The balance and the account of profits and losses;

The extent of shares held or sale of shares;

The rates;

The status of personnel;

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

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

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

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

BOOK IV—FLIGHT PERSONNEL

*Title I—Professional Flight Personnel**Chapter I—Categories*

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

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

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

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

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

Article 147. The professional flight personnel of civil aeronautics shall belong to one of the three following categories:

I. Testing and admissions.

II. Air transportation.

III. Air work.

Article 148. For application of the present Book:

1) Testing and admissions are defined as follows:

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

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

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

3) Air work is defined as follows: Any air operation for a remuneration or tests and admissions defined in 1 and 2 above.

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

Article 149. The classification, by section and by category, of the professional flight personnel of civil aeronautics of sections A and B and of the personnel in sections C and D is determined, upon the advice of the council of flight personnel defined in Article 155, by

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

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

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

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

- 1) Be of French nationality or belong to the oversea countries;
- 2) Hold certificates (sections A, B, C) or the certificate of safety and lifesaving (section D) as well as, depending on the case, valid licenses corresponding to the applicable register;
- 3) Not have been convicted to serve a prison term or a more serious penalty, either for a crime or a delict against decency and good morals.

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

- a) the rules applicable to the establishment and the keeping of such registers;
- b) the conditions under which changes in registration, refusal of registration, suspension, elimination and re-registration may be made, as well as the conditions under which applicants must justify their registration in the register.

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 155. [Amended by Decree No. 60-1090 of October 6, 1960. See *infra*.]

Chapter II—The Aircraft Commander and Crew

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

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

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

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

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

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

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

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

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

Article 159. The aircraft commander shall be responsible for the execution of the mission. Within the limits defined by the regulations

and by the instructions of the competent authorities and the operator, he shall choose the itinerary, the flight altitude and determine the distribution of the cargo of the aircraft.

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

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

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

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

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

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

Chapter III—Work Contracts

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

Such contract shall specify in particular:

- 1) the guaranteed monthly minimum salary;
- 2) the severance payment which will be allowed, except in the case of gross negligence, to the licensed personnel without pension rights for immediate enjoyment. Such payment shall be calculated for sections A, B and C on the basis of a guarantee of one month's salary per year of service in the organization, and for section D, on the basis of one-half month per year of service, and the operator shall not be held to exceed a total of twelve months for sections A, B and C, and six months for section D;
- 3) the conditions under which the contract will be terminated in case of illness, invalidity or disappearance;
- 4) the place of final destination and the time at which the mission is deemed accomplished if the contract is made for a predetermined mission;

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

the payment for such stay;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter IV—Temporary and Permanent Disability

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

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

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

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

his guaranteed monthly salary during the six months of disability;

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

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

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

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

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

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

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

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

Article 175. If the disability resulting from the causes mentioned in the preceding article merely leads to permanent inability to follow the profession of airman, the pension fund shall pay to the person concerned a cash amount calculated by applying to the indemnity which would be due in the case of permanent total disability a percentage equal to that of his disability; however, such sum shall not be less than 50 percent of that which would be granted to him in the case of total disability.

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

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

Chapter V—Discipline

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

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

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

To the management of the operator concerned;

To the council of flight personnel.

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

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

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

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

[Articles 180 and 181 as amended by Decree No. 62-405 of April 7, 1962, read as follows:]

Article 180. A disciplinary council is charged with proposing to the competent minister the application of penalties regarding holders of licenses and certificates who have been found guilty of negligence committed in the exercise or at the occasion of the exercise of the profession of airman, or at the occasion of flights in whatever capacity, or who have been finally sentenced for a crime or misdemeanor against decency or good morals.

Article 181. The disciplinary council of the civil aeronautics shall include two sections: testing and admissions, air transportation and air work. Each of them has the right to propose penalties in the name of the council. The council may also sit in plenary session.

Each section shall include representatives of the administration, the operators and the professional flight personnel.

The membership and operation of the council shall be determined by decree by the Council of State, on the report of the minister of public works and transportation and the minister of the armed forces.

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

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

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

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

permanent revocation of one or several certificates or licenses;

removal from the register provided for in Article 151.

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

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

Chapter VI—Pensions

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

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

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

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

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

The methods of application of this article and particularly the rules or organization and financing of the system, as well as the conditions for the assurance of its financial stability, shall be fixed by a regulation of the public administration, including the conditions of age and service giving a right to the pension, the payments to be granted to

the person entitled thereto or their legal successor, and the benefits which may accrue to professional airmen who have ceased their activities before April 28, 1951 and to their legal successors.

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

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

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

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

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

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

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

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

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

(a) by a chattel mortgage which shall have equal priority with that established by Article 2104-4 of the Civil Code;

(b) by a mortgage on real property which shall have priority from the date when it is registered in the office of mortgages.⁸

⁸ This paragraph was substituted for the previous wording by the Ordinance No. 59-71 of Jan. 7, 1959.

Chapter VII—Criminal Provisions

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

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

Furthermore, and not withstanding the provisions of Article 165 of Book II of the Labor Code, any employer who, in regard to flight personnel, violates the provisions of Article 6 of said Book and those of the decree issued in application thereof, shall be punishable by a fine of from 24,000 to 100,000 francs.

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

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

Title II—Temporary Flight Personnel

Article 194. [Abrogated by Decree No. 59-1057, September 3, 1959. See *infra*.]

BOOK V—SPECIAL PROVISIONS FOR LIGHT AND SPORTS AIRCRAFT

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

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

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

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

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

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

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

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

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

FINAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DECREE NO. 59-92 OF JANUARY 3, 1959 CONCERNING REGULATION OF AIRPORTS AND AERONAUTICAL RESTRICTION ⁹

[Omissions.]

Title 1—Regulations of airports

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

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

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

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

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

⁹ *Journal officiel*, Jan. 8, 1959, p. 585, and Jan. 18, 1959, p. 1022. (See Art. 20, *infra*, for abrogated articles of the Code.)

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

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

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

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

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

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

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

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

Title II—Aeronautical restrictions

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

Such restrictions shall include:

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

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

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

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

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

- c) to installations of aid to aerial navigation, or aeronautical telecommunications, and to meteorological installations estab-

lished for the safety of aerial navigation, but the provisions of Articles L. 97 to L. 123 of the Code of Postal Matters, Telegraphs and Telephones concerning restrictions in the interest of radio-electric transmission and reception shall apply:

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

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

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

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

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

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

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

Article 13. The provisions of Articles L. 103 and L. 104 of the Code of Postal Matters, Telegraphs and Telephones, shall be applicable to aeronautical clearance restrictions and the taking by eminent domain provided for in Article L. 103 shall proceed in accordance with the provisions of Ordinance No. 58-997 of October 23, 1958.

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

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

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

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

Article 15. Except for the provisions of Article 77 of the Code of Civil and Commercial Aviation and the special provisions concerning the airports mentioned in paragraph b, of Article 9 of this decree,

the costs of installation, maintenance and functioning of air markings shall be paid for by the State except when the markings concern electric lines of a voltage of, or exceeding 90,000 volts or to the installations mentioned in the first paragraph of Article 17 hereinafter, in which case the costs shall be at the expense of the operator of the lines or the owner of the installations.

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

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

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

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

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

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

Article 18. When for reasons of the requirements of air traffic the competent authority decides on the expansion or creation of airports or installations intended to ensure the safety of air navigation, the necessary land, if not already reserved for that purpose in a building plan of one or more communities, under consideration or approved, may be declared reserved by decree of the Council of State after a public investigation in the form prescribed by the ordinance of October 23, 1958 concerning expropriation.

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

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

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

Article 20. Articles 23, 59, 72, 73, 83, 112 and Title I of Book II of the Code of civil and commercial aviation are abrogated.

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

DECREE NO. 59-62 OF JANUARY 3, 1959, RESTRAINING VIOLATIONS OF THE RULES ON AERONAUTICAL RESTRICTIONS¹⁰

[Omissions.]

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

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

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

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

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

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

Furthermore, when the situation has not been remedied at the expiration of the time limit set by the judgment, the administration may have the work done at the expense and risk of the persons civilly liable therefor.

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

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

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

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

DECREE NO. 61-458 OF MAY 8, 1961, AMENDING ARTICLE 139 OF THE CODE OF CIVIL AND COMMERCIAL AVIATION CONCERNING THE COMPAGNIE NATIONALE AIR FRANCE¹¹

Article 1. The provisions of Article 139 of Title III of the Code of Civil and Commercial Aviation are amended as follows:

¹⁰ *Journal officiel*, January 8, 1959, p. 547.

¹¹ *J.O.* May 10, 1961, p. 4301.

1. Subparagraph 1) shall read:

"Four administrators, officials designated as follows:

One by the Prime Minister;

Two by the Minister in charge of civil aviation;

One by the Minister of Finance and Economic Affairs."

2. Subparagraph 2) the following provision is added:

"In case it is necessary to replace any council members, the new members shall remain in office until the date of expiration when the term of office of the replaced members ordinarily would have expired."

This provision shall apply only to appointments made after the effective date of this decree.

Article 2. The Minister of Finance and Economic Affairs and the Minister of Public Works and Transportation, each within his jurisdiction, shall be charged with the application of this decree which shall be published in the *Journal Officiel* of the French Republic.

Supplement

DECREE NO. 59-1057 OF SEPTEMBER 3, 1959, CONCERNING THE LIQUIDATION OF THE INSURANCE FUND OF COMMERCIAL AVIATION (*Journal Officiel*, Sept. 11, 1959, p. 8893)

Article 1. The provisions of Article 5 of the Law of March 30, 1928, in regard to personal flying occasionally, and Article 194 of the Code of Civil and Commercial Aviation are hereby abrogated.

Article 2. The assets and liabilities of the insurance fund of commercial aviation, provided for in Article 5 of the Decree of February 6, 1937 containing administrative rules for the application of Article 5 of the Law of March 30, 1928 are hereby transferred to the pension fund of the professional flight personnel of civil aeronautics created in application of Article 186 of the Code of Civil and Commercial Aviation.

LAW NO. 61-1382 OF DECEMBER 19, 1961, ESTABLISHING A NATIONAL CENTER OF SPACE STUDIES¹²

Article 1. There is hereby established under the name of National Center for Space Studies a scientific and technical public institute, of an industrial and commercial nature, with fiscal autonomy and subject to the authority of the Prime Minister.

Article 2. The National Center for Space Studies has the purpose of developing and directing scientific and technical research in the field of space science.

In particular, it shall:

- 1) collect all information on national and international activities concerning problems, exploration and use of outer space;

¹² Pub. in *Journal Officiel*, Dec. 20, 1961. This law is based on the following preparatory work:

In the National Assembly:

Draft—Law no. 1429

Report No. 1460 of Mr. Sy for the Committee of Cultural Affairs

Adopted Oct. 18, 1961

In the Senate: Draft—law No. 29 (1961-62)

Report No. 97 by Mr. Baumel

Adopted Dec. 7, 1961

2) Prepare and propose for the approval of the interministerial committee for science and technical research, programs of research of national interest in this field:

3) Insure execution of such programs either in laboratories and technical institutions created by it, or by means of research contracts made with other public or private organizations or by financial subsidies.

4) In cooperation with the Ministry of Foreign Affairs, follow the problem of international cooperation in the field of space and to supervise the performance of that part of international programs which is entrusted to France:

5) Insure directly or by subscription or subsidy, the publication of scientific works dealing with the problems of space.

Article 3. The National Center for Space Studies undertakes its own fiscal management and presents its accounts in accordance with commercial usages.

Article 4. For the financing of the various tasks specified in Article 2, the National Center for Space Studies has budget credits available for space research in early annual budget in application of the Law of programs for coordinated supplementary action of scientific and technical research, No. 61-530, of May 31, 1961.

As of the promulgation of this law, the Center shall be substituted for the State in the agreements as space research passed in the chapter (56-00) of the budget of the Prime Minister entitled "Fund for the Development of Scientific and Technical Research."

Article 5. A decree of the State Council shall determine the conditions of application of this law and, in particular, shall define rules for the administrative and fiscal organization of the institute, the membership of its administrative council and the rights and duties of the administrative conseil, of the chairman, and the director general of the Center.

Article 6. Each year before the vote on the budget the National Center for Space Studies shall make a report to the Parliament concerning its activities and the results achieved during the past year.

This law shall be applied as law of the State.

DECREE NO. 60-1090 OF OCTOBER 6, 1960 CONCERNING THE COUNCIL OF PROFESSIONAL FLIGHT PERSONNEL OF CIVIL AERONAUTICS.¹³

Article 1. Article 155 of the Code of Civil and Commercial Aviation and the Order of July 1, 1956 concerning the council of professional flight personnel of civil aeronautics are hereby abrogated and replaced by the following provisions:

Article 2. A council of professional flight personnel of civil aeronautics is established with the following task:

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

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

¹³ J.O. Oct. 13, 1960, and J.O. Oct. 22, 1960.

Article 3. The Council shall be attached to the secretariat general of civil aeronautics. It shall consist of three sections which issue opinions either separately or together in sections, or in plenary session.

The three sections are: testing and admissions, air transportation, and air work.

Article 4. The chairman of each section shall be one of the members, designated by the Minister of Public Works and Transportation for the sections of air transportation and air work and by the Minister of National Defense for the section of testing and admissions.

The vice-chairmen of each section may be designated under the same conditions.

The chairman of the section of air transportation shall preside in the council; the chairman of the section of testing and admissions shall be vice president.

Article 5. The section of testing and admissions shall consist of the following:

Two members representing military aviation designated by the Minister of National Defense.

One member representing civil aeronautics designated by the Minister of Public Works and Transportation.

Three members designated by the Minister of National Defense on proposal of the organizations representing aviation industry.

Three members designated by the Minister of National Defense on proposal of the organizations representing the professional flight personnel of testing and admissions.

Article 6. The section of air transportation shall consist of the following:

One member representing civil aeronautics designated by the Minister of Public Works and Transportation.

One member representing military aviation designated by the Minister of National Defense.

Six members designated by the Minister of Public Works and Transportation on proposal of the operators of air transportation.

Six members designated by the Minister of Public Works and Transportation on proposal of the organizations representing the professional flight personnel of air transportation.

Article 7. The section of air work shall consist of the following:

One member representing civil aeronautics designated by the Minister of Public Works and Transportation.

One member representing military aviation designated by the Minister of National Defense. Such member shall be the same as that designated by the Minister of National Defense to represent military aviation in the section of air transportation: he shall have only one vote when the conseil meets in plenary session or the sections combined.

Three members designated by the Minister of Public Works and Transportation on proposal of the operators of the air work.

Three members designated by the Minister of Public Works and Transportation on proposal of the organizations representing the professional flight personnel of air work.

Article 8. The members of the Council shall be appointed for a two year term renewable by decision of the Minister of Public Works and

Transportation, who shall further appoint, in the manner established in the three preceding articles, twice the number of alternates as there are members.

Members who lose the standing by virtue of which they were appointed who resign their office, or who are removed from office by the Minister of Public Works and Transportation for lack of assiduity shall be replaced by members designated in the manner specified above and whose term shall expire at the same time as that of the members they replaced.

Article 9. The Council shall meet in plenary session when called by its chairman and in sections combined when called by the chairman of the section that has seniority.

Such convocation shall be compulsory when it is requested by one of the Ministers concerned or by request of a section.

Any section shall meet when called by its chairman. Such convocation shall be compulsory when it is requested by the Minister of Public Works and Transportation or, as regards the section of testing and admissions, by the Minister of National Defense. Such meeting shall take place within the time set forth by the person making the request and within one month from the request unless a shorter period has been specified.

The chairman of the Council of flight personnel and the chairman of the sections may call as consultant any person whether an official or otherwise, whose participation seem useful to them.

Article 10. There may be no vote unless at least one half of the members or alternates have taken part in the deliberations. However, if there is no such quorum during two consecutive sessions dealing with the same subject, it shall no longer be required during the third session. Members who are absent without valid reasons at two consecutive sessions may be removed from office.

Votes shall be by majority. In case of an even split, the chairman shall cast the decisive vote.

Article 11. Matters submitted to the Council of flight personnel or the sections shall be the subject of a report.

The rapporteurs shall be chosen by the chairman either from the members or alternates of the Council, or from a list of officials or employees established by the Minister of Public Works and Transportation for the sections of air transportation and air work, and by the Minister of National Defense for the section of testing and admissions.

Rapporteurs who are not members of the Council or of the respective section shall participate as consultants in the sessions in which their report is discussed.

Article 12. The secretariat of the Council of flight personnel and of the sections of air transportation and air work shall be provided by the personnel of the secretariat general of civil aeronautics. The Secretariat of the section of testing and admissions shall be provided by the personnel of the delegation from the Air Force.

Article 13. The Minister of Public Works and Transportation and the Minister of National Defense, each within his jurisdiction, shall supervise the application of this decree which shall be published in the *Journal Officiel* of the French Republic.

DECREE NO. 60-411, OF APRIL 28, 1960, COMPLETING TITLE III, THE "COMPAGNIE NATIONALE AIR FRANCE" "OF BOOK III OF THE CODE OF CIVIL AND COMMERCIAL AVIATION"¹⁴

[Omission]

Article 1. Title III, the "Compagnie Nationale Air France" of Book III of the Code of civil and commercial aviation is hereby amended by adding the following article:

Article 139 bis. The ordinance of February 22, 1945 as amended, which establishes committee of business organizations and the Regulation of November 2, 1945, on public administration shall apply to the "Compagnie Nationale Air France", provided, however, as follows:

In order to ensure participation by representatives of the flight personnel of Air France in the work of the Committees of the departments and of the Committee of the organization, the representatives of the personnel on the Committees shall be elected as follows:

- 1) by the workers and employees;
- 2) by the engineers, chiefs of services, shop foremen, and others;
- 3) by the flight personnel:

according to the lists established by the unions most representative of each category of the personnel.

The allocation of seats on the committees of the departments to the various categories and the allocation of the personnel to the electoral colleges shall be agreed upon between the management and the unions concerned. In case such agreement is impossible, the allocation shall be made by the regional inspector of labor and transport workers in charge of air transport.

The central committee of the organization shall consist of delegates elected from the committees of the departments, one or two delegates with the same number of alternates from each department. However, the departments which have flight personnel may have more than two delegates on the central committee of the organization either through an agreement between the management and the unions concerned or, if there be none, by a decision of the regional inspector of labor and transport workers in charge of air transport.

The flight personnel shall have two seats on the central committee of the organization.

The total number of regular members of the central committee may not exceed fourteen.

The allocation of seats on the central committee of the organization among the various departments and the various categories, and particularly the allocation of the two seats reserved to them as regards, the various skills of the flight personnel, shall be made in accordance with the procedures specified above for the allocation of seats on the departmental committees.

Article 2. The minister of public works and transportation and the minister of labor, each within his jurisdiction, shall implement this decree which shall be published in the *Journal Officiel* of the French Republic.

¹⁴ *J.O.*, April 29, 1960, p. 3950.

DECREE No. 60-275, OF MARCH 25, 1960¹⁵ AMENDING ARTICLES 74 AND 78 OF THE CODE OF CIVIL AND COMMERCIAL AVIATION

[Omission.]

Article 1. Article 74 of the Code of Civil and Commercial Aviation is hereby replaced by the following provisions:

"Airports for public air flight may be established by the State, by public groups and public establishments as well as by private natural or legal persons provided they fulfill the following conditions:

Natural persons must have French nationality and possess their civic rights.

Legal persons must be:

Either French associations formed in conformity with the Law of July 1, 1901;

Or civil or commercial companies in which:

a) The following have French nationality and possess their civic rights:

The managers and all active partners in partnerships and joint stock companies, and the managers and the majority of partners in companies with limited liability.

The chairman of the board, the general manager and the majority of executive officers in a corporation.

b) The capital is represented at least half:

By partnership belonging to partners of French nationality in companies with limited liability;

By stock certificates belonging to stockholders of French nationality in corporations.

Article 2. Article 78 of the Code of Civil and Commercial Aviation is hereby replaced by the following provisions:

"The signatory party to the agreement shall be responsible for the procurement and maintenance of the understructure, as well as buildings, installations and workshop necessary for commercial operation.

However, the State may award to such signatory financial assistance covering part of his expenses. The amount of such financial assistance shall be determined on the advice of the Superior Council of air carriers or, in the case of airdromes primarily used for development of aviation and air tourism, on the advice of the Committee for light and sport planes in consultation with representatives of the minister who has supervision over the public group or establishment concerned and, of the minister financing the operation.

Article 3. Article 2 of Decree No. 57-551 of April 29, 1957, concerning regulation of public administration in regard to financial assistance by the State for the establishment of airdromes for the development of aviation and tourism are hereby amended as follows:

"Necessary credits for the granting of financial assistance shall be earmarked in the budget of the Secretariat General civil and commercial aviation. They shall be divided within the limits specified in Article 1, on the advice of the Committee for light and sport planes, in consultation with representatives of the minister who has supervision over the public group or establishment concerned and of the minister financing the operation."

¹⁵ J.O., March 30, 1960, p. 2942.

Article 4. The minister of public works and transportation, the minister of the interior, the minister of finance and economic affairs, the minister of industry, the minister of State and the Secretary of State for Finance, within their respective jurisdiction shall execute this decree which shall be published in the *Journal Officiel* of the French Republic.

OTHER LEGISLATION IN FORCE IN FRANCE

The following other air laws are in force in France:

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

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

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

4) Ordinance of February 7, 1955, as modified by Ordinance of January 4, 1962, concerning the creation and definition of air operating manual.

5) Ordinance of August 20, 1956, as modified by Ordinance of December 29, 1961, concerning crews on commercial aircraft (*J.O.* 1962, p. 6436)

6) Ordinance of March 21, 1962, concerning airworthiness of civil aircraft.

7) Ordinance of January 20, 1962, concerning examination for licenses for flight mechanic.

8) Decree No. 62-51 of January 17, 1962, modifying Decree No. 55-1348 concerning creation of a medical council for civil aviation.

9) Law No. 62-898, of August 4, 1962, to speed up public works, and particularly the freeways, and to assure safety of air navigation. (*J.O.* Aug. 5, 1962)

10) Decree No. 62-1046, of September 1, 1962, concerning the organization of scheduled passenger services of air carriers between the airports and points they service. (*J.O.* Sep. 4, 1962)

11) Decree of October 3, 1962, concerning classification of airdromes used for public service in France (*J.O.* Oct. 9, 1962).

12) Ordinance of August 1, 1962, establishing conditions of technical use of aircraft for public transportation (*J.O.* Sep. 5, 1962)

Ordinance of October 23, 1962, concerning restricted airworthiness of aircraft (*J.O.* November 24, 1962).

Decree No. 62-1410, November 21, 1962, concerning rules of meteorological aid to air navigation (*J.O.* December 1, 1962).

Ordinance of November 23, 1962, classifying airdromes according to their aviation use and conditions of use (*J.O.* January 4, 1963).

Ordinance of November 25, 1962, classifying the definition of zones contiguous to airdromes within which establishment of a private airdrome is subject to prior approval of the minister in charge of civil aviation (*J.O.* December 14, 1962).

Ordinance of January 3, 1963, extending to overseas territories the provisions of the ordinance of August 11, 1962, on technical conditions of use of public transport aircraft (*J.O.* January 10, 1963).

Decree No. 63-8, January 5, 1963, regulating public administration on additional rules of retirement for professional flight personnel in civil aviation (*J.O.*, January 8, 1963).

Ordinance of January 11, 1963, concerning application of Decree No. 54-109, January 28, 1954, for the manufacture and purchase of light aircraft (*J.O.*, January 17, 1963).

Ordinance of April 12, 1963, listing international airports and other airports with controls of customs, police and health in metropolitan France and in the overseas departments, and specifying the conditions of the opening thereof.

Decree No. 63-552, of June 4, 1963, concerning classification of airdromes used for public air service in the overseas departments.

Decree No. 63-926, of September 6, 1963, concerning the conditions of establishment of airdromes used for public air service in the overseas territories.

Decree No. 63-927, of September 6, 1963, concerning the conditions of establishment, of putting into service, of utilization, and of control of airdromes in the overseas territories.

Ordinance of September 10, 1963, listing the airports open to international air traffic in metropolitan France and in the overseas departments, and the conditions of opening thereof.

Ordinance of December 12, 1963, abrogating and replacing a previous ordinance on navigator's licenses.

Ordinance of December 24, 1963, concerning rules on facilities of safety aboard public transport aircraft.

Ordinance of March 24, 1964, amending ordinance of August 20, 1956, concerning the composition of crews on transport aircraft (*J.O.*, March 25, 1964).

Ordinance of March 27, 1964, amending a previous ordinance concerning certificates, licenses, and qualifications of civil airmen (*J.O.*, April 7, 1964).

Decree No. 64-711 of July 7, 1964, changing, as to indemnifications, Decree No. 54-399 of April 5, 1954, concerning regulation of the public administration for the application of the law of December 17, 1941, relating to creation of a reserve fund for aviation sport (*J.O.*, July 12, 1964).

Law No. 64-650, of July 2, 1964, concerning certain flight personnel (*J.O.*, July 3, 1964).

GABON

Gabon applies the uniform air code drawn up by Sénégal, and adhered to by the countries of the Union of Metropolitan Africa. See Sénégal.

GERMANY

PRELIMINARY

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

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

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

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

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

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¹ Published in Bundesgesetzblatt (BGBl.) 1959, I, p. 9. For the Law on Jurisdiction in the Administration of Air Traffic of Feb. 8, 1961 (BGBl. I, p. 69) see *infra*. The Law, amending the present Law concerning Air Navigation, of July 25, 1964 (BGBl. I, p. 529), further amending BGBl. III, p. 96-1, amended Articles 1(2), 2(6), (7), (8), 21(2), (3), 23a, 25(1), (4), 30(1), (2), 31, 32(1), (3), (4), (5), 37, 43, 48, 69, 49a, 51, 56(2), (3), 58(1), (4).

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PART I—AIR TRAFFIC

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

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

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

Article 2

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

- 1) the prototype of the aircraft is licensed (Musterzulassung),
- 2) airworthiness is shown in accordance with the testing regulations (Prüfordnung) for flight instrumentalities,
- 3) the operator of the aircraft is insured in accordance with the provisions of this law or has deposited a bond in the form of money or securities and

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

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

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

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

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

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

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

Article 3

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

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

Article 4

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

- 1) when the applicant has the prescribed minimum age,
- 2) when the applicant has proved his qualifications,
- 3) when there are no facts which make the applicant appear unreliable in conducting or operating an aircraft,
- 4) when the applicant has passed an examination under the regulations for examination (Prüfordnung) of flight personnel.

(2) The provisions of paragraph (1) shall be applicable, accordingly to other flight personnel insofar as their activity is subject to a license in accordance with an ordinance issued under Article 32, paragraph (1), no. 4.

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

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

Article 5

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

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

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

*Section 2—Airports**Article 6*

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

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

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

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

Article 7

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

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

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

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

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

Article 8

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

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

Article 9

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

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

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

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

Article 10

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

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

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

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

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

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

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

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

Article 11

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

Article 12

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

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

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

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

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

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

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

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

1) outside the approach sectors:

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

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

2) within the approach sectors:

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

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

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

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

Article 13

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

Article 14

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

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

Article 15

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

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

Article 16

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

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

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

Article 17

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

Article 18

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

Article 19

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

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

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

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

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

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

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

Section 3—Air Carriers and Aviation Events

Article 20

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

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

Article 21

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

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

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

Article 22

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

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

Article 23

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

Article 24

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

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

Section 4—Traffic Regulations

Article 25

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

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

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

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

Article 26

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

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

Article 27

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

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

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

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

Section 5—Expropriation

Article 28

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

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

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

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

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

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

Section 6—General Provisions

Article 29

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

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

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

Article 30

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

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

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

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

Article 31 [Abrogated by Law of February 8, 1961. See *infra*.]

Article 32

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART II—LIABILITY

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

Article 33

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

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

Article 34

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

Article 35

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

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

Article 36

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

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

Article 37

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

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

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

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

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

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

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

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

Article 38

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

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

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

Article 39

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

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

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

Article 40

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

Article 41

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

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

Article 42

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

Article 43

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

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

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

Section 2—Liability arising from the carriage contract

Article 44

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

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

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

Article 45

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

Article 46

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

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

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

Article 47

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

Article 48

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

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

Article 49

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

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

Article 50

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

Article 51

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

Article 52

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

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

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

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

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

Article 54

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

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

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

Article 56

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

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

Article 57

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

PART III—CRIMINAL PROVISIONS

Article 58

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 59

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

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

Article 60

(1) Any person who with intent—

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

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

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

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

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

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

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

Article 61

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

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

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

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

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

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

Article 62

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

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

OTHER AIR LAWS AND REGULATIONS IN FORCE IN GERMANY

(Jan. 1, 1961)

A. Laws

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

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

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

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

B. Regulations

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

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

Second amendment, of July 12, 1937 (RGBl. I, p. 815)

Third amendment, of Dec. 15, 1937 (RGBl. I, p. 1387)

Fourth amendment, of Sept. 30, 1938 (RGBl. I, p. 1327)

Fifth amendment, of Aug. 21, 1959 (BGBl. I, p. 749)

Sixth amendment, of Nov. 5, 1954 (BGBl. I, p. 302)

Seventh amendment, of June 21, 1955 (BGBl. I, p. 321)

Eighth amendment, of Sept. 15, 1957 (BGBl. I, p. 1371)

Regulations concerning testing of flight instrumentalities, of Aug. 21, 1936 (Air News [Nachrichten für Luftfahrer] p. 639). Regulations concerning foreign flight instrumentalities, of Aug. 19, 1953 (BGBl. I, p. 1133). Regulations concerning examination of flight personnel, of June 21, 1955 (BGBl. I, p. 324)

2. Regulations concerning rules of air navigation, of June 4, 1953 (Federal Register [Bundesanzeiger] No. 104/1953). Amendments thereto:

Amendment of Nov. 18, 1954 (Federal Register No. 222/1954)

Amendment of Jan. 22, 1959 (Federal Register No. 17/1959)

3. Air Customs Regulations, of May 5, 1941 (Reichsministerialblatt 1941, p. 111).

Regulations concerning favorable customs treatment (*Zollbegünstigung*) for the promotion of air navigation, of May 11, 1953 (Fed. Reg. No. 95/1953). Amendments thereto:

Amendment of April 9, 1954 (Fed. Reg. No. 85/1954)

Amendment of Feb. 14, 1956 (BGBl. I, p. 81)

4. Regulations for the prevention of transmission of contagious diseases by air traffic, of June 2, 1937 (RGBl. I, p. 611).

5. Regulation concerning establishment of air traffic statistics of March 12, 1959 (Fed. Reg. No. 52/1959).

C. Other Regulations

General administrative regulations concerning technical investigation of accidents occurring in the operation of aircraft (Fed. Reg. No. 48/1958). *Id.* of Aug. 16, 1960 (Fed. Reg. No. 163/1960).

LAW CONCERNING JURISDICTION IN THE ADMINISTRATION OF AIR
NAVIGATION, FEBRUARY 8, 1961²

Article 1. The law concerning air navigation of January 10, 1959 (BGBl. I, p. 70)³ is hereby modified as follows:

Article 31 shall read as follows:

Article 31: (1) By delegation from the Federal Government, the States [Laender] shall execute the following tasks resulting from this law:

1. The licensing for air traffic of balloons, gliders and launching devices thereof (Art. 2);

2. The licensing as flight personnel of private pilots, professional pilots second class, private helicopter pilots, glider pilots, pilots of free balloons, and parachutists, as well as the issuing of authorizations to such persons for towing flights, acrobatic and instrument flights (Art. 4);

3. The granting of authorizations to train flight personnel and parachutists referred to in number 2 (Art. 5);

4. The granting of authorizations for airdromes, except for proceedings and decisions concerning the extent to which the interests of the Federal Government are affected by the establishment and operation of an airdrome to be used for public air traffic (Art. 6);

5. The granting of authorizations for preparatory work for the establishment of airdromes (Art. 7);

6. The determination of areas subject to limited building restrictions in connection with landing areas and glider landing areas (Art. 17);

7. The granting of building permits or other authorizations required by the general law or the authorizations required by the air law in connection with the construction of buildings, installations, and devices, or in connection with trees and installation of pits in areas subject to building restrictions and limited building restrictions (Articles 12, 15, and 17);

8. The determination of building heights, within which building permits or other authorizations required by the general law may be granted without the consent of the aviation authorities in areas subject to building restrictions and limited building restrictions (Articles 13, 15, and 17);

9. The consent to a building permit or to another authorization required by the general laws or the authorization required by the air law in connection with the construction of buildings, installations and devices, and in connection with trees outside the areas subject to building restrictions (Articles 14 and 15);

10. The demand to permit the removal of buildings and of other obstacles to aviation that exceed the permissible height, and the elimination of depressions or measures necessary for safety (Articles 16 and 17);

11. The licensing of air carriers, engaged in non-scheduled air traffic by means of helicopters or aircraft up to five thousand

²BGBl. Part I, 1961, No. 8, p. 69, Feb. 16, 1961.

³See *supra* and *Air Laws and Treaties of the World*, 1961 ed., p. 450.

seven hundred kilograms maximum gross weight or whose air lines using such aircraft do not operate outside the State in which the enterprise is located, and the licensing of commercial use of aircraft for other purposes and for flights in which the compensation consists of payment of the cost of the flight (Articles 20 and 21);

12. The licensing of aviation events which are limited to the State in which they take place (Art. 24);

13. The granting of authorizations to take off and land outside authorized airdromes (Art. 25);

14. The granting of authorizations to carry radio equipment on aircraft within the territory to which this law applies (Art. 27, par. 1);

15. The granting of authorizations to take aerial photographs from an aircraft or to market such photographs or drawings or representations made therefrom, except in regard to persons who are not domiciled within the territory to which this law applies (Art. 27, par. 2);

16. The granting of authorizations for special use of the airspace for

- a) acrobatic flights,
- b) towing flights,
- c) publicity flights and dropping of objects from an aircraft,
- d) gymnastic and balancing exhibitions aboard an aircraft,
- e) release of free and captive balloons,
- f) flying of kites and model planes,
- g) parachute jumps for purposes of practice and exhibition,
- h) deviation from minimum flight altitudes established for purposes of safety,

with the exception of the authorization for which the Federal Institute of Flight Safety has jurisdiction under this law (Art. 32);

17. The supervision within the fields of administrative jurisdiction specified in numbers 1 to 16;

18. The exercise of supervision over aviation insofar as this is not incumbent upon the Federal Institute of Flight Safety or the federal aviation authority (Art. 29);

(2) Decisions in cases under paragraph 1, No. 4, 6 to 10, and 12 shall be made on the basis of an expert opinion rendered by the Federal Institute of Flight Safety.

(3) Licenses of air carriers in accordance with paragraph 1, No. 11, shall be granted by the federal aviation authority on the basis of an examination of the technical and administrative facilities of the enterprise.

Article 2. (1) This law shall apply in Berlin in accordance with Article 13, paragraph 1 of the Third Transitional Law of January 4, 1952 (BGBl. I, p. 1), with the exception of Article 31, paragraph 1, Nos. 1 to 5, 12, 13, 15, 16, letters a, b, c, d, e (also in regard to free balloons), g, h, No. 18, and paragraphs 2 and 3 of the law concerning air navigation.

(2) The limitations on air sovereignty in Berlin shall not be affected thereby.

(3) Insofar as tasks in pursuance of Article 1 must be executed in Berlin, the authorities of Berlin shall not be deemed to execute them by delegation from the Federal Government.

Article 3. This law shall enter into force one month after its publication.

The preceding law is hereby promulgated.

AIR NAVIGATION ORDINANCE (LUFTVERKEHRS-ORDNUNG), AUGUST 10, 1963 (BGBl. I, p. 652)

This ordinance implements the law concerning air navigation of January 10, 1959, as amended. (See note 1, Law of Jan. 10, 1959, *supra*.) It consists of 45 articles, divided into 5 sections as follows:

- 1) Duties of air navigators;
- 2) General rules (Art. 1-5);
- 3) Visual flight rules (Art. 6-27);
- 4) Instrument flight rules (Art. 28-42);
- 5) Violations and final provisions (Art. 43-45).

An appendix contains provisions on lights on aircraft, signals, and quadrant altitudes.

The report accompanying the ordinance points out that the ordinance unifies the air regulations presently in force in the Federal Republic of Germany, and follows the recommendations made by the Council of ICAO on April 13, 1948, in order to adhere as closely as possible to international air regulations.

On June 19, 1964, a regulation, entitled *Luftverkehrs-Zulassungs-Ordnung*, and dealing with the licensing and registration of aircraft, flight personnel, and airdromes, was passed. (BGBl., Part I, 1964, 370). The regulation consists of 110 articles. It is not applicable in West Berlin, due to the restrictions on air sovereignty.

**LAW AMENDING THE LAW CONCERNING AIR NAVIGATION
(6TH AMENDMENT), JULY 25, 1964.***

Article 1. The law concerning air navigation as issued on January 10, 1959 (BGBl. I, p. 9), as amended by the law concerning jurisdictions in the administration of air navigation of February 8, 1961 (BGBl. I, p. 69), is hereby amended as follows:

I. CHANGES IN PROVISIONS OF PART I

1. In Article 1, paragraph 2:

a) The word "Hubschrauber" [helicopter] is replaced by the word "Drehflügler" [rotary blade aircraft] and

b) Following the word "instrumentalities" [intended for the use of the airspace] the period is replaced by a comma and the following words are added "in particular spacecraft, rockets and similar flight instrumentalities."

2. a) Article 2, paragraph 6, is amended to read as follows:

(6) German aircraft may leave the territory in which this law applies only with permission.

*Published in BGBl. 1964, I, No. 39, p. 529

- b) Article 2, paragraph 7 is amended to read as follows:

(7) Aircraft which are not registered and licensed in the territory in which this law applies, may fly only with permission into the territory in which this law applies, or otherwise enter it for purposes of air navigation. Permission shall not be required when an agreement between the country of origin and the Federal Republic of Germany or an agreement which is binding on both States provides otherwise.

- c) Article 2 is amended by adding a new paragraph 8:

(8) Permission in accordance with paragraphs 6 and 7 may be granted generally or for specific cases, or may be subject to conditions or time limitations.

3. a) In Article 21, paragraph 2, the second and third sentences are replaced by the following second sentence:

They shall be obligated to transport persons and goods when

1) There is compliance with valid conditions of transportation and official instructions,

2) It is possible to effect transportation with regularly available means of transportation,

3) Transportation is not prevented by circumstances which the carriers were not able to avoid and the consequences of which they could not prevent.

- b) Article 21 is amended by adding after paragraph 2 the following new paragraph 3:

(3) The authorizing authority may, in whole or in part, relieve the enterprises from the obligations of paragraph 2, upon their request, when continuation of such operation or performance of such transportation may not be expected of them. The authorization shall terminate when the enterprises are permanently relieved of the obligation to continue the operation and to perform transportation.

- c) The existing paragraph 3 of Article 21 becomes paragraph 4.

4. After Article 23 the following Article 23a is inserted:

Article 23a. For the operation of air carriers which do not have their principal office within the territory in which this law applies, the authorizing authority may, in order to establish and ensure reciprocity, and even when they exceed the provisions of Articles 20 to 23, impose the same conditions in regard to kind and effect to which air carriers which have their principal office in the territory to which this law applies are subject in the country where the first named carriers originate.

5. a) The second sentence in the first paragraph of Article 25 is omitted.

- b) The first and second sentences in Article 25, paragraph 2, are amended to read as follows:

Paragraph 1 shall not apply to the landing of aircraft when

1) The place of landing cannot be determined in advance because of the characteristics of the aircraft, or

2) The landing is required for reasons of safety or to render assistance in case of an accident.

In such case the crew of the aircraft shall be obliged to give information to the person entitled thereto concerning the name and domicile

of the operator, the aircraft commander, and the insurer; in the case of unmanned aircraft the operator shall give the required information.

c) In Article 25, paragraph 4, the words "paragraph 1, first and third sentence, paragraphs 2 and 3," are replaced by the words "paragraphs 1 to 3."

6. a) In Article 30, paragraph 1, first sentence, the words "the federal border guards and the police" are replaced by the words "the federal border guards, the police, and troops stationed in the Federal Republic of Germany by virtue of international treaties."

b) The first and second sentences in Article 30 are amended to read as follows:

Administrative jurisdiction under this law in regard to its application to the federal armed forces and, insofar as there is no conflict with international treaties, to troops stationed [in Germany] shall be exercised by the officials of the federal armed forces in accordance with regulations issued by the Federal Minister of Defense. The Federal Minister of Defense, in accord with the Federal Minister of Transportation, shall grant permits to other military aircraft in accordance with Article 2, paragraph 7 and Article 27, paragraphs 1 and 2.

7. a) Section 31 is amended by adding the following new paragraph 1:

(1) Unless otherwise provided for, the duties of the Federal Government in accordance with this law shall be performed by the Federal Minister of Transportation or by an agency appointed by him. If such appointment is made by ordinance, no approval thereof by the Federal Council shall be required. The Law concerning the Organization of Flight Safety of March 23, 1953 (BGB1. I, p. 70) and the law concerning the Federal Aviation Board of November 30, 1954 (BGB1. I, p. 354) shall not thereby be affected.

b) The previous paragraphs 1, 2, and 3 of Article 31 are renumbered paragraphs 2, 3, and 4.

c) In the new paragraph 2, No. 2 of Article 31, the words "private helicopter (Hubschrauber) pilot" are replaced by the words "nonprofessional pilots of helicopters [Drehflügler]."

d) In paragraph 2, No. 11, of Article 31, the word ["Hubschrauber"] is replaced by the word ["Drehflügler"].

e) In the new paragraphs 3 and 4 of Article 31, the words "of paragraph 1" and "paragraph 1" are replaced by the words "of paragraph 2" and "paragraph 2."

8. a) Paragraph 1, No. 9 of Article 32 is amended to read as follows:

9. The conditions and the procedure for closure of areas of the airspace, and opening of such closed areas, and of areas with flight restrictions.

b) The following No. 9a is added after No. 9, in paragraph 1, of Article 32:

9a. The conditions and the procedure for the granting and revocation of the authorizations, licenses and permits provided for in this law, and for exemption therefrom.

c) The following new second sentence is added in Article 32, paragraph 1:

In accordance with the first sentence, the Federal Minister of Transportation may permit exceptions in the regulations as

concerns the licensing of aircraft, obtaining of a permit and the duty to bear nationality and special markings, provide public safety and order, and particularly safety of air traffic, are not disturbed.

d) In Article 32, paragraph 1, last sentence, the number "9" is replaced by the number "9a".

e) Article 32, third paragraph, third sentence is amended to read as follows:

The Federal Minister of Transportation may transfer to the federal office of flight safety and the federal aviation board, the authority to issue regulations under paragraph 1, first sentence, No. 1, and to regulate necessary details in regard to application of the regulations on construction, testing, and operation.

f) In Article 32, paragraph 4, the words "concerning the persons who must have a radio operator's license, and . . ." are added after the word "regulations."

g) Article 32, paragraph 5 is amended to read as follows:

(5) The Federal Minister of Transportation, shall make the general administrative rules necessary for the application of this law and the regulations made thereunder. General administrative rules for the application of the tasks specified in Article 31, paragraph 2, shall require the consent of the federal council.

II. CHANGES IN PROVISIONS OF PART II

9. Article 37 is amended to read as follows:

Article 37. (1) The person liable for damages shall be liable for damages arising from each accident:

a) For aircraft of less than one thousand kilograms weight up to one hundred thirty five thousand German marks.

b) For aircraft of more than one thousand kilograms up to six thousand kilograms weight up to one hundred thirty five thousand German marks plus one hundred and eight German marks per kilogram of the weight exceeding one thousand kilograms.

c) For aircraft of more than six thousand kilograms up to twenty thousand kilograms weight up to six hundred and seventy five thousand German marks plus sixty seven 50/100th German marks per kilogram of the weight exceeding six thousand kilograms.

d) For aircraft of more than twenty thousand kilograms up to fifty thousand kilograms weight up to one million six hundred and twenty thousand German marks plus forty 50/100th German marks per kilograms of the weight exceeding twenty thousand kilograms.

e) for aircraft of more than fifty thousand kilograms weight up to two million eight hundred and thirty five thousand German marks plus twenty seven German marks per kilogram of weight exceeding fifty thousand kilograms.

Weight shall be deemed to be the maximum take-off weight of the aircraft.

(2) The maximum amount of damages for each injured person shall be one hundred and thirty five thousand German marks. The

same shall apply to the value of any annuity which has been determined as damages.

(3) When the payment for damages due several persons because of the same event exceed the maximum amounts specified in paragraph (1), the individual damage payments other than under paragraph (4) shall diminish in the same ratio as that of the total amount to the maximum amount.

(4) When the damage claims arise from injury to property and from personal injury, one half of the amount calculated in accordance with the first sentence of paragraph (1) shall preferably be applied to pay damages for injuries to persons. When such amount is insufficient, it shall be pro-rated among the several claims. The remainder of the amount calculated in accordance with the first sentence of paragraph 1, shall be pro-rated for payment of damages and unpaid claims for personal injuries.

10. a) In Article 43, the second sentence of paragraph 1 is replaced by the following second and third sentences:

This shall not apply when the federal government, or a state (Land) is the operator. When a contract for liability insurance has been concluded, Articles 158 c to 158 h of the law concerning insurance contracts shall apply thereto.

b) In Article 43, paragraph 3, first sentence, the words "until the enterprise has been given up" are replaced by the words "when the person who has furnished the guarantee, no longer is the operator."

c) The following paragraph 4 is added to Article 43:

(4) Exceptions from paragraph (1), first sentence, may be made by regulation in regard to aircraft which need not be registered and for whose take-off no permission is required.

11. a) In Article 46, first paragraph, first sentence, the words "thirty five thousand" are replaced by the words "sixty seven thousand five hundred."

b) In Article 46, paragraph 2, first sentence, the words "seventy German marks" are replaced by the words "sixty seven 50/100 German marks."

c) In Article 46, paragraph 3, the words "one thousand four hundred" are replaced by the words "one thousand three hundred and fifty."

12. Article 48 is amended to read as follows:

Article 48. (1). A claim for damages, regardless of its legal basis, may be made against the air freight carrier only under the conditions and subject to the limitations provided for in this section. However, when the damage has been caused intentionally or by gross negligence of the air freight carrier or one of his employees in the performance of their duties, their liability under the provisions of general law shall not be affected; in such case the limitations on liability provided for in this section shall not apply.

(2) The legal provisions according to which other persons are liable for the damages shall not be affected. However, the employees of the air freight carrier who have acted in performance of their duties shall only be liable within the limits of the amounts provided for in Article 46, except where they have acted intentionally or with gross negligence.

(3) The entire sum payable as damages by the air freight carrier and his employees shall not exceed the limits of the amounts provided for in Article 46, except where there is greater liability in the case of intent or gross negligence.

13. a) Article 49, paragraph 1, is amended to read as follows:

(1) When an air freight carrier operates an air carriage enterprise, his liability according to Articles 44 to 48 may not by contract in advance be excluded or limited. This shall also apply to other air freight carriers who transport in an aircraft passengers for pay or in connection with their profession or trade.

b) The following paragraph 3 is added to Article 49:

(3) Paragraph 1 shall not apply to liability for damages caused by the nature of the goods transported or by an inherent defect thereof.

14. After Article 49, the following Article 49a is added:

Article 49a. (1) When a third person performs the air carriage, which an air freight carrier has undertaken to perform, in agreement with [such carrier], the third person shall be liable as air freight carrier for damages to the persons or goods transported. Until there is proof to the contrary, it shall be presumed that the carriage has been performed with the agreement of the air freight carrier.

(2) When the third person performs the air carriage only for part of the trip, he shall be liable only for damages caused during such part of the carriage, unless there are special provisions or agreements to the contrary. When there is doubt whether the damage was caused during such part of the carriage, the respective third person shall have the burden of proof.

(3) Acts and omissions of the third person and his employees acting in the performance of their duties shall be imputed to the air freight carrier. Acts and omissions of the air freight carrier and his employees acting in the performance of their duties shall be imputed to the third person except where they do not relate to the part of the carriage performed by the third person; however, the third person shall be liable for such acts and omissions in each case only within the limits of the amounts provided for in Article 46. An agreement to take on obligations not provided for in this section, a waiver of rights established in these provisions, as well as the declaration of the value of goods delivered in accordance with Article 46, paragraph 2, shall not be effective against the third person, except when he has agreed thereto.

(4) Articles 48 and 49 shall apply accordingly. However, whether liability of the third person may be excluded or limited shall depend on whether the air freight carrier may exclude or limit his liability in accordance with Article 49, paragraph 1.

15. Article 51 is amended to read as follows:

Article 51. When the damages are caused during international air carriage, there shall apply the Warsaw Convention for the Unification of Private Air Law of October 12, 1929 (RGB1. 1933, II, p. 1039) and the implementing law of December 15, 1933 (RGB1. I, p. 1079), the Hague Protocole of September 28, 1955, to amend the Warsaw Convention (BGB1. 1958, II, p. 292), and

the further convention of Guadalajara of September 18, 1961, to amend the Warsaw Convention (BGBI. 1963, II, p. 1160), insofar as these conventions are in effect in the Federal Republic of Germany and are applicable to air carriage.

16. a) In Article 56, paragraph 2, the following second sentence is added:

In the case of Article 49a, an action against the third person may also be brought in the court of venue of the air freight carrier and action against the air freight carrier may be brought in the court of venue of the third person.

b) The following third paragraph is added to Article 56:

(3) When any of the conventions specified in Article 51 applies to the air carriage, the venue shall be determined by such convention.

III. CHANGES IN PROVISIONS OF PART III

17. a) No. 11, in Article 58, first paragraph, is amended to read as follows:

11. Violates the written limitations on a permission granted in accordance with Article 2, paragraphs 6 and 7, Article 5, par. 1, and Article 25, par. 1, or an authorization granted in accordance with Article 6, par. 1, Article 20, par. 1, Articles 21, 22, 24, par. 1, or Article 27, par. 3, or a limitation in accordance with Article 23a, when specific reference was made therein to the provisions of this law regarding fines.

b) In No. 13 in Article 58, first paragraph, the words "before the coming into force of this law" are replaced by the words "before January 10, 1959."

c) The following paragraph 4 is added to Article 58:

(4) When the person concerned without reservation, admits the unlawful act, it shall be permissible to proceed by submission (Unterwerfungsverhandlung) in accordance with Article 67 of the Law on Unlawful Acts of March 25, 1952 (BGBI. I., p. 177).

Article 2. When the act causing the damages in the sense of Articles 33 and 44 of the Law Concerning Air Navigation occurred before this law came into force, claims for damages must be brought in accordance with the prior provisions.

Article 3. The Law Concerning Air Navigation as amended by this law shall apply to the Land Berlin in accordance with Article 13, par. 1, of the third transitional law of January 4, 1952 (BGBI. I., p. 1). Regulations issued under the Law Concerning Air Navigation as amended by this law, shall apply to the Land Berlin in accordance with Article 14 of the third transitional law insofar as application to Berlin is not expressly excluded in such regulations. The limitations on air sovereignty in the Land Berlin shall not thereby be affected.

Article 4. The Minister of Transportation shall have the power to promulgate the Law Concerning Air Navigation in amended form and to correct any errors in the wording.

Article 5. This law shall come into force on the day following its publication.

This law is hereby published.

GHANA

(CIVIL AVIATION ACT, 1958¹)

ARRANGEMENT OF SECTIONS

PART I. PRELIMINARY

Section

1. Short title and commencement.
2. Interpretation.

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3. Power to give effect to the Chicago Convention.
4. Power to regulate air navigation.
5. Control of Civil Aviation in time of war or emergency.
6. Power to prohibit flying over specified areas.
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PART III. LICENSING OF AIR TRANSPORT SERVICES

9. Air Transport Licensing Authority.
10. Prohibition of unlicensed commercial flying.
11. Powers of Licensing Authority.
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PART IV. AERODROMES

13. Power to provide aerodromes.
14. Power to obtain rights over land.
15. Sanitary control of aerodromes.
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17. Indication of presence of obstructions near aerodromes.
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20. Notices.
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22. Trespassing on aerodromes.

PART V. LIABILITY FOR DAMAGE, NUISANCE OR INJURY BY AIRCRAFT

23. Liability of aircraft in respect of trespass, nuisance and surface damage.
24. Nuisance caused by aircraft on aerodromes.
25. Limitation of liability.
26. Compulsory third-party insurance.
27. Certificates of insurance or security.
28. Rights under policies, etc.
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31. Supplemental provisions.
32. Commencement of certain provisions of Part V.

PART VI. MISCELLANEOUS

33. Application of law of wreck and salvage to aircraft.
34. Application to seaplanes of regulations as to vessels.
35. Exemption of aircraft from seizure on patent claims.
36. Recording and registration of births and deaths on aircraft.
37. Custody and disposal of lost property.

¹ Amend. Volume of the Acts of Ghana, 1958, p. 299.

PART VII. GENERAL.

- 38. Orders and regulations.
- 39. Power to prescribe fees.
- 40. Extra-territorial effect.
- 41. Savings.
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SCHEDULES

First Schedule—Provisions Relating to Orders Under Sections 14 and 16.

Second Schedule—Limits of Liability.

Third Schedule—Provisions as to Policies of Insurance and Securities.

Fourth Schedule—Patent Claims Against Aircraft Not Protected Under Chicago Convention.

Fifth Schedule—Repeals.

GHANA

No. 37 of 1958.

AN ACT to provide for the regulation of civil aviation and air navigation; to authorise the establishment and maintenance of aerodromes; to define liability for damage or injury caused by aircraft; and to provide for purposes connected with the foregoing matters.

Date of
assent.

[18th September 1958.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Ghana in this present Parliament assembled, and by the authority of the same as follows:—

1. This Act may be cited as the Civil Aviation Act, 1958 and shall come into force on 1st October, 1958.

2. (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“air transport service” means a service for the carriage by air of passengers, mails or other freight;

“Chicago Convention” means the Convention on International Civil Aviation signed at Chicago on the seventh day of December, 1944 and to which Ghana has adhered by notification by the Governor-General dated the ninth day of May 1957;

“highway” means any road or path in use by the public for purposes of passage;

“land” includes any estate or other interest in land and any easement;

“local authority” means a Municipal Council or a Local Government Council as defined respectively in the Municipal Councils Ordinance, 1953 and the Local Government Ordinance, or any enactment amending either of the said Ordinances;

“Merchant Shipping Code” means the Code as defined in and applied to Ghana by Part I of the Merchant Shipping (Transitory Provisions) Act, 1957;

Short title
and com-
mencement.
Interpreta-
tion.

"Minister" means the Minister responsible for communications;

"purposes of civil aviation" includes all purposes connected with air navigation except purposes of defence;

"Rome Convention" means the Convention for the unification of certain rules relating to damage caused by aircraft to third parties on the surface signed in Rome on the twenty-ninth day of May, 1933:

(2) Any reference in this Act to the carrying out of works on land shall be construed as including a reference to the making of excavations on the land or to the carrying out of levelling operations on the land, and references to the maintenance of works or to interference with works shall be construed accordingly.

(3) For the avoidance of doubt it is hereby declared that in this Act the expression "loss or damage" includes in relation to persons, loss of life and personal injury.

(4) Any reference in this Act to goods or articles shall be construed as including a reference to mails or animals.

(5) Any reference in this Act to any country or territory shall, unless the context otherwise requires, be construed as including a reference to the territorial waters, if any, adjacent to that country or territory.

(6) References in this Act to any enactment shall, except in so far as the context otherwise requires, be taken as referring to that enactment as amended by or under any other enactment.

PART II. REGULATION OF CIVIL AVIATION AND AIR NAVIGATION

3. The Governor-General may be order make such provision as appears to him to be requisite or expedient for carrying out the Chicago Convention, any annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention.

Power to
give effect
to the
Chicago
Convention.

4. (1) The Governor-General may make regulations to provide generally for securing the efficiency, regularity and safety of air navigation in Ghana and for the safety of aircraft and persons and property carried therein.

Power to
regulate air
navigation.

(2) Without prejudice to the generality of subsection (1) of this section, any regulations made thereunder may contain such provisions as may appear to the Governor-General to be requisite or expedient for all or any of the following purposes

(a) as to the registration of aircraft in Ghana;

(b) for the examination and testing of aircraft registered in Ghana and the issue of certificates of airworthiness for such aircraft;

(*c*) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified by the regulations;

(*d*) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, and for prohibiting the use of unlicensed aerodromes;

(*e*) for access to aircraft factories or premises where aircraft are undergoing repair for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof;

(*f*) for prohibiting persons from engaging in or being employed in or in connection with air navigation in such capacities as may be specified in the regulations except in accordance with the provisions in that behalf contained in the regulations and for the licensing of persons employed at aerodromes or engaged in the inspection or supervising of aircraft;

(*g*) as to the conditions under which and in paragraph engaged in the inspection or supervision of aircraft; entering or leaving Ghana may fly, and as to the conditions under which aircraft may fly from one part of Ghana to another;

(*h*) as to the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified in the regulations;

(*i*) for minimising or preventing interference with the use of effectiveness of apparatus used in connection with air navigation and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;

(*j*) for the detention of aircraft for the purpose of carrying out the provisions of this Act or of any orders or regulations made thereunder;

(*k*) for requiring persons engaged in or employed in or in connection with air navigation to supply meteorological information for the purposes of air navigation;

(*l*) for controlling the the making of signals and other communications by or to aircraft and persons carried therein;

(*m*) for regulating, or enabling the Minister to regulate, the charges that may be made for use of aerodromes and for services provided at such aerodromes;

(n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence, or other document required by such order or regulations (including the examinations and tests to be undergone) and as to the form, custody, production, cancellation, suspension, endorsement, and surrender of any such document.

(3) The Governor-General may make orders—

(a) for regulating the design and use of the civil air ensign and any other ensign which may be established for purposes of air navigation; and

(b) for declaring the constitution and powers of any body of persons which may be established for the purpose of advising the Minister on matters appertaining to the design, construction, and maintenance of aircraft.

(4) Any order or regulations made under this section in relation to aircraft may provide for the detention of aircraft to secure compliance with such order or regulations, as the case may be, and may make such further provision as appears to the Governor-General to be necessary or expedient for securing such detention.

(5) Any order or regulations made under this section may, for the purpose of securing compliance with the provisions thereof, provide for the imposition of penalties not exceeding a fine of two hundred pounds or imprisonment for any term not exceeding six months or both such fine and imprisonment.

5. (1) In time of war, whether actual or imminent, or of great national emergency, the Governor-General may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, the navigation of all or any descriptions of aircraft over Ghana or any portion thereof; and may by Order provide for taking possession of and using for the purposes of the naval, military, or air forces of Ghana any aerodrome, or any aircraft, in Ghana, or anything found in or on any such aerodrome or such aircraft, and for regulating or prohibiting the use of any aerodrome or any premises used in connection with aircraft or air navigation.

Control of
Civil Aviation in time
of war or
emergency.

(2) If any person contravenes or fails to comply with any provisions of an order made under this section, he shall be liable on summary conviction to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) Any person who suffers direct injury or loss owing to the operation of an order made under this section, shall be entitled to receive compensation from (the Governor-General) from such public funds of Ghana as he may lawfully apply for the purpose, the amount thereof to be fixed, in default of agreement, by an arbitrator to be

agreed upon or failing agreement to be appointed by the Chief Justice.

Power to prohibit flying over specified areas.

6. (1) The Minister may by order prohibit aircraft from flying over such areas in Ghana as may be specified either in the order or by notice in the *Gazette*.

(2) In any order made under subsection (1) of this section the Minister may include provisions for the taking of such steps as may be specified in the order including, subject to the prior approval of the Governor-General, provisions for firing on aircraft.

(3) If any person contravenes or fails to comply with any provisions of an order made under this section he shall be liable on summary conviction to a fine not exceeding three hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Dangerous flying.

7. Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. In this section the expression "owner" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

Investigation of accidents.

8. (1) The Governor-General may make regulations providing for the investigation of any accident arising out of or in the course of air navigation and either occurring in or over Ghana or occurring elsewhere to aircraft registered in Ghana.

(2) Regulations under this section may contain provisions—

(a) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified;

(b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of any law in force in Ghana relating to the investigation of deaths or accidents;

(c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of the investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft;