

on board the aircraft a certificate of insurance or a certificate of security in respect of the aircraft, being a certificate in such form and issued by such person and containing such particulars as may be appointed by the order.

(2) Where an order is made under the immediately preceding sub-section before the commencement of Chapter II of this Part of this Act, the said Chapter II shall, for the purposes of the said sub-section but not further or otherwise, be deemed to be in force.

(3) Every order made under this section shall have the force of law in Saorstát Éireann.

PART V.

ESTABLISHMENT AND MAINTENANCE OF AERODROMES BY THE MINISTER FOR INDUSTRY AND COMMERCE AND LOCAL AUTHORITIES, AND ACQUISITION OF LAND, ETC., FOR THOSE PURPOSES.

36.—The purposes of this Part of this Act for which land may be acquired by agreement or compulsorily shall include—

Extension of meaning of "the purposes of this Part of this Act".

- (a) the purpose of securing that the land adjacent to an aerodrome which the Minister or a local authority has established or is about to establish shall not be used in such manner as to cause interference with, or danger or damage to, aircraft at, approaching, or leaving the aerodrome; and
- (b) the purposes of securing that trees and buildings on the land adjacent to an aerodrome, which the Minister or a local authority has established or is about to establish, are, with the object of ensuring the safety of aircraft approaching or leaving the aerodrome, demolished.

37.—The Minister may and any local authority may, with the consent of the Minister given after consultation with the Minister for Local Government and Public Health and subject to such conditions as he may impose, establish and maintain aerodromes and provide and maintain in connection therewith roads, bridges, approaches, apparatus, equipment, and buildings and other accommodation.

Power of Minister and local authority to establish and maintain aerodromes.

38.—(1) If the Minister is satisfied, with respect to any aerodrome maintained by a local authority under the immediately preceding section, that it is necessary or expedient that such local authority should be empowered to carry on in connection with such aerodrome any particular business, being a business which appears to him to be ancillary to the carrying on of an aerodrome, but which such local authority would not otherwise have power to carry on, he may by order authorise such local authority, subject to such conditions (if any) as may be specified in such order, to carry on that business in connection with such aerodrome.

Power of local authorities to carry on businesses in connection with aerodromes.

(2) The Minister may by order under this sub-section revoke or amend an order made under this section, including this sub-section.

(3) The Minister shall before making an order under this section consult the Minister for Local Government and Public Health in regard thereto.

39.—(1) Any person (in this section referred to as an authorised officer) authorised in that behalf by the Minister or a local authority may do either or both of the following things, that is to say:—

Right of entry on land by the Minister and local authorities.

(a) enter on any land for the purpose of making thereon any inquiry, investigation, or examination preliminary or incidental to the acquisition of such land for the purposes of this Part of this Act;

(b) enter, for the purposes of making thereon surveys, on any land which adjoins or is in the neighbourhood of land acquired or the acquisition of which is contemplated for the purposes of the said Part.

(2) If any person impedes or obstructs an authorised officer in the exercise of the powers conferred on such authorised officer by this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

40.—The Minister may for the purposes of this Part of this Act acquire by agreement any land.

Acquisition by the Minister of land by agreement.

41.—(1) If and whenever the Minister thinks proper to acquire compulsorily any land or to acquire or use compulsorily any right of impounding, diverting, or abstracting water for the purposes of this Part of this Act, the Minister may, with the consent of the Minister for Finance, by order declare his intention so to acquire such land or so to acquire or use such right, and every such order shall operate to confer on the Minister full power to acquire compulsorily the land or to acquire or use compulsorily the right mentioned therein under and in accordance with this section.

Compulsory acquisition of land, etc., by the Minister.

(2) The Minister shall not make an order under this section in relation to any land covered by water, or which is foreshore, or in relation to any right of impounding, diverting, or abstracting water without previous consultation with the Minister for Agriculture.

(3) Before making an order under this section, the Minister—

(a) shall deposit and keep open for inspection at some suitable place (public notice of which shall be given) such plans, specifications, and other documents as will show fully and clearly the land or right intended to be acquired or used by virtue of the order;

(b) shall give notice, in such manner as he may consider best adapted for informing persons likely to be affected by the order, of his intention to consider the making thereof and of the manner in which representations and objections in respect of the order may be made, and

(c) shall, if he considers it expedient so to do, cause a public inquiry to be held in regard to the making of the order.

(4) An order made under this section may incorporate—

(a) the Acquisition of Land (Assessment of Compensation) Act, 1919, and

(b) the Land Clauses Acts so far as the same are not inconsistent with the said Acquisition of Land (Assessment of Compensation) Act, 1919.

(5) Nothing in this section shall authorise the Minister to acquire, use, or otherwise interfere with compulsorily under this section any land which at the date of the first publication of notice of the intention of the Minister to consider the making of

a special order in that behalf belongs to any railway, electricity, gas, or water undertaker and is used or authorised to be used by such undertaker for the purpose of his undertaking.

(6) The following provisions shall have effect in relation to any public inquiry held under this section:—

- (a) the Minister shall appoint a fit and proper person to hold such inquiry;
- (b) such person is hereby authorised to administer oaths to persons appearing as witnesses at such inquiry;
- (c) any person interested in the subject matter of such inquiry shall be entitled to appear personally or by counsel or solicitor and to adduce evidence.

42.—(1) The Minister may at any time dispose in such manner as he thinks proper of any land acquired by him under this Act which appears to him to be no longer required by him for the performance of his duties or the exercise of his functions under this Part of this Act. Disposal of surplus land by the Minister.

(2) Any moneys received by the Minister in respect of the disposal of land under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

43.—(1) A local authority may, with the consent of the Minister for Local Government and Public Health given after consultation with the Minister, acquire land (either inside or outside the functional area of such local authority) for the purpose of this Part of this Act either by agreement or compulsorily under this Act and the Acts incorporated therewith. Acquisition of land by local authorities.

(2) For the purpose of the acquisition of land by a local authority under this section, sections 203, 210, 212, 213, 214 and 215 of the Public Health (Ireland) Act, 1878, as amended by section 8 of the Public Health (Ireland) Act, 1896, and section 68 of the Local Government Act, 1925 (No. 5 of 1925), shall apply as if those sections as so amended were herein re-enacted and made applicable to such local authority with and subject to the modifications made by this Act in the procedure under the said sections.

(3) A local authority may at any time, with the consent of the Minister for Local Government and Public Health given after consultation with the Minister, sell or let by public auction or private treaty in suitable lots any land acquired by such authority

44.—Where a local authority proposes to acquire (otherwise than by agreement) land for the purposes of this Part of this Act, whether in exercise of a power conferred by a statute other than this Act or of a power expressly conferred by this Act, the advertisements mentioned in sub-section (2) of section 203 of the Public Health (Ireland) Act, 1878, may be published in any month and, in such case, the notices mentioned in the said sub-section shall be served in the month next succeeding the month in which the said advertisements are published.

Modification of procedure for acquisition of land.

45.—(1) Whenever the Minister or a local authority establishes and maintains or is about to establish an aerodrome under this Part of this Act, and such aerodrome is or will be situated by the sea or any navigable inlet thereof, the Minister, after consultation with the Minister for Agriculture may, if it is in his opinion in the public interest so to do, make an order under this section limiting or prohibiting the exercise of any right of navigation and any public or private right of fishing or landing fish or any other public or private right in respect of any part of the sea or any inlet thereof or foreshore in or adjacent to such aerodrome.

Interference with right of navigation and other rights.

(2) Whenever an order made under the next preceding sub-section of this section limits or prohibits the exercise of any private right of fishing or landing fish or any other private right in respect of any part of the sea or any inlet thereof or foreshore, the Minister shall pay compensation to the owner of or other person entitled to exercise such right and such compensation shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

(3) Whenever any order made under this section is for the time being in force any right to which such order relates shall be limited or prohibited in accordance with such order.

46.—The Minister may and any local authority may, with the consent of the Minister, compulsorily divert, close, remove or otherwise interfere with any public road or bridge.

Interference with public roads and bridges.

47.—If and whenever the execution of any works under this Part of this Act involves the diversion, removal, or other interference with any public road or bridge, the following provisions shall have effect, that is to say:—

Protection of
public roads and
bridges.

- (a) where the execution of the works involves the closing of the road or bridge to traffic the Minister or the local authority (as the case may be) shall construct and shall maintain while such road or bridge is so closed to traffic a temporary road or bridge in the same or some other convenient situation sufficient to carry traffic of such quantity and character as normally uses such road or bridge;
- (b) the Minister or the local authority (as the case may be) shall at or before the completion of the works either restore the road or bridge to its former condition or construct, after consultation with the Minister for Local Government and Public Health, a new permanent road or bridge in the same or some other convenient situation sufficient to carry the like amount (in quantity and character) of traffic as the original road or bridge was able to carry and not substantially less convenient in gradient and curve than such original road or bridge;
- (c) where a permanent new bridge is constructed by the Minister or by a local authority outside its own functional area, and such bridge confers substantially greater advantages on the public of the county or other borough, county, or urban district in which it is constructed, than the original bridge, by affording an improved means of communication or otherwise, the Minister shall certify the cost of such new bridge and the Minister for Local Government and Public Health shall certify what part of such cost in his opinion ought reasonably to be borne by the council of such county or other borough, county, or urban district, and thereupon a sum equal to the part so certified of such cost shall be raised by such council as part of the expenses of the maintenance of the road of which such new bridge is part and shall be paid by such council to the Minister or such local authority (as the case may be);

- (d) if any doubt, dispute or question shall arise as to whether the Minister or a local authority in the construction, maintenance or restoration of any temporary or permanent road or bridge pursuant to this section has complied with the provisions of this section, or as to whether a permanent new bridge constructed by the Minister or by a local authority outside its own functional area confers substantially greater advantages on the public of the county or other borough, county, or urban district in which it is constructed than the original bridge, such doubt, dispute or question shall be decided by the Minister for Local Government and Public Health whose decision shall be conclusive and final.

48.—(1) Where a local authority (in this section referred to as an undertaking authority) has established and maintains or proposes to establish and maintain an aerodrome under this Part of this Act, any authority (in this section referred to as a non-undertaking authority) which is another local authority, a conservancy authority, or a harbour authority, may agree with such undertaking authority to make to such undertaking authority, on such conditions as may be agreed upon between the two authorities and subject to the provisions of this section, a contribution towards the expenses incurred by such undertaking authority in or in relation to the establishment and maintenance of such aerodrome.

Contributions by a local authority or conservancy or harbour authority to local authority maintaining an aerodrome and provisions in relation to management of such aerodrome by a joint committee

(2) An agreement under this section in relation to an aerodrome may be made by two or more non-undertaking authorities with an undertaking authority.

(3) An agreement under this section made between one or more non-undertaking authorities and an undertaking authority may incorporate a scheme for the management of the aerodrome to which the agreement relates through and by a committee of such undertaking authority, and in that case such scheme shall, where there is only one non-undertaking authority party to such agreement, provide that a specified number of the members of such committee shall be nominated by that non-undertaking authority or, where there are two or more non-undertaking authorities party to such agreement, provide that a number of such members specified in respect of each non-undertaking authority shall be nominated by such non-undertaking authority, and such scheme may empower such committee to do any act (including the institution of legal proceedings) in relation to the management of such aerodrome which such undertaking authority itself could lawfully do, and may provide for the application of the provisions

of section 58 of the Local Government Act, 1925 (No. 5 of 1925) to such committee as if such committee were a county authority within the meaning of that section, and for the furnishing by such undertaking authority to such committee of the moneys necessary to meet their expenses.

(4) The contribution payable by a non-undertaking authority in pursuance of an agreement made under this section shall be either a fixed annual sum or a fixed proportion of the expenses of maintaining the aerodrome to which the agreement relates or partly one and partly the other and shall be payable in such instalments and at such times as shall be set out in the agreement.

(5) No agreement made under this section shall come into force unless and until it has been sanctioned by the Minister for Local Government and Public Health.

(6) When an agreement made under this section between one or more non-undertaking authorities and an undertaking authority comes into force it shall be binding on and enforceable against each party to such agreement, and each such party and the committee of management (if any) shall have power to do all acts and to make all payments which are provided for in such agreement or in any scheme incorporated therewith.

49.—(1) The council of a county may borrow under Article 22 of the Schedule to the Local Government (Application of Enactments) Order, 1898, for the purpose of defraying any expenses incurred by such council under this Part of this Act in like manner as if such purpose were mentioned in that Article and money borrowed for any such purpose shall not be reckoned as part of the debt of such council for the purposes of any limitation on borrowing imposed by the said Article.

Borrowing
by local
authorities.

(2) Any local authority (other than the council of a county) may borrow under the Public Health Acts, 1878 to 1931, for the purpose of defraying any expenses incurred by such local authority under this Part of this Act as if such purpose were a purpose for which such local authority is authorised to borrow under those Acts, but money borrowed for any such purpose shall not be reckoned as part of the debt of such local authority for the purposes of any limitation on borrowing imposed by those Acts.

(3) Loans may, for the purposes of this section, be made out of the Local Loans Fund to a local authority.

50.—All expenses incurred by a local authority under this Part of this Act shall be defrayed— Expenses of local authorities.

(a) in the case of the council of a county, by means of the poor rate raised equally over the whole of their county (exclusive of any borough or urban district included therein the council of which has made or is making contributions under the said Part in respect of an aerodrome established or about to be established in such county or in a county borough contiguous to such county);

(b) in the case of the councils of the county boroughs of Cork and Waterford, the council of a borough (other than a county borough or the borough of Dun Laoghaire) or the council of an urban district, out of any rate or fund applicable for the purposes of the Public Health (Ireland) Acts, 1878 to 1931, in like manner as if they had been incurred for the purposes of those Acts.

51.—All expenses incurred by a conservancy authority or a harbour authority under this Part of this Act shall be defrayed by such authority in the like manner in which other expenses of such authority are defrayed. Expenses of conservancy and harbour authorities.

52.—Any local authority may, subject to the provisions of any enactment relating to the appointment of officers by such local authority, appoint such and so many officers as it shall think requisite for the execution of the powers conferred on it by this Part of this Act, and every officer so appointed shall be paid such remuneration as such local authority shall, with the consent of the Minister for Local Government and Public Health, determine. Appointment of officers by local authorities.

53.—(1) Nothing in this Act shall be construed as prohibiting the granting, under any Act passed (whether before or after the passing of this Act) by the Oireachtas, of a lease or licence, in respect of any land which is State land and to which such Act applies, to the Minister or a local authority or the acceptance of such lease or licence by the Minister or a local authority. Provisions in relation to land belonging to the State.

(2) The Minister may for the purposes of this Part of this Act by order enclose any State land in respect of which he is authorised by law to grant leases and licences and any such State land may be used by the Minister for any purpose for which land acquired by him under this Part of this Act may be used.

(3) In this section the expression "State land" means land which for the time being belongs to Saorstát Éireann either by virtue of Article 11 of the Constitution or by any other means (present or future) whatsoever.

54.—Nothing in this Act shall deprive the Minister for Posts and Telegraphs of any rights and remedies under the Telegraph Acts, 1863 to 1928, or any statutory adaptation thereof or substitution therefor made by or under the authority of the Oireachtas.

Saving of rights, etc., of Minister for Posts and Telegraphs.

PART VI.

TRESPASS AND NUISANCE BY AIRCRAFT, AND DANGEROUS FLYING.

55.—No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of aircraft over any property at a height above the ground, which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of the flight, so long as the provisions of Part II of this Act and any order made under the said Part II and any regulations made by virtue of any such order are duly complied with.

Restrictions on actions for damages in respect of trespass or nuisance by aircraft.

56.—(1) 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 such aircraft and also (if such pilot or person in charge is not the owner of such aircraft) such owner shall each be severally guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two hundred pounds or, at the discretion of the Court, either to imprisonment for any term not exceeding six months or to both such fine and imprisonment.

Penalty for dangerous flying.

(2) In this section the word "owner" in relation to an aircraft includes any person to whom the aircraft is hired at the time of the offence.

(3) Where a person charged with an offence under this section is the owner and is not the pilot or in charge of the aircraft in respect of which such offence is alleged to have been committed, it shall be a good defence for such person to prove that on the occasion on which such offence is alleged to have been committed such aircraft was being flown without his actual fault or privity.

(4) The provisions of this section shall be in addition to and not in derogation of any order made under Part II of this Act or any regulations made by virtue of any such order.

PART VII.

ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS.

57.—(1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in, on, or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel; and where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel. Wreck and salvage.

The preceding provisions of this sub-section shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters of Saorstát Eireann.

(2) The Executive Council may by order direct that any provisions of any Act for the time being in force which relate to wreck, to salvage of life or property, or to the duty of rendering assistance to vessels in distress shall, with such exceptions, adaptations, and modifications, if any, as may be specified in the order, apply in relation to aircraft as those provisions apply in relation to vessels and any such order shall have the force of law in Saorstát Eireann.

(3) For the purposes of this section, any provisions of an Act which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck, and the expression "Act" shall be deemed to include any local or special Act and any provisions of the Harbours, Docks, and Piers Clauses Act, 1847, as incorporated with any local or special Act, whenever passed.

(4) Any order, made by virtue of section 11 of the Air Navigation Act, 1920, and in force in Saorstát Eireann immediately before the date of the passing of this Act shall be deemed to be made under

this section and may accordingly be amended or revoked by an order made under this section and until so revoked and subject to any such amendment shall continue in force.

58.—(1) The power conferred by sub-section (1) of section 418 of the Merchant Shipping Act, 1894, to make regulations for the prevention of collisions at sea shall include power to make regulations for the prevention of collisions at sea—

Application to seaplanes of certain provisions of the Merchant Shipping Acts, relating to collisions at sea and signals of distress.

(a) between seaplanes on the surface of the water, and

(b) between vessels and seaplanes on the surface of the water;

and accordingly the said section 418, and sections 419, 421 and 424 of the said Act, as amended by any subsequent enactment, shall apply in relation to seaplanes on the surface of the water as they apply in relation to ships or vessels, subject however to the following modifications, that is to say:—

- (i) for the purpose of sub-section (2) of the said section 418, and for the purposes of the said section 424, sections 418, 419, 421, and 424 of the said Act shall be deemed to be the only provisions of Part V of the said Act relating to collision regulations or otherwise relating to collisions, and
- (ii) any references in the said section 419 to the master or to the person in charge of the deck shall be construed as references to the pilot or other person on duty in charge of the seaplane.

(2) The power conferred by sub-section (1) of section 25 of the Merchant Shipping (Safety and Load Lines Conventions) Act, 1933 (No. 42 of 1933), to prescribe what signals shall be signals of distress and urgency shall include power to prescribe what signals shall be signals of distress and urgency in the case of seaplanes on the surface of the water; and accordingly the said section 25 shall apply in relation to seaplanes on the surface of the water as it applies in relation to ships or vessels, subject however to the modification that the reference in sub-section (3) of the said section 25 to the master shall be construed as a reference to the pilot or other person on duty in charge of the seaplane.

(3) In this section the word “vessels” has the same meaning as in the Merchant Shipping Act, 1894.

(4) For the purposes of this and the next following section seaplanes taking off from, or alighting on, the water shall be deemed to be on the surface of the water while in contact therewith.

59.—(1) Any enactment which confers or imposes on a conservancy authority or a harbour authority any power or duty to make bye-laws for the regulation of ships or vessels shall be construed and have effect as if the power or duty so conferred or imposed included a power or duty to make bye-laws for the regulation of seaplanes when on the surface of the water, and also a power to include in the bye-laws provisions authorising the harbour master or other officer of the authority to exercise, as respects seaplanes on the surface of the water, all or any of the functions which he is authorised by such enactment to exercise as respects ships or vessels, subject however to this restriction, namely, that such bye-laws shall not in any circumstances require, or authorise a harbour master or other officer to require, the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

Power of conservancy and harbour authorities to make bye-laws for regulation of seaplanes when on the surface of the water.

(2) Where any enactment, whether by virtue of the immediately preceding sub-section or otherwise, confers or imposes on a conservancy authority or a harbour authority a power or duty to make bye-laws for the regulation of seaplanes when on the surface of the water, or to include in the bye-laws any such provisions as are mentioned in the said sub-section, the following provisions shall have effect, that is to say :—

- (a) in case such enactment does not provide that the bye-laws shall not come into force unless they have been confirmed or approved by some Minister and does not provide that the bye-laws shall be allowed or approved by a court or judge, any such bye-laws made after the date of the passing of this Act in relation to seaplanes shall not come into force unless and until they have been confirmed by the Minister;
- (b) in case such enactment provides that the bye-laws shall not come into force unless they have been allowed or approved by a court or judge, the conservancy authority or harbour authority shall, before making application to that court or judge for the allowance of the bye-laws, forward a copy thereof to the Minister, and the court or judge shall, before allowing or approving the bye-laws, take into consideration any representations made with respect thereto by or on behalf of the Minister.

(3) In this section—

the expression “enactment” includes any provisional order for the time being in force (whether or not it has been confirmed by an Act);

the word “bye-laws” includes rules and regulations.

60.—(1) The Minister may by order make regulations providing for the investigation of any accident arising out of or in the course of air navigation and occurring in or over Saorstát Éireann or to Saorstát Éireann aircraft elsewhere. Investigation of accidents.

(2) Without prejudice to the generality of the provisions of the immediately preceding sub-section, regulations under this section may contain provisions—

- (a) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified in the regulations;
- (b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of section 3 of the Notice of Accidents Act, 1894;
- (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft;
- (d) authorising or requiring the cancellation, suspension, endorsement, or surrender of any licence or certificate granted under this Act or any order made thereunder, where it appears on an investigation that the licence ought to be cancelled, suspended, endorsed, or surrendered, and for the production of any such licence for the purpose of being so dealt with.

(3) Nothing in this section shall limit the powers of any authority under sections 530 to 537, inclusive, of the Merchant Shipping Act, 1894, or any enactment (including this Act) amending those sections.

(4) If any person acts in contravention (whether by omission or commission) of any regulations under this section, he shall be

guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the court, imprisonment for a term not exceeding three months.

(5) Any regulations made by the Minister under section 12 of the Air Navigation Act, 1920, and in force immediately before the date of the passing of this Act, shall be deemed to be made under this section and may be amended or revoked by regulations made under this section, and until so revoked and subject to any such amendment shall continue in force.

61.—(1) Where it is alleged by any person interested that a foreign aircraft making a passage through or over Saorstát Éireann infringes in itself or in any part of it any invention, design or model which is entitled to protection in Saorstát Éireann, it shall be lawful, subject to and in accordance with Rules of Court, to detain such aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this section called the deposited sum), and thereupon the aircraft shall not, during the continuance or in the course of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, in respect or on account of the alleged infringement. Infringement of patents.

(2) The deposited sum shall be such a sum as may be agreed between the parties interested, or in default of agreement shall be fixed by the Minister or some person duly authorised on his behalf, and payment thereof shall be made or secured to him in such manner as he shall approve, and the deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be appointed by Rules of Court, and such rules may provide generally for carrying this section into effect.

(3) In this section—

the word "owner" shall include the actual owner of an aircraft, and any person claiming through or under him;

the word "passage" shall include all reasonable landings and stoppages in the course of a passage.

62.—(1) Any offence under this Act or under an order or regulations made thereunder, and any offence whatever committed on a Saorstát Éireann aircraft, shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be. Jurisdiction.

(2) The Minister for Justice may by order make provision as to the courts in which proceedings may be taken for enforcing any claim under this Act, or any other claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

(3) The Minister for Justice may by order under this sub-section revoke or amend any order made by him under this section including an order under this sub-section.

(4) The Minister for Justice shall before making any order under this section consult with the Chief Justice in regard thereto.

(5) Any order made under sub-section (2) of section 14 of the Air Navigation Act, 1920, and in force in Saorstát Eireann immediately before the date of the passing of this Act shall be deemed to be made under this section and may accordingly be revoked or amended by an order under this section, and until so revoked and subject to any such amendment shall continue in force.

63.—The Executive Council may by order provide for the detention of aircraft to secure compliance with any of the provisions of this Act or any order or regulation made under or by virtue of this Act, or to prevent aircraft from flying when unfit to fly and every such order shall have the force of law in Saorstát Eireann. Detention of aircraft.

64.—(1) Where under this Act an aircraft is to be or may be detained, any authorised person may detain such aircraft. Enforcing detention of aircraft.

(2) If an aircraft, after detention or after service on the pilot of any notice or order for detention, takes off or attempts to take off before it is released by competent authority, the following provisions shall have effect, that is to say:—

(a) the pilot and also the owner and any person who causes the aircraft to take off, or to attempt to take off shall each severally be guilty of an offence under this section;

(b) if such aircraft when so taking off has on board in the execution of his duty an authorised officer, the owner and pilot of such aircraft shall each severally be guilty of an offence under this section, and shall, if

guilty of such offence, also be liable to pay to the Minister all expenses of and incidental to such officer being so taken on such aircraft.

(3) Where a person charged with an offence under this section is not the pilot of the aircraft in respect of which such offence is alleged to have been committed, it shall be a good defence for such person to prove that on the occasion on which such offence is alleged to have been committed he was not a party nor privy to the taking off or attempted taking off of such aircraft.

(4) Any expenses payable to the Minister under sub-section (2) may be recovered by the Minister as a simple contract debt in a court of competent jurisdiction.

(5) Every person guilty of an offence under this section shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds.

(6) Each of the following shall be an authorised officer for the purposes of this section, that is to say:—

- (a) a commissioned officer of the Defence Forces of Saorstát Éireann;
- (b) an officer of the Minister;
- (c) an officer of customs and excise;
- (d) any person authorised by the Minister in that behalf.

65.—(1) Where under this Act or any order or regulation made thereunder an aircraft is to be detained, an officer of customs and excise shall, and where under this Act an aircraft may be detained, an officer of customs and excise may refuse to clear that aircraft outwards or to grant a transire to such aircraft.

Other provisions
in relation to
detained aircraft.

(2) Where any provision of this Act or any order or regulation made thereunder provides that an aircraft may be detained until any document is produced to the proper officer of customs and excise, the proper officer shall mean, unless the context otherwise requires, the officer able to grant a clearance or transire to such aircraft.

66.—(1) The Minister may by order make regulations in relation to all or any of the following matters, that is to say:—

Information as to
air transport
undertakings and
use of customs
aerodromes.

- (a) subject to the provisions of sub-section (1) of this section, for requiring any person—

(i) who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in such regulations, or

(ii) who is the holder of a licence in respect of a customs aerodrome,

to furnish to such authorities as may be specified in such regulations such information relating to the use of aircraft for the purposes of his said business and to the persons employed in connection with that use or, as the case may be, relating to the use of the aerodrome and to the persons employed in aircraft arriving thereat or departing therefrom as may be prescribed by such regulations;

(b) for requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any customs aerodrome to furnish to the holder of the licence in respect of that aerodrome such information as may be necessary to enable the holder of the said licence to comply with such provisions of such regulations as relate to him;

(c) for prescribing the times at which, and the form and manner in which any information required under such regulations is to be furnished.

(2) A person carrying on any such business as is mentioned in clause (i) of paragraph (a) of the immediately preceding subsection shall not be required by regulations made under this section to furnish information relating to the use of aircraft on journeys wholly outside Saorstát Éireann or relating to persons exclusively employed outside Saorstát Éireann unless the person carrying on the business is—

(i) a citizen of Saorstát Éireann resident in Saorstát Éireann, or

(ii) a person who is exempted from the application of the Aliens Act, 1935 (No. 14 of 1935), by virtue of an order made under section 10 of the said Act, and is resident in Saorstát Éireann, or

(iii) a body corporate incorporated under the law of Saorstát Éireann.

(3) If any person contravenes (whether by omission or commission) any regulation made under this section, such person shall be guilty of an offence under this section and shall be liable on

summary conviction thereof to a fine not exceeding twenty pounds and in the case of a continuing offence a further fine not exceeding five pounds for each day during which the offence is continued.

(4) In this section the expression "customs aerodrome" means an aerodrome for the time being approved, in pursuance of an order made under Part II of this Act and for the time being in force, as a place of landing and departure of aircraft for the purposes of the enactments relating to customs.

67.—Section 2 of the Conveyance of Mails Act, 1893, shall apply to every service by air for the public carriage of passengers and goods carried on by any person, subject to the following modifications, that is to say:—

Conveyance
of mails.

- (a) references to a tramway company shall be construed as references to any such person,
- (b) references to a tramway shall be construed as references to any such service,
- (c) references to carriage shall be construed as references to aircraft,
- (d) the references in the said section 2 to the Railway and Canal Commission shall be construed as references to the Railway Tribunal.

PART VIII.

THE COMPANY, SUBSIDIARY COMPANIES AND AER LINGUS, TEORANTA.

68.—As soon as may be after the passing of this Act the Minister for Finance shall, after consultation with the Minister, take all such steps as appear to him to be necessary or desirable to procure that a limited company (in this Act referred to as the Company) conforming to the conditions laid down in the Second Schedule to this Act shall be formed and registered in Saorstát Éireann under the Companies Acts, 1908 to 1924.

Formation and
registration of
the Company.

69.—(1) The Minister for Finance may out of moneys provided by the Oireachtas lend to the Company upon such terms and conditions as to time and manner of repayment, rate of interest, security and other matters whatsoever as he shall think proper, a sum not exceeding five thousand pounds.

Loan to Company
to pay expenses
of formation.

(2) Any moneys lent to the Company under this section shall be applied by the Company in or towards paying the expenses of

the promotion, formation and registration of the Company and the other preliminary expenses of the Company, and for no other purposes.

(3) All sums paid to the Minister for Finance by the Company in or towards repayment of any moneys lent to the Company under this section or in payment of the interest on such moneys shall be paid into the Exchequer.

70.—No issue of the share capital of the Company (other than share capital issued to subscribers of the Memorandum of Association of the Company) shall be made at any time, unless the Minister for Finance, after consultation with the Minister, has authorised such issue.

Issue of share capital of the Company.

71.—The Minister for Finance may from time to time take up by subscription any class or classes of shares of the Company, but the total amount of shares so taken up shall not exceed (in nominal value) the sum of one million pounds.

Acquisition of shares by Minister for Finance by subscription.

72.—The Minister for Finance may, subject to such conditions as he may think fit, agree with the Company that, if any shares in the Company about to be offered at any time for subscription are not within a specified time taken up by the public, he will take up and pay for such shares or some specified proportion thereof.

Underwriting by the Minister for Finance of issue of shares.

73.—The Minister for Finance may, so long as he holds any of the shares of the Company, exercise all or any of the rights and powers from time to time exercisable by the holder of such shares, and where such rights or powers are exercisable by attorney the said Minister may, if he so thinks proper, exercise such rights or powers by his attorney.

Powers of the Minister for Finance as shareholder.

74.—(1) The Minister for Finance may hold for as long as he thinks fit any shares of the Company acquired by him under this Act and may as and when he thinks fit sell all or any of such shares.

Powers of Minister for Finance in respect of shares held by him.

(2) The net proceeds of every sale by the Minister for Finance of shares of the Company held by him shall be paid into or disposed of for the benefit of the Exchequer in such manner as he may direct.

75.—Whenever the Company proposes to issue any debentures the Minister for Finance may, if he thinks fit, guarantee, in such form and manner as he may think proper, the due payment by the Company in accordance with the terms of such debentures of the principal moneys and interest secured by such debentures.

State guarantee
of debentures of
the Company.

76.—(1) All moneys from time to time required by the Minister for Finance—

Advance of
moneys out of
the Central
Fund.

(a) to meet payments required to be made by him to the Company in respect of any shares subscribed for or taken up by him under this Act, or

(b) to meet sums which become payable under any guarantee given by him under this Act in respect of moneys secured by debentures issued by the Company,

shall be advanced out of the Central Fund or the growing produce thereof.

(2) For the purpose of providing money for the sums advanced out of the Central Fund under this section, the Minister for Finance may borrow from any person any sum or sums, and for the purpose of such borrowing the said Minister may create and issue securities bearing such rate of interest, and subject to such conditions as to repayment, redemption or otherwise as he shall think fit.

(3) The principal and interest of any securities issued under this section and the expenses incurred in connection with the issue of such securities shall be charged on the Central Fund or the growing produce thereof.

(4) Any money raised by securities issued under this section shall be placed to the credit of the account of the Exchequer and shall form part of the Central Fund and be available in any manner in which such Fund is available.

(5) Any moneys advanced out of the Central Fund or the growing produce thereof for the purposes mentioned in paragraph (b) of sub-section (1) of this section shall be repaid to the Central Fund (with interest thereon at such rates as the Minister for Finance shall appoint) by the Company in such amounts and at such times as the said Minister shall appoint, and if and so far as any such moneys are not repaid by the Company to the Central Fund, such sums shall be repaid to the Central Fund out of moneys provided by the Oireachtas.

77.—All dividends, bonus and other moneys received by the Minister for Finance in respect of shares of the company held by him shall be paid into the Exchequer.

Payments of dividends, etc., into the Exchequer.

78.—Notwithstanding anything contained in the Companies Acts, 1908 to 1924, no alteration in the Memorandum of Association or Articles of Association of the Company shall, so long as the Minister for Finance holds any shares of the Company, be valid or effectual unless made with the previous approval of the Minister for Finance given after consultation with the Minister.

Alteration of Memorandum and Articles of Association of the Company.

79.—(1) The Minister for Finance may, subject to the provisions of this section, from time to time by order authorise the payment of subsidies to the company on such terms and conditions as may be specified in such order.

Subsidies.

(2) Every order made under this section shall be laid before Dáil Eireann as soon as may be after it is made, but shall not come into force unless—

(a) such order is confirmed by resolution of Dáil Eireann, or

(b) a period of twenty-one days on which Dáil Eireann has sat after such order was so laid before it has elapsed and a resolution annulling such order has not been passed by Dáil Eireann within the said period.

(3) The aggregate amount which may be authorised to be paid to the Company by any orders made under this section shall not exceed five hundred thousand pounds, and no such order may be made after the expiration of five years from the date of the passing of this Act.

(4) Where an order made under this section has come into force any moneys required for payment of the subsidy specified in such order shall be paid out of moneys provided by the Oireachtas.

80.—(1) As soon as may be after the registration of the Company, the Company may, with the consent of the Minister for Finance, lend to Aer Lingus, Teoranta, such sum as the Minister for Finance shall certify to be sufficient to discharge any liabilities which Aer Lingus, Teoranta, may have incurred and are then unsatisfied.

Loan by the Company to Aer Lingus, Teoranta.

(2) The following provisions shall have effect in relation to the repayment of any sum lent by the Company to Aer Lingus, Teoranta, under this section, that is to say :—

- (a) such sum shall be so repaid in such one of the following ways as the Minister for Finance may direct, that is to say:—
 - (i) by the issue of debentures of an amount equal to such sum,
 - (ii) by the issue of shares of a nominal amount equal to such sum,
 - (iii) as to part of such sum, by the issue of debentures of an amount equal to such part and, as to the remainder of such sum, by the issue of shares of a nominal amount equal to such remainder;
- (b) where any debentures are so issuable such debentures shall carry such rate of interest as the said Minister shall direct, and
- (c) where any shares are so issuable such shares or any part thereof may as the said Minister directs be shares having priority over ordinary shares and in such case shall carry such rate of dividend as the said Minister shall direct.

81.—(1) Each company to which this section applies shall within ninety days after the end of every accounting year furnish to the Minister for Finance a balance sheet for such accounting year duly audited by the auditor of such company, and also a profit and loss account for the same accounting year similarly audited.

Obligation to furnish balance sheets, etc., to the Minister for Finance.

(2) The balance sheet and profit and loss account to be furnished by each company to which this section applies shall be drawn up in such manner as shall be prescribed by regulations made under this section, and such balance sheet shall contain (in addition to any matter required by such regulations) a summary of the capital, assets and liabilities of such company, together with such particulars as will disclose the nature of such assets and liabilities and the manner in which the value of the assets was arrived at.

(3) Each company to which this section applies shall on demand furnish to the Minister for Finance such explanations as the said Minister shall think proper to require in respect of any balance sheet or profit and loss account furnished pursuant to this section.

(4) A copy of every balance sheet and profit and loss account furnished to the Minister for Finance pursuant to this section

shall be laid by him before Dáil Eireann within one month after such balance sheet and profit and loss account are so furnished to him.

(5) Each company to which this section applies shall whenever and so often as the Minister for Finance may require furnish to the said Minister such particulars as he may require in respect of the activities of such company.

(6) The Company shall whenever and so often as the Minister for Finance may require, furnish to the said Minister such particulars (being particulars within the power, possession or procurement of the Company) as he may require in relation to any undertaking (other than Aer Lingus, Teoranta, or a subsidiary company) in which it may hold an interest.

(7) If the Company, or Aer Lingus, Teoranta, or any subsidiary company makes default in complying with the obligations imposed on it by this section, the Company, or Aer Lingus, Teoranta, or such subsidiary company (as the case may be), and every director, manager or other officer thereof who knowingly and wilfully authorised or permitted such default, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds for every day during which the default continues.

(8) The Minister for Finance may by order make regulations prescribing any matter referred to in this section as prescribed by regulations made under this section.

(9) This section applies to—

- (a) the Company;
- (b) Aer Lingus, Teoranta;
- (c) every subsidiary company.

(10) An offence under this or the next following section may be prosecuted by or at the suit of the Minister for Finance as prosecutor.

82.—(1) An inspector shall be entitled to enter the premises of any company to which this section applies and inspect any books or documents in such premises.

Inspection of books and documents of the Company, Aer Lingus, Teoranta, and subsidiary companies.

(2) If any person—

- (a) impedes or obstructs an inspector in the exercise of any of the powers conferred on an inspector by this section; or
- (b) fails to produce any such books or documents as aforesaid;

such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

(3) In this section the word "inspector" means a person authorised in writing by the Minister for Finance to exercise the powers conferred on an inspector by this section.

(4) This section applies to—

- (a) the Company;
- (b) Aer Lingus, Teoranta;
- (c) every subsidiary company.

83.—The Control of Manufactures Acts, 1932 and 1934, shall not apply in respect of any act or thing done by the Company, Aer Lingus, Teoranta, or any subsidiary company.

Non-application of Control of Manufactures Acts, 1932 and 1934.

PART IX.

RESTRICTION ON SERVICES FOR INTERNAL CARRIAGE BY AIR OF PASSENGERS AND GOODS.

84.—(1) It shall not be lawful for any person to carry on an internal air service unless—

Restriction on carriage by air of passengers and goods between places within Saorstát Éireann.

- (a) such person is the Company, or Aer Lingus, Teoranta, or a subsidiary company, or
- (b) such person is granted by the Minister under this section permission to carry on such service, and such service is carried on under and in accordance with such permission.

(2) If any person acts in contravention of this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds and in the case of a continuing offence a further fine not exceeding ten pounds for each day during which the offence is continued.

(3) The Minister may, if he thinks fit, grant to a person who is for the time being authorised to establish an international service permission in writing to carry on an internal air service, subject to a condition that such internal service shall be carried on only by means of aircraft operating such international service and such other conditions as the Minister thinks proper.

(4) In this section the expression "internal air service" means a service by air for the public carriage of passengers, and goods or any of them originating at and destined for places within Saorstát Éireann.

PART X.

CONTROL AND REGULATION OF CERTAIN CLASSES OF AVIATION BUSINESS.

85.—(1) In this Part of this Act—

the expression “aviation (private hire) business” means the business of hiring out for reward aircraft, for the purpose of the carriage of passengers or goods, under a contract whereby the aircraft is chartered as a whole for a particular journey or journeys, as specified in the journey log book of such aircraft, irrespective of the number of passengers or the quantity of goods to be carried;

the expression “aviation (pleasure flights) business” means the business of giving for reward pleasure flights in aircraft beginning and ending, without landing in the course of the flight, at the same aerodrome;

the expression “aviation (instruction) business” means the business of giving for reward instruction in aviation.

(2) For the purposes of this Act an aviation (private hire) business, an aviation (pleasure flights) business, and an aviation (instruction) business shall each constitute a separate class of aviation business.

Definitions for purposes of Part X.

86.—(1) The Minister may by order appoint a day to be the appointed day for the purposes of this Part of this Act.

The appointed day for the purposes of Part X.

(2) In this Part of this Act the expression “the appointed day” means the day appointed by the Minister under this section to be the appointed day for the purposes of this Part of this Act.

87.—(1) On and after the appointed day it shall not be lawful for any person, in the course of an aviation (private hire) business carried on by him, to carry by any aircraft in Saorstát Éireann any passenger or goods, unless—

Prohibition of carrying on aviation business of a class to which Part X applies by unlicensed persons.

(a) such person is the holder of a licence (in this Part of this Act referred to as an aviation business licence) granted under this Part of this Act, authorising him to carry on such business, or

(b) such aircraft—

(i) started its journey from a place outside Saorstát Éireann, and

(ii) was privately chartered as a whole, and

- (iii) does not, while in Saorstát Éireann, carry for reward any passengers, other than some or all of the passengers it carried on its first landing in Saorstát Éireann.

(2) On and after the appointed day it shall not be lawful for any person, in the course of an aviation (pleasure flights) business carried on by him, to carry by air in Saorstát Éireann any passenger unless such person is the holder of a licence (in this Part of this Act also referred to as an aviation business licence) granted under this Part of this Act authorising him to carry on such business.

(3) On and after the appointed day it shall not be lawful for any person, in the course of an aviation (instruction) business carried on by him, to carry by air in Saorstát Éireann any other person, unless such first-mentioned person is the holder of a licence (in this Part of this Act also referred to as an aviation business licence) granted under this Part of this Act authorising him to carry on such business.

(4) Every person who acts in contravention of this section shall be guilty of an offence under this section, and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds, and in the case of a continuing offence, a further fine not exceeding ten pounds for every day during which the offence is continued.

(5) A certificate purporting to be signed by an officer of the Minister and to certify that on a specified day or days or during the whole of a specified period a specified person was not the holder of an aviation business licence in respect of a specified class of aviation business shall, without proof of the signature of the person purporting to sign such certificate or that he was an officer of the Minister, be evidence until the contrary is proved of such of the matters aforesaid as are purported to be certified in and by such certificate.

88.—(1) Any person may apply to the Minister for an aviation business licence authorising him to carry on a specified class of aviation business. Application for aviation business licences.

(2) Every application for an aviation business licence shall be in the prescribed form and contain the prescribed particulars.

89.—Whenever any person applies to the Minister under and in accordance with the immediately preceding section for an aviation business licence in respect of a particular class of aviation business the following provisions shall have effect, that is to say :—

- (a) in case such person satisfies the Minister that he was on the 1st day of January, 1936, carrying on in Saorstát Eireann a business of a class similar to that in respect of which such application relates, the Minister shall grant such licence to such person, and
- (b) in every other case, the Minister may, in his absolute discretion either grant or refuse to grant such licence.

90.—Every aviation business licence in respect of a particular class of aviation business shall be expressed and operate to authorise the person who is for the time being the licensee under such licence to carry on the aviation business of that class, but subject to the provisions of this Act and any orders or regulations made thereunder, and to the conditions (if any) attached to such licence.

91.—(1) Whenever the Minister grants an aviation business licence, he may attach to such licence any conditions that he may think proper, and in particular, and without prejudice to the generality of the foregoing power, conditions as to all or any of the following matters, that is to say :—

- (a) the limitation of the area in relation to which the class of business to which such licence relates is to be carried on,
- (b) wages and conditions of employment of the employees of such business, and
- (c) the employment of citizens of Saorstát Eireann and the use of Saorstát Eireann manufactures in connection with such business.

(2) Whenever the Minister attaches any conditions to an aviation business licence he shall specify such conditions in such licence.

92.—(1) The Minister may, if he so thinks fit, on the application of the holder of an aviation business licence, amend (whether by addition, omission or variation) the conditions attached to such licence.

(2) The Minister may on his own motion amend (whether by addition, omission or variation) in such manner as he thinks fit the conditions attached to an aviation business licence.

(3) Whenever the Minister proposes to amend, in exercise of the power conferred on him by the immediately preceding sub-section, the conditions attached to an aviation business licence, he shall cause a notice to be served by post on the licensee under such licence specifying the amended conditions which are to attach to such licence and upon service of such notice the said amended conditions shall attach to such licence.

93.—If any person who is the licensee under an aviation business licence fails, neglects, or refuses to observe or comply with any of the conditions attached to such licence, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds and in the case of a continuing offence a further fine not exceeding five pounds for every day during which the offence is continued.

Breach of conditions attached to aviation business licence.

94.—(1) Every aviation business licence shall specify the date on which it commences and every such licence shall commence on the date so specified.

Commencement and duration of aviation business licence.

(2) Every aviation business licence shall (unless it previously lapses or is revoked under this Part of this Act) continue in force for a period of twelve months from the date on which it commenced and shall then expire unless it is renewed under this Part of this Act.

95.—(1) Every person who is the licensee under an aviation business licence which is in force (whether by virtue of the original grant or of a renewal of such licence) may, within the prescribed time and while such licence continues so in force, apply to the Minister for a renewal of such licence.

Application for renewal of aviation business licence.

(2) Every application for the renewal of an aviation business licence shall be made in the prescribed form and shall contain the prescribed particulars.

96.—(1) The Minister may refuse an application for a renewal of an aviation business licence on one or more of the following grounds, but on no other ground, that is to say:—

Grant of renewal of aviation business licence.

(a) on the ground that in his opinion there was, during the currency of the licence or of the last renewal thereof, a breach of or a failure to observe or comply with one or more of the conditions attached to such licence;

(b) on the ground that in his opinion there was, during such currency, a breach of or a failure to observe or comply with the provisions of this Act or of any orders or regulations made thereunder;

(c) on the ground that the licensee under such licence has, during such currency, been convicted of an offence (whether under this or any other Act) in relation to the aviation business to which such licence relates or to the aircraft used therein.

(2) Whenever the Minister grants a renewal of an aviation business licence, the Minister may amend (whether by addition, omission or variation) in such manner as he thinks proper the conditions attached to such licence.

97.—Every renewal of an aviation business licence shall commence immediately upon the expiration of the licence or of the renewal of the licence (as the case may be) of which it is a renewal and shall (unless it previously lapses or is revoked under this Act) continue in force for a period of twelve months from the date on which it commenced.

Duration of renewal of aviation business licence.

98.—(1) The Minister may at any time revoke an aviation business licence upon the application of the licensee thereunder.

Revocation of aviation business licence.

(2) The Minister may at any time on his own motion and at his absolute discretion revoke or suspend for such time as he shall think proper an aviation business licence on any ground on which he is authorised by this Part of this Act to refuse an application for the renewal of such licence.

(3) The Minister may at any time on his own motion and at his absolute discretion revoke an aviation business licence if he is satisfied that such licence was obtained by fraud or misrepresentation.

99.—(1) An aviation business licence shall not be transferable by the licensee thereunder or by operation of law to any other person. Transfer of aviation business licence.

(2) Whenever the ownership of an aviation business has been transferred, whether by act of the parties or operation of law, from the licensee under the aviation business licence relating to such business to another person, the Minister, if he so thinks proper, may, on the application of such person, transfer such licence to such person.

(3) Every application for the transfer of an aviation business licence under this section shall be made in the prescribed form and contain the prescribed particulars.

(4) Where an aviation business licence is transferred under this section such licence shall be deemed to have been transferred as on the date on which the business to which such licence relates was transferred.

100.—Whenever the licensee under an aviation business licence dies, the following provisions shall have effect, that is to say :— Death of licensee under aviation business licence.

(a) the aviation business to which such licence relates may be carried on under such licence until the happening of whichever of the following events first happens, that is to say, the grant of probate of the will or letters of administration of the personal estate of the licensee, or the expiration of such licence, or the expiration of three months from the death of such licensee;

(b) the said aviation business may, while such licence is in force, be carried on by the personal representative of such licensee until the expiration of six months from the death of such licensee or the expiration of such licence, whichever first happens;

(c) the personal representative of such licensee may apply to the Minister for a renewal or a transfer (as the circumstances may require) of such licence to himself and upon such application being made the following provisions shall have effect, that is to say :—

(i) if such application is for a renewal, the Minister may refuse such application but only on a ground upon which he would be authorised by this Act to refuse the application if such licensee had survived and had himself made the application;

(ii) if such application is for a transfer, the Minister shall grant such application.

101.—(1) Every person who applies under this Part of this Act for a grant, renewal or transfer of an aviation business licence shall, when required by the Minister so to do, furnish to the Minister all such information as the Minister may require for the consideration of such application.

Furnishing of information and verification by applicants for grant, renewal and transfer of aviation business licences.

(2) The Minister may require any statement of fact made in an application for the grant, renewal or transfer of an aviation business licence or made to the Minister in response to a request for information under the next preceding sub-section to be verified by the statutory declaration of some person having personal knowledge of the fact so stated.

(3) If any person fails to furnish any information or any verification which he is required by the Minister under this section to furnish, the Minister may, on the ground of such failure and without prejudice to any other power of refusal conferred on him by this Part of this Act, refuse the application in relation to which such information or verification is so required.

102.—(1) There shall be paid to the Minister on every application under this Part of this Act for the grant, renewal, or transfer of an aviation business licence a fee of such amount as may be from time to time fixed by the Minister, with the consent of the Minister for Finance, and the payment of such fee (which shall be retained whether the application is or is not granted) shall be a condition precedent to the consideration of such application.

Fees on grant, etc., of aviation business licence.

(2) Different fees may be fixed in respect of grants, renewals and transfers respectively of aviation business licences and in respect of aviation business licences authorising the carrying on of different classes of aviation businesses.

103.—(1) The Minister may, by regulation made by him under this Act, prescribe the accounts to be kept by every person carrying on an aviation business under an aviation business licence and also the statements of accounts, returns of traffic, and other returns to be furnished periodically by every such person to the Minister and the times and occasions at which such returns are to be so furnished.

Accounts and returns by licensees under aviation business licences.

(2) The Minister may, by the conditions attached to an aviation business licence, require the licensee under such licence to keep accounts or make returns differing (whether by addition, omission, or variation) from the accounts or returns prescribed by regulations made under this Part of this Act, and where any such condition is attached to an aviation business licence, the said regulations shall have effect in respect of the licensee under such licence subject to such condition.

(3) The Minister may publish, as and when he thinks proper, all or any returns made to him under this section and also statistics compiled by him from such returns.

(4) Every person who shall fail to keep the accounts or make the returns which he is required by regulations made under this Act or by a condition attached to an aviation business licence to keep or make shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds and, in the case of a continuing offence, a further fine not exceeding one pound for every day during which the offence continues.

FIRST SCHEDULE.

INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR.

CHAPTER 1.—*Scope—Definitions.*

ARTICLE 1.

(1) The present Convention shall apply to all international carriage of persons, luggage or goods performed by aircraft for reward. It shall apply equally to gratuitous carriage by aircraft performed by an air transport undertaking.

(2) The expression "international carriage" within the meaning of the present Convention shall be any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party shall not be deemed to be international for the purposes of the present Convention.

(3) A carriage to be performed by several successive air carriers shall be deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it shall not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

ARTICLE 2.

(1) This Convention shall apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

(2) The present Convention shall not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II.—*Documents of Carriage.*

Section 1.—*Passenger Ticket.*

ARTICLE 3.

(1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may, in case of necessity, alter the said stopping places without thereby depriving the carriage of its international character;
- (d) the name and address of the carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability established by the present Convention.

(2) The absence, irregularity or loss of the passenger ticket shall not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of the present Convention. Nevertheless, if the carrier accepts a passenger without

a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

Section 2.—*Luggage Ticket.*

ARTICLE 4.

(1) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(2) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The luggage ticket shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with Article 22, paragraph (2);
- (h) a statement that the carriage is subject to the rules relating to liability established by the present Convention.

(4) The absence, irregularity or loss of the luggage ticket shall not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of the present Convention. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d), (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

Section 3.—*Air Consignment Note.*

ARTICLE 5.

(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air consignment note"; every consignor has the right to require the carrier to accept this document.

(2) Nevertheless, the absence, irregularity or loss of this document shall not affect the existence or the validity of the contract of carriage which shall none the less be governed by the rules of the present Convention subject to the provisions of Article 9.

ARTICLE 6.

(1) The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked "for the carrier," and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The signature of the carrier shall be affixed on his acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

ARTICLE 7.

The carrier of goods is entitled to require the consignor to make out separate consignment notes when there is more than one package.

ARTICLE 8.

The air consignment note shall contain the following particulars:—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may, in case of necessity, alter the said stopping places without thereby depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the goods;
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them;
- (i) the weight, the quantity and the volume or dimensions of the goods;
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with Article 22, paragraph (2);
- (n) the number of parts of the air consignment note;
- (o) the documents delivered to the carrier to accompany the air consignment note;
- (p) the time fixed for the completion of the carriage and a brief indication of the route to be followed (*via*), if these matters have been arranged;
- (q) a statement that the carriage is subject to the rules relating to liability established by the present Convention.

ARTICLE 9.

If the carrier accepts goods without an air consignment note having been made out, or if such note does not contain all the particulars set out in Article 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

ARTICLE 10.

(1) The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

(2) He shall be liable for all damage caused to the carrier or to any other person by the irregularity, inexactitude or insufficiency of the said particulars and statements.

ARTICLE 11.

(1) In the absence of proof to the contrary the air consignment note shall be evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) In the absence of proof to the contrary the statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, shall be evidence thereof; those relating to the quantity, volume and condition of the goods shall only constitute evidence against the carrier in so far as they have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or where the statements relate to the apparent condition of the goods.

ARTICLE 12.

(1) On condition that he carries out all his obligations under the contract of carriage, the consignor has the right to deal with the goods either by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey at a landing place, or by requiring them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by demanding their return to the aerodrome of departure, provided that the exercise of this right shall not prejudice either the carrier

or other consignors and that any expenses which result therefrom will be refunded.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of the air consignment note.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

ARTICLE 13.

(1) Except in the circumstances set out in the preceding article, the consignee is entitled, on the arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

(2) Unless it is otherwise agreed, the carrier shall notify the consignee on the arrival of the goods.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived on the expiration of a period of seven days after the date on which they ought to have arrived, the consignee shall be entitled to enforce against the carrier the rights which result from the contract of carriage.

ARTICLE 14.

The consignor and the consignee can enforce all the rights conferred on them respectively by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

ARTICLE 15.

(1) Articles 12, 13, and 14 shall not prejudice either the relations of the consignor or the consignee with each other or the relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) Any condition which departs from the provisions of Articles 12, 13 and 14 should be embodied in the air consignment note.

ARTICLE 16.

(1) The consignor shall be obliged to furnish such information and attach to the air consignment note such documents as are necessary for the completion of the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage which may result from the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier shall not be obliged to inquire into the correctness or sufficiency of such information or documents.

CHAPTER III.—*Liability of the Carrier.*

ARTICLE 17.

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

ARTICLE 18.

(1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not include any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or trans-shipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which occurred during the carriage by air.

ARTICLE 19.

The carrier is liable for damage resulting from any delay in the carriage by air of passengers, luggage or goods.

ARTICLE 20.

(1) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

ARTICLE 21.

Where the carrier proves that the negligence of the person suffering damage has caused or contributed to the damage the Court may, in accordance with the provisions of its own law, exonerate the carrier or mitigate his liability.

ARTICLE 22.

(1) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed the aforesaid maximum. Nevertheless, by special agreement with the carrier, the passenger may arrange a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilo-

gram, unless the consignor makes, when handing over the package to the carrier, a special declaration of the value at delivery and pays a supplementary sum if so required. In that case the carrier will be liable up to the amount of the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

ARTICLE 23.

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in the present Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of the present Convention.

ARTICLE 24.

(1) In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in the present Convention.

(2) In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right of action and what are their respective rights.

ARTICLE 25.

(1) The carrier shall not have the right to avail himself of the provisions of the present Convention which exclude or limit his liability, if the damage is due to malice or to such default on his part as, in accordance with the law of the Court seised of the case, is considered to involve malice.

(2) This right will be equally denied to him if the damage has been caused in similar conditions by one of his agents in the scope of his employment.

ARTICLE 26.

(1) Acceptance of the luggage or goods without complaint by the consignee shall, in the absence of proof to the contrary, constitute evidence that the consignment has been delivered in good condition and in accordance with the document of carriage.

(2) In case of damage, the consignee must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the period prescribed for such complaint.

(4) Failing complaint within the prescribed periods, no action shall lie against the carrier, save in the case of fraud on his part.

ARTICLE 27.

In the case of the death of the person liable, an action for damages lies in accordance with the terms of the present Convention against his personal representatives.

ARTICLE 28.

(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is domiciled, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

(2) Questions of procedure shall be governed by the law of the Court seised of the case.

ARTICLE 29.

(1) The right to damages shall be barred if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft should have arrived, or from the date on which the carriage stopped.

(2) The method of calculating the aforesaid period shall be determined by the law of the Court seised of the case.

ARTICLE 30.

(1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier accepting passengers' luggage or goods is subject to the rules set out in this Convention and is deemed to be one of the contracting parties to the contract of carriage in so far as that contract deals with such part of the carriage as is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) In the case of luggage or goods, the consignor will have a right of action against the first carrier, and the consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly liable to the consignor or consignee.

CHAPTER IV.—Provisions relating to Combined Carriage.**ARTICLE 31.**

(1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of the present Convention apply only to the carriage by air, if such carriage falls within the terms of Article 1.

(2) Nothing in the present Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of the present Convention are observed as regards the carriage by air.

CHAPTER V.—*General and Final Provisions.*

ARTICLE 32.

Any clause contained in the contract and all special agreements entered into before the damage by which the parties purport to depart from the rules laid down by the present Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless, for the carriage of goods arbitration clauses are allowed, subject to the present Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

ARTICLE 33.

Nothing contained in the present Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of the present Convention.

ARTICLE 34.

The present Convention shall not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor shall it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

ARTICLE 35.

The expression "days" when used in the present Convention means current days not working days.

ARTICLE 36.

The present Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall

be sent by the Polish Government to the Government of each of the High Contracting Parties.

ARTICLE 37.

(1) The present Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

(2) As soon as the present Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instruments of ratification on the ninetieth day after such deposit.

(3) It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which the present Convention comes into force as well as the date of the deposit of each ratification.

ARTICLE 38.

(1) The present Convention shall, after it has come into force, remain open for accession by any State.

(2) The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.

(3) The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

ARTICLE 39.

(1) Any one of the High Contracting Parties may denounce the present Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and in respect only of the party who shall have proceeded to denunciation.

ARTICLE 40.

(1) Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession, declare that the acceptance which he gives to the present Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

(2) Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which have been thus excluded by his original declaration.

(3) Any High Contracting Party may denounce the present Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

ARTICLE 41.

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of the present Convention to call for the assembling of a new international Conference in order to consider any improvements which might be made in the present Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

The present Convention, done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

(Here follow the signatures on behalf of the following countries:—

Germany, Austria, Belgium, Brazil, Denmark, Spain, France, Great Britain, and Northern Ireland, the Commonwealth of Australia, the Union of South Africa, Greece, Italy, Japan, Latvia, Luxembourg, Norway, the Netherlands, Poland, Roumania, Switzerland, Czecho-Slovakia, the Union of Soviet Socialist Republics, and Yugoslavia.)

ADDITIONAL PROTOCOL.

(With reference to Article 2.)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that paragraph (1) of Article 2 of the present Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

[Same signatures as those to the Convention shown above.]

SECOND SCHEDULE.

CONDITIONS TO WHICH THE COMPANY IS TO CONFORM.

1. The Memorandum and Articles of Association of the Company shall be subject to the approval of the Minister for Finance after consultation by him with the Minister for Industry and Commerce.

2. The amount of the share capital of the company shall be such sum not exceeding one million pounds as the Minister for Finance shall approve.

3. The Memorandum of Association of the Company shall provide—

(a) that the registered office of the Company shall be situate in Dublin;

(b) that the principal objects of the Company shall include—

- (i) the establishment, maintenance and working of lines of aerial conveyances between places in Saorstát Eireann and between Saorstát Eireann and other countries either directly or by means of Aer Lingus Teoranta and other air transport undertakings in which the Company has a controlling interest;
- (ii) the acquisition and holding of shares in Aer Lingus Teoranta;
- (iii) the promotion of and the holding of shares in such other air transport undertakings;
- (iv) the holding of shares in and making of working arrangements with air transport undertakings, other than those mentioned in the immediately preceding clause;
- (v) the giving, with the consent of the Minister for Finance, of financial or other assistance to such air transport undertakings;

(c) that the liability of the members of the Company shall be limited;

(d) that the share capital of the Company shall be divided into shares of one pound each, and that the Company shall, with the consent of the Minister for Finance, have power to divide the shares in the capital of the Company into several classes and to attach thereto respectively any preferential, deferred, qualified or special rights, privileges or conditions.

4. The Articles of Association of the Company shall provide—

(a) that the number of directors of the Company shall be five;

(b) that so long as the Minister for Finance holds not less than one-tenth (in nominal value) of the issued shares of the Company or so long as any debentures of the Company guaranteed by the said Minister under this Act are outstanding, three of the Directors of the Company shall be nominated by the said Minister after consultation with the Minister for Industry and Commerce;

(c) that the Company shall for the purposes of the Company have power to raise money by means of debentures, subject however as follows:—

(i) the amount so raised shall not exceed at any time the paid up share capital of the company,

(ii) the said power shall not, so long as the Minister for Finance holds not less than one-tenth of the share capital of the Company or so long as any debentures of the Company guaranteed by the said Minister under this Act are outstanding, be exercised without the consent of the said Minister;

(d) that so long as the Minister for Finance holds any shares of the Company, no person shall be capable of being appointed auditor of the Company unless the approval of the said Minister to the nomination of such person to the office of auditor has been given

Number 10 of 1942.

**AIR NAVIGATION AND TRANSPORT
(AMENDMENT) ACT, 1942.**

1241

**AIR NAVIGATION AND TRANSPORT (AMENDMENT)
ACT, 1942 (No. 10)**

ARRANGEMENT OF SECTIONS.

Section.

1. The Principal Act.
2. Amendment of section 79 of the Principal Act.
3. Short title and collective citation.

**AN ACT TO AMEND SECTION 79 OF THE AIR NAVIGATION
AND TRANSPORT ACT, 1936. [26th May, 1942.]**

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

1.—In this Act the expression “the Principal Act” means the Air Navigation and Transport Act, 1936 (No. 40 of 1936).

The
Principal
Act.

2.—Section 79 (which relates to subsidies) of the Principal Act shall be construed and have effect—

Amendment of
section 79 of the
Principal Act.

(a) as if the following sub-section were inserted therein in lieu of sub-section (2), that is to say:—

“(2) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling such order is passed by either such House within the next subsequent twenty-one days on which such House has sat after such order is laid before it, such order shall be annulled accordingly but without prejudice to the validity of anything previously done under such order.”; and

(b) as if for the reference in sub-section (3) to five years from the date of the passing of the Principal Act there were substituted a reference to five years from the date of the passing of this Act; and

(c) as if the following sub-section were inserted therein in lieu of sub-section (4), that is to say:—

“(4) Any moneys required for the payment of the subsidy specified in an order made under this section shall be paid out of moneys provided by the Oireachtas.”.

3.—This Act may be cited as the Air Navigation and Transport (Amendment) Act, 1942, and the Principal Act and this Act may be cited together as the Air Navigation and Transport Acts, 1936 and 1942.

Short title and
collective citation

Number 23 of 1946.

AIR NAVIGATION AND TRANSPORT
ACT, 1946.

AIR NAVIGATION AND TRANSPORT ACT 1946 (No. 23)

ARRANGEMENTS OF SECTIONS.

PART I.

PRELIMINARY AND GENERAL.

Section.

1. Short title and collective citation.
2. Interpretation.
3. Application to State aircraft.
4. Saving for lighthouse authorities.
5. General provisions in relation to orders made by the Minister
6. Regulations and directions.
7. Expenses.

PART II.

PROVISIONS IN RELATION TO THE CHICAGO CONVENTION.

8. Coming into operation of the Chicago Convention.
9. Power to give effect to the Chicago Convention.
10. Power to apply Chicago Convention to internal flying.
11. Special provisions which may be made by order of the Minister.
12. Power to compel compliance when aircraft disobeys signals.
13. Penalties.
14. Fees on certificates and licences.
15. Expenses of International Civil Aviation Organisations.
16. Detention of aircraft.
17. Exemption in respect of infringement of patents, etc., by certain foreign aircraft.

PART III.

MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT.

Section.

18. Transfer to Minister of powers of Government under sections 10, 11, 12 and 63 of the Principal Act, and consequential amendment of section 5 of the Principal Act.
19. Amendment of section 79 of the Principal Act.

PART IV.

PROVISIONS IN RELATION TO AER RIANTA, TEORANTA.

20. Definitions for purposes of Part IV.
21. Increase of capital of the Company.
22. Power of Minister for Finance to acquire new shares by subscription and to underwrite issue of shares.
23. Provisions in respect of new shares held by the Minister for Finance.
24. Advances of moneys out of the Central Fund.
25. Extension of objects of the Company.
26. Directors.
27. Alteration of memorandum and articles of association of the Company.

PART V.

PROVISIONS IN RELATION TO AER LINGUS, TEORANTA.

28. Alteration of memorandum of association of Aer Lingus, Teoranta.

AN ACT TO ENABLE EFFECT TO BE GIVEN TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION OPENED FOR SIGNATURE AT CHICAGO ON THE 7TH DAY OF DECEMBER, 1944, TO AMEND THE AIR NAVIGATION AND TRANSPORT ACT, 1936, TO PROVIDE FOR CERTAIN MATTERS IN RELATION TO AER RIANTA, TEORANTA AND AER LINGUS, TEORANTA, AND TO PROVIDE FOR OTHER MATTERS (INCLUDING THE CHARGING OF FEES) CONNECTED WITH THE MATTERS AFORESAID. [31st July, 1946.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

1.—(1) This Act may be cited as the Air Navigation and Transport Act, 1946. Short title and collective citation.

(2) The Air Navigation and Transport Acts, 1936 and 1942, and this Act may be cited together as the Air Navigation and Transport Acts, 1936 to 1946.

2.—(1) In this Act— Interpretation.
the expression “the Chicago Convention” means the Convention on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944, and includes any amendment of the said Convention which may be made under Article 94 thereof; Chicago Convention.

the expression "Irish aircraft" means aircraft registered in the State; Irish aircraft.

the expression "the Minister" means the Minister for Industry and Commerce; Minister.

the expression "the operative date" means the date of the passing of this Act; operative date.

the word "prescribed" means prescribed by an order made by the Minister under this Act; prescribed.

the expression "the Principal Act" means the Air Navigation and Transport Act, 1936 (No. 40 of 1936), as adapted in consequence of the enactment of the Constitution and as amended by the Air Navigation and Transport (Amendment) Act, 1942 (No. 10 of 1942). Principal Act.

(2) References in this Act to any country or territory (including the State) shall, unless the context otherwise requires, be construed as including references to the territorial waters (if any) adjacent to such country or territory.

(3) This Act shall be construed as one with the Air Navigation and Transport Acts, 1936 and 1942.

3.—(1) Subject to the provisions of this section, this Act shall not apply to any State aircraft. Application to State aircraft.

(2) The Minister may, by order direct that such provisions of this Act or any order made thereunder as may be specified in such order shall, with or without modifications, apply to State aircraft, and whenever any such order is made and is in force, such of the said provisions as may be specified in such order shall, subject to such modifications (if any) as may be specified therein, have the force of law in the State.

4.—Nothing in this Act or any order made thereunder shall prejudice or affect the rights, powers or privileges of any general or local lighthouse authority. Saving for lighthouse authorities.

5.—(1) An order made by the Minister under this Act may be made applicable to any aircraft in or over the State or to Irish aircraft wherever they may be. General provisions in relation to orders made by the Minister.

(2) The Minister shall not, in any order made by him under this Act, make provisions in relation to the Customs except with the concurrence of the Minister for Finance.

(3) An order made by the Minister under this Act may authorise the Minister to make regulations and give directions for carrying out the purposes of such order in respect of such matters and things as may be specified in such order.

(4) An order made by the Minister under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of such order.

(5) (a) The Minister may by order under this subsection revoke or amend any instrument to which this subsection applies.

(b) This subsection applies to—

- (i) any order or regulations made under Part I of the Air Navigation Act, 1920, as adapted by or under subsequent enactments, which was continued in force by section 15 of the Principal Act and is in force immediately before the operative date,
- (ii) any order made by the Government under Part II or under section 63 of the Principal Act,
- (iii) any order made by the Government under section 5 of the Principal Act amending any such order or regulation as is referred to in subparagraph (i) or subparagraph (ii) of this paragraph,
- (iv) any order made by the Minister under this Act.

(6) Every order made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling such order is passed by either such House within the next subsequent twenty-one days on which such House has sat after such order is laid before it, such order shall be annulled accordingly but without prejudice to the validity of anything previously done under such order.

6.—The Minister may make regulations or give directions in relation to any matter in respect of which the Minister is authorised by an order made by the Minister under this Act to make regulations or give directions for carrying out the purposes of such order.

Regulations and directions.

7.—All expenses incurred by the Minister in the execution of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

PART II.

PROVISIONS IN RELATION TO THE CHICAGO CONVENTION.

8.—The Chicago Convention shall come into operation in the State on such day as the Minister may by order fix (which said order the Minister is hereby authorised to make).

Coming into operation of the Chicago Convention.

9.—The Minister may from time to time make such orders as appear to him necessary or expedient for carrying out the Chicago convention and for giving effect thereto or to any of the provisions thereof and every such order shall have the force of law in the State.

Power to give effect to the Chicago Convention.

10.—The Minister may from time to time by order direct that the provisions of the Chicago Convention for the time being in force, or any of them, and whether or not those provisions are limited to aircraft of any special description or engaged in any special kind of navigation, shall apply to or in relation to any aircraft in or over the State and whenever any such order is made such of the said provisions as are specified in such order shall apply to or in relation to any aircraft in or over the State.

Power to apply Chicago Convention to internal flying.

11.—Without prejudice to the generality of the powers conferred by sections 9 and 10 of this Act, the Minister may by order made under either of the said sections make provision—

Special provisions which may be made by order of the Minister.

- (a) prescribing the authority by which any of the powers exercisable under the Chicago Convention by a contracting State or by any authority therein are to be exercised in the State;
- (b) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting the work therein carried on, for prohibiting or regulating the use of unlicensed aerodromes, and for the licensing of personnel employed at aerodromes in the inspection or supervision of aircraft;
- (c) as to the manner and conditions of the issue and renewal of any certificate or licence required by the order or by the Chicago Convention, including the examination and tests to be undergone, and the form, custody, production, cancellation, suspension, endorsement and surrender of any such certificate or licence;

- (d) as to the registration of aircraft in the State;
- (e) as to the conditions under which aircraft may be used for carrying passengers and goods;
- (f) as to the conditions under which aircraft may pass or passengers or goods may be conveyed by aircraft, into or from the State or from one part of the State to another;
- (g) exempting from the provisions of the order or of the Chicago Convention, or any of them, aircraft flown for experimental purposes, or any other aircraft or persons where it appears that the same should not apply;
- (h) prescribing the scales of charges at licensed aerodromes;
- (i) appointing any area to be a prohibited area for the purposes of the order;
- (j) prescribing the fees to be paid in respect of the grant of any certificate or licence or otherwise for the purposes of the order or the Chicago Convention;
- (k) supplementing the Chicago Convention, in such manner as appears necessary or convenient by regulations designed to promote the safety of aircraft and of persons and property carried therein, and to prevent aircraft endangering other persons and property;
- (l) for the control and regulation of aerial lighthouses, lights at or in the neighbourhood of aerodromes and aerial lighthouses and lights which are liable to endanger aircraft;
- (m) regulating the making of signals and other communications by or to aircraft and persons carried therein, and regulating the use of any ensign established for purposes connected with air navigation;
- (n) prescribing any matter or thing referred to in this Part of this Act as prescribed.

12.—If any aircraft flies or attempts to fly over any area appointed as a prohibited area under or by virtue of an order made under this Part of this Act or enters or attempts to enter the State in contravention of any such order, the following provisions shall have effect, that is to say:—

Power to compel compliance when aircraft disobeys signals.

- (a) it shall be lawful for any officer designated for the purpose by such order to cause such signal as may be prescribed by such order to be given, and

- (b) if, after such signal has been given, the aircraft fails to respond to such signal by complying with the provisions of such order prescribing the action to be taken on such signal being given, it shall be lawful for such officer to fire at or into such aircraft and to use any and every other means at his disposal to compel compliance;
- (c) no action or other legal proceedings whatsoever, whether civil or criminal, shall be instituted in any court in the State in respect of the doing of anything authorised to be done by any such officer under this section, whether such doing is done personally or by a person acting in aid of or under the direction of such officer.

13.—(1) If—

Penalties.

- (a) an aircraft flies in contravention of any instrument to which this section applies or any provision of any such instrument, or
- (b) an aircraft fails to comply with any instrument to which this section applies or any provision of any such instrument, or
- (c) any act is committed in respect of any aircraft which is a contravention of any provisions of an instrument to which this section applies or is deemed by any such instrument to be such contravention,

then, the owner or hirer (not being the State) of such aircraft and also the pilot or commander thereof shall be deemed to have contravened or, as the case may be, failed to comply with such instrument.

(2) Every person who obstructs or impedes any person acting under the authority of the Minister in the exercise or performance of any of the powers or duties conferred or imposed on the Minister by an instrument to which this section applies shall be deemed to have acted in contravention of such instrument.

(3) Every person who contravenes or fails to comply with or who is deemed by this section to have contravened or failed to comply with an instrument to which this section applies shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or, at the discretion of the Court, to both such imprisonment and fine.

(4) In any prosecution of a person for an alleged contravention of or failure to comply with any instrument to which this section applies it shall be a defence for such person to prove that such contravention or failure was due to stress of weather or other unavoidable cause, and in any prosecution of the owner, hirer, pilot or commander of an aircraft for such alleged contravention or failure it shall be a defence for such owner, hirer, pilot or commander to prove that such alleged contravention or failure took place without his actual default or privity.

(5) This section applies to any instrument, being—

- (a) an order made by the Minister under this Part, or
- (b) any regulation made or direction given under any such order.

14.—The following provisions shall have effect in relation to all fees payable under this Part, that is to say— **Fees on certificates and licences.**

- (a) such fees shall be collected in money and taken in such manner as the Minister for Finance may from time to time direct, and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance, and
- (b) the Public Offices (Fees) Act, 1879, shall not apply in respect of such fees.

15.—Any sums required for the contribution from the State for the organisation and operations of— **Expenses of International Civil Aviation Organisations.**

- (a) the Provisional International Civil Aviation Organisation set up under the Interim Agreement on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944, or
- (b) the International Civil Aviation Organisation set up under the Chicago Convention,

shall be paid by the Minister out of moneys provided by the Oireachtas.

16.—(1) The Minister may by order provide for the detention of aircraft to secure compliance with the Chicago Convention or any order made under this Part or any regulation made or direction given under any such order. **Detention of aircraft.**

(2) The references, in sections 64 and 65 of the Principal Act, to the Principal Act shall be construed as including references to this Act.

17.—(1) Where—

- (a) a foreign aircraft to which this section applies makes, while engaged in international air navigation, an authorised entry into the territory of the State or an authorised transit across such territory with or without landing, and
- (b) the construction, mechanism, parts, accessories or operation of the aircraft infringe any patent, design or model duly granted or registered in the State,

Exemption in respect of infringements of patents, etc. by certain foreign aircraft.

then, notwithstanding anything in the Act of 1927, no action or proceedings shall lie or be taken in respect of such infringement.

(2) Where—

- (a) spare parts or spare equipment for a foreign aircraft to which this section applies and which is engaged in international air navigation are or is stored in the State, and
- (b) the said spare parts or spare equipment infringe or infringes any patent, design or model duly granted or registered in the State,

then, notwithstanding anything contained in the Act of 1927, the following provisions shall have effect—

- (i) no action or proceedings shall lie or be taken in respect of such storage, unless such spare parts or equipment are or is sold or distributed in the State or commercially exported from the State,
- (ii) no action or proceedings shall lie or be taken in respect of the user and installation in the State of such parts or equipment in the repair of any such aircraft.

(3) Subsection (1) of section 61 of the Principal Act shall not apply to any foreign aircraft to which this section applies which, while engaged in international air navigation, makes an authorised entry into the territory of the State or an authorised transit across such territory with or without landing.

(4) In this section—

the expression “the Act of 1927” means the Industrial and Commercial Property (Protection) Act, 1927 (No. 16 of 1927), as amended by the Industrial and Commercial Property (Protection) (Amendment) Act, 1929 (No. 13 of 1929);

the expression “foreign aircraft to which this section applies” means aircraft of a State (other than the State) which—

(a) is a party to the Chicago Convention, and

(b) either—

(i) is a party to the International Convention for the Protection of Industrial Property, or

(ii) has enacted patent laws which recognise and give adequate protection to inventions made by the nationals of the other States parties to the Chicago Convention.

PART III.

MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT.

18.—(1) On the operative date, the powers conferred on the Government by sections 10, 11, 12 and 63 of the Principal Act shall, by virtue of this section, be transferred to, and vest in, the Minister.

Transfer to Minister of powers of Government under sections 10, 11, 12 and 63 of the Principal Act, and consequential amendment of section 5 of the Principal Act.

(2) References in sections 10, 11, 12 and 63 of the Principal Act to the Government shall, on and after the operative date, be construed as references to the Minister.

(3) Subsection (5) of section 5 of the Principal Act shall, in so far as it relates to the revocation or amendment of an order made under sections 10, 11, 12 or 63 of the Principal Act, cease to have effect.

19.—(1) Subsection (3) of section 79 of the Principal Act shall be construed and have effect—

Amendment of section 79 of the Principal Act.

(a) as if the words “seven hundred and fifty thousand pounds” were substituted for the words “five hundred thousand pounds”;

(b) as if for the reference therein to five years from the date of the passing of the Principal Act there were substituted a reference to five years from the date of the passing of this Act.

(2) Paragraph (b) of section 2 of the Air Navigation and Transport (Amendment) Act, 1942 (No. 16 of 1942), is hereby repealed.

PART IV.

PROVISIONS IN RELATION TO AER RIANTA, TEORANTA.

20.—In this Part—

the expression "the Company" means Aer Rianta, Teoranta, being the Company formed in pursuance of section 68 of the Principal Act; Definitions for purposes of Part IV. Company.

the expression "new shares" means shares of the Company the issue of which is authorised under section 21 of this Act; new shares.

the expression "old shares" means shares of the Company issued under the Principal Act. old shares.

21.—(1)¹Notwithstanding anything to the contrary contained in the Principal Act, or the memorandum or articles of association of the Company, it shall be lawful for the Company to increase its capital to a total of £2,000,000 (two million pounds) divided into two million shares of one pound each, and for that purpose to make such alterations as may be requisite in its memorandum and articles of association and, in particular, to make such alterations in its memorandum and articles of association as may be necessary to authorise the directors to issue shares of one pound each ranking *pari passu* with the old shares. Increase of capital of the Company

(2) No issue of new shares shall be made unless the Minister for Finance, after consultation with the Minister, has authorised such issue.

(3) Section 112 of the Stamp Act, 1891, shall not operate so as to require the Company to deliver to the Revenue Commissioners any statement or to pay any stamp duty under that section in respect of the increase of the capital of the Company authorised by this section or in respect of the new shares.

22.—(1) The Minister for Finance may from time to time take up by subscription any class or classes of the new shares.

Power of Minister for Finance to acquire new shares by subscription and to underwrite issue of shares.

(2) The Minister for Finance may, subject to such conditions as he thinks fit, agree with the Company that, if any new shares of the Company about to be offered at any time for subscription

¹ Amended by Air Navigation and Transport Act, 1961, see *infra*.

are not within a specified time taken up by the public, he will take up and pay for such new shares or some specified portion thereof.

23.—Sections 73, 74 and 77 of the Principal Act shall apply to new shares held by the Minister for Finance in like manner as they apply to old shares held by him.

Provisions in respect of new shares held by the Minister for Finance.

24.—(1) All moneys from time to time required by the Minister for Finance to meet payments required to be made by him to the Company in respect of any new shares subscribed for or taken up by him under this Act shall be advanced out of the Central Fund or the growing produce thereof.

Advances of moneys out of the Central Fund.

(2) For the purpose of providing moneys for the sums advanced out of the Central Fund under this section the Minister for Finance may borrow from any person any sum or sums, and for the purpose of such borrowing the said Minister may create and issue securities bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise as he thinks fit, and shall pay the moneys so borrowed into the Exchequer.

(3) The principal of and interest on any securities issued by the Minister for Finance under this section and the expenses incurred in connection with the issue of such securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

25.—(1) Paragraph 3 of the Second Schedule to the Principal Act is hereby amended by the substitution of the following subparagraph for subparagraph (b), that is to say—

Extension of objects of the Company.

“(b) the principal objects of the Company shall include—

- (i) the establishment, maintenance and working of lines of aerial conveyances between places in the State and between the State and other countries either directly or by means of Aer Lingus, Teoranta and other air transport undertakings (in this paragraph referred to as controlled air transport undertakings) in which the Company has a controlling interest,
- (ii) the acquisition and holding of shares in Aer Lingus, Teoranta,

- (iii) the promotion of and holding of shares in controlled transport undertakings and in aircraft maintenance, repair and manufacture undertakings,
- (iv) the holding of shares in and the making of working arrangements with air transport undertakings (other than controlled air transport undertakings) and aircraft maintenance, repair and manufacture undertakings,
- (v) the giving, with the consent of the Minister for Finance, financial or other assistance to air transport undertakings and aircraft maintenance, repair and manufacture undertakings."

(2) At any time after the passing of this Act, the Company may, with the approval of the Minister for Finance, given after consultation with the Minister, so alter its memorandum of association as to extend its objects in conformity with the amendment effected by subsection (1) of this section.

26.—Paragraph 4 of the Second Schedule to the Principal Act is hereby amended by the substitution of the following subparagraphs for subparagraphs (a) and (b), that is to say :— **Directors.**

" (a) the number of the directors of the Company shall be not more than seven nor less than three,

(b) so long as the Minister for Finance holds not less than one-tenth (in nominal value) of the issued shares of the Company or so long as any debentures of the Company guaranteed by the said Minister under this Act are outstanding, a majority of the directors of the Company shall be nominated by the said Minister after consultation with the Minister for Industry and Commerce."

27.—(1) In addition to the alterations specifically authorised by this Part to be made in the memorandum and articles of association of the Company, it shall be lawful for the Company to make all such alterations in its memorandum and articles of association as are necessary or proper by way of supplement to, or in consequence of, any alteration so specifically authorised and also such other alterations as shall be necessary or proper to give effect to the provisions of this Part.

Alteration of memorandum and articles of association of the Company.

(2) Neither section 78 of the Principal Act nor Clauses 7 and 8 of the memorandum of association of the Company shall apply to alterations made in the memorandum and articles of association of

the Company under or in pursuance of this Part, and in lieu thereof it is hereby enacted that all such alterations shall be in such form consistent with this Part as shall be approved by the Minister for Finance, after consultation with the Minister.

(3) For the purposes of effecting any alterations in the articles of association of the Company authorised by this Part, section 13 of the Companies (Consolidation) Act, 1908, shall be construed as if the words "extraordinary resolution" were substituted for the words "special resolution" where the latter words first occur.

(4) Section 9 of the Companies (Consolidation) Act, 1908, shall not apply in respect of any alteration authorised by this Part to be made by the Company in its memorandum of association, and in lieu thereof it is hereby enacted that every such alteration may be made by extraordinary resolution, as defined by section 69 of the said Act, and that, in addition to complying with section 70 of the said Act, the Company shall, within the time mentioned in the said section 70, deliver to the registrar of companies a printed copy of the memorandum as so altered and the said registrar shall register it and certify the registration under his hand, and such certificate shall be conclusive evidence that all the requirements of the said Act, as amended by this subsection with respect to such alteration, have been complied with and thenceforth the memorandum as so altered shall be the memorandum of the Company.

PART V.

PROVISIONS IN RELATION TO AER LINGUS, TEORANTA.

28.—Notwithstanding anything contained in the Companies (Consolidation) Act, 1908, Aer Lingus, Teoranta may, by extraordinary resolution, as defined by section 69 of the said Act, alter its memorandum of association by deleting clauses 6 and 7 thereof.

Alteration of memorandum of association of Aer Lingus, Teoranta.

Number 4 of 1950.

AIR NAVIGATION AND TRANSPORT
ACT, 1950.

AIR NAVIGATION AND TRANSPORT ACT 1950 (No. 4)

ARRANGEMENT OF SECTIONS.

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Section.

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2. Interpretation.
3. Prosecution of offences under the Principal Act, the Act of 1946 and this Act.
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MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT AND THE ACT OF 1946.

5. Amendment of definition of "State aircraft".
6. Meaning in Part V of the Principal Act of "the purposes of this Part of this Act".
7. Amendment of section 37 of the Principal Act.
8. Entry on land, etc., compulsorily acquired under the Principal Act before conveyance or ascertainment of compensation.
9. Construction of references to Chicago Convention in Part II of the Act of 1946.

PART III.

VESTING OF CERTAIN LAND IN THE MINISTER AND PROVISIONS IN RELATION TO THAT AND OTHER LAND ACQUIRED BY THE MINISTER.

10. Vesting in the Minister of lands described in the Second Schedule, and cesser of application of State Lands Act, 1924, to lands described in Part I of the Second Schedule.
11. Application of Principal Act to lands described in Second and Third Schedules.

Section.

12. Disposal of land acquired by the Minister under the Principal Act and lands described in the Second and Third Schedules.

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PROVISIONS FOR SECURING THE SAFE AND EFFICIENT NAVIGATION
OF AIRCRAFT IN THE VICINITY OF AERODROMES.

13. Right of Minister to erect and maintain certain apparatus in land in vicinity of aerodromes.
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15. Definitions for purposes of Part V.
16. Bye-laws in relation to State aerodromes.
17. Bye-laws defining duties of persons in command of aircraft which are for the time on the ground in a State aerodrome.
18. Publication of bye-laws.
19. Removal and arrest of offenders in State aerodromes.
20. Removal of vehicles, etc.
21. Obstruction of and assaults on authorised officers.
22. State aerodrome to be a public place and roads therein to be roads for purposes of Part X of the Road Traffic Act, 1933.
23. Management of Dublin Airport.
24. Power of Minister to supply water at a State aerodrome.

PART VI.

PAYMENT OF SUBSIDIES TO AER RIANTA, TEORANTA.

Section.

25. Payment of subsidies to Aer Rianta, Teoranta.

FIRST SCHEDULE.

ENACTMENT REPEALED.

SECOND SCHEDULE.

THIRD SCHEDULE.

AN ACT TO AMEND AND EXTEND THE AIR NAVIGATION AND TRANSPORT ACTS, 1936 TO 1946, TO VEST CERTAIN LANDS IN THE MINISTER FOR INDUSTRY AND COMMERCE, TO PROVIDE FOR THE PAYMENT OF SUBSIDIES TO AER RIANTA, TEORANTA, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [15th March, 1950.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

1.—(1) This Act may be cited as the Air Navigation and Transport Act, 1950. Short title and collective citation.

(2) The Air Navigation and Transport Acts, 1936 to 1946, and this Act may be cited together as the Air Navigation and Transport Acts, 1936 to 1950.

2.—(1) In this Act—

Interpretation.

the expression “the Act of 1946” means the Air Navigation and Transport Act, 1946 (No. 23 of 1946); Act of 1946.

the expression “the Minister” means the Minister for Industry and Commerce; Minister.

the expression " the Principal Act " means the Air Navigation and Transport Act, 1936 (No. 40 of 1936). Principal Act.

(2) This Act shall be construed as one with the Air Navigation and Transport Acts, 1936 to 1946.

3.—An offence under any subsection or section contained in the Principal Act, the Act of 1946 or this Act may be prosecuted by or at the suit of the Minister as prosecutor. Prosecution of offences under the Principal Act, the Act of 1946 and this Act.

4.—The enactment set out in column (2) of the First Schedule to this Act is hereby repealed to the extent specified in column (3) of the said Schedule. Repeals.

PART II.

MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT AND THE ACT OF 1946.

5.—The expression " State aircraft ", where it occurs in the Principal Act or the Act of 1946, shall, in lieu of the meaning assigned to that expression by subsection (1) of section 2 of the Principal Act, mean aircraft of any country used in military, customs and police services. Amendment of definition of " State aircraft."

6.—(1) Section 36 of the Principal Act shall be construed as if there were inserted therein the following new paragraph—
 "(c) any purpose related to the development of civil aviation where such development affects an aerodrome which the Minister or a local authority has established or is about to establish or affects any land adjacent to such aerodrome."
Meaning in Part V of the Principal Act of " the purposes of this Part of this Act."

(2) For the avoidance of doubts it is hereby declared that the purposes of Part V of the Principal Act for which land may be acquired by agreement or compulsorily include and always included the establishment of an aerodrome.

7.—Section 37 of the Principal Act is hereby amended by the insertion, after the word " approaches " of the words " water supply works and watermains, sewers and sewage disposal works, electric lines, lights, signs ". Amendment of section 37 of the Principal Act.

8.—(1) In this section the expression "water right" means a right of impounding, diverting or abstracting water.

Entry on land, etc., compulsorily acquired under the Principal Act before conveyance or ascertainment of compensation.

(2) At any time after the Minister becomes entitled under subsection (1) of section 41 of the Principal Act to acquire compulsorily any land or any water right or to use compulsorily any water right and before conveyance or ascertainment of compensation, the Minister may, subject to the subsequent provisions of this section, enter on and take possession of that land or exercise that water right.

(3) Where the Minister exercises any power conferred on him by subsection (2) of this section in relation to any land or water right, then—

(a) subject to paragraph (b) of this subsection, the Minister shall pay to the person, who is the occupier of that land or the owner of that water right, interest on the amount of the compensation payable to such person at the rate of three per cent. per annum from the date on which such power was exercised until payment of such compensation,

(b) if—

- (i) the Minister has made an unconditional offer in writing of any sum as such compensation to such person, and
- (ii) the offer is not accepted by such person, and
- (iii) the sum awarded as compensation by the official arbitrator to such person does not exceed the sum so offered,

no interest shall be payable on such compensation in respect of any period after the date of the offer.

(4) The Minister shall not—

- (a) enter on or take possession of any land under subsection (2) of this section without giving to the occupier thereof at least one month's or, in the case of an occupied dwelling-house, three months' previous notice in writing of his intention to do so, or
- (b) exercise any water right under subsection (2) of this section without giving the owner thereof at least one

month's previous notice in writing of his intention to do so.

(5) A notice under subsection (4) of this section may be given to any person by sending it by prepaid post in an envelope addressed to that person at his usual or last known address.

(6) Where, for any reason, the envelope mentioned in subsection (5) of this section cannot be addressed in the manner provided by that subsection, it may be addressed to the person for whom it is intended in either or both of the following ways—

- (a) by the description "the occupier" or "the owner" (as the case may be) without stating his name,
- (b) at the land or the situation of the property to which the notice contained in the envelope relates.

9.—In Part II of the Act of 1946, references to the Chicago Convention shall be construed as including references to any Annex to the Chicago Convention relating to international standards and recommended practices (being an Annex adopted in accordance with the Chicago Convention) and any amendment of any such Annex made in accordance with the Chicago Convention.

Construction of references to Chicago Convention in Part II of the Act of 1946.

PART III.

VESTING OF CERTAIN LAND IN THE MINISTER AND PROVISIONS IN RELATION TO THAT AND OTHER LAND ACQUIRED BY THE MINISTER.

- 10.—(1) (a) On the passing of this Act, the lands described in Part I of the Second Schedule to this Act (which said lands form part of Dublin Airport) shall, by virtue of this subsection, vest in the Minister for all the interest therein which immediately before the passing of this Act belonged to the State.
- (b) The State Lands Act, 1924 (No. 45 of 1924), shall cease to apply to the lands described in Part I of the Second Schedule to this Act.

Vesting in the Minister of lands described in the Second Schedule and ceasing of application of State Lands Act, 1924 to lands described in Part I of the Second Schedule.

(2) On the passing of this Act, the lands described in Part II of the Second Schedule to this Act (which said lands form another part of Dublin Airport) shall, by virtue of this subsection, vest in the Minister for all the interest therein which immediately before the passing of this Act was vested in the Minister for Defence.

(3) Subsections (1) and (2) of this section shall, for the purposes of section 6 of the Conveyancing Act, 1881, have effect as conveyances of land.

(4) (a) Where any person is registered under the Registration of Title Act, 1891, as the owner of any interest in any land which, by virtue of subsection (1) or (2) of this section vests in the Minister, the Registrar of Titles shall, on production of a certificate under the official seal of the Minister certifying that such land, has by virtue of such subsection, vested in him, cause the Minister to be registered as the owner of such interest instead of such person.

(b) No fees shall be payable in respect of any proceedings in the Land Registry under this subsection.

11.—The lands described in the Second Schedule to this Act and the lands described in the Third Schedule to this Act (which said last-mentioned lands form part of Shannon Airport and were acquired by the Minister under the Emergency Powers (No. 315) Order, 1944 (S. R. & O., No. 74 of 1944)), shall, for the purposes of the Principal Act, be deemed to have been acquired thereunder.

Application of Principal Act to lands described in Second and Third Schedules.

12.—(1) In this section, the word “dispose”, in relation to land, means deal with the land in any of the following ways—

(a) sell it,

(b) lease or let it,

(c) grant a licence of it,

(d) grant (by way of lease, letting or licence) a right in respect of it,

Disposal of land acquired by the Minister under the Principal Act and lands described in the Second and Third Schedules.

and the word “disposal” shall be construed accordingly.

(2) (a) The Minister, with the consent, either general or particular, of the Minister for Finance, may dispose of the whole or any part of—

(i) land acquired by him (whether before or after the passing of this Act) under the Principal Act,

(ii) the lands described in the Second and Third Schedules to this Act.

(b) The power of disposal conferred by paragraph (a) of this subsection shall extend to parts of buildings.

(c) The Minister shall not, in exercise of his powers under paragraph (a) of this subsection, dispose of any State minerals within the meaning of the Minerals Development Act, 1940 (No. 31 of 1940), except sand, gravel, stone or clay which is not more than twenty feet below the surface.

(3) Any moneys received by the Minister in respect of the disposal of land under subsection (2) of this section shall be paid into or disposed of for the benefit of, the Exchequer in such manner as the Minister for Finance may direct.

PART IV.

PROVISIONS FOR SECURING THE SAFE AND EFFICIENT NAVIGATION OF AIRCRAFT IN THE VICINITY OF AERODROMES.

13.—(1) (a) The Minister may cause to be erected, placed and attached upon, in or to any land or building in the vicinity of an aerodrome and may thereafter maintain and use such apparatus (including electric lines) as he considers necessary for the purpose of indicating any position or any obstruction or of signalling or supplying information to persons navigating aircraft to, or from, or in the vicinity of, the aerodrome.

Right of Minister to erect and maintain certain apparatus in land in vicinity of aerodromes.

(b) Before erecting, placing or attaching any apparatus upon, in or to any land or building in pursuance of this subsection, the Minister shall give

one month's previous notice to the owner and occupier thereof indicating his proposal.

- (c) If any person wilfully obstructs or destroys, tampers with, pulls down, or defaces any apparatus erected, placed or attached upon, in or to any land or building in pursuance of this subsection, that person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

- (2) (a) For the purposes of exercising the powers conferred by subsection (1) of this section, any authorised person and any persons acting under his direction may enter upon and pass over (with or without vehicles) any land.

- (b) If any person (in this paragraph referred to as the offender) obstructs an authorised person or any person acting under his direction in the exercise of the powers conferred by this subsection, the offender shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

- (c) In this subsection the expression "authorised person" means any person belonging to a class authorised in writing by the Minister to exercise the powers conferred by this subsection on authorised persons.

(3) If any person having an estate or interest in land proves that his estate or interest is injuriously affected by the exercise of the powers conferred by subsection (1) of this section, he shall be entitled to recover from the Minister compensation for the injury to that estate or interest, and any question whether compensation is payable under this section or as to the amount of any compensation so payable shall, in default of agreement, be determined by an arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and under and in accordance with that Act.

14.—(1) Whenever the Minister is of opinion that the unrestricted use of a particular area of land in the vicinity of an aerodrome would interfere with the navigation of aircraft flying to or

Restrictions on use of land in the vicinity of aerodromes,

from that aerodrome, he may by order (in this section referred to as a protected area order) do the following things—

- (a) declare that that particular area of land shall be a protected area for the purposes of the order,
- (b) declare that, within the protected area, it shall not be lawful for any person, save under and in accordance with a permit granted by the Minister,—
 - (i) to erect or add to any building, or
 - (ii) to erect or place any post, pole or other thing, so that any part of the building, post, pole or thing (in this section referred to as an obstruction) will be at a greater height than that fixed by the order.

(2) The following provisions shall apply in respect of every protected area order—

- (a) the Minister shall cause the order to be published in the *Iris Oifigiúil* and in such newspapers circulating in the area to which the order relates as the Minister thinks proper,
- (b) the order may divide the area to which it relates into such and so many sub-areas as the Minister thinks fit and, in that case, may contain different provisions in relation to each of those sub-areas,
- (c) the order may exempt from its operation any specified obstructions or class of obstructions,
- (d) there shall be attached to the order a map showing the area to which the order relates and, where that area is divided into sub-areas, each of those sub-areas,
- (e) the map attached to the order may be omitted from the order in any publication thereof in pursuance of paragraph (a) of this subsection, but copies of the order with the map attached thereto shall be deposited in the offices of the Department of Industry and Commerce at Kildare Street, Dublin, and shall be there kept open for public inspection at all reasonable times.

(3) The Minister may by order revoke or amend a protected area order.

(4) Every protected area order shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the order is passed by either such House within the next subsequent twenty-one days on which such House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done under it.

(5) The Minister may grant permits for the purposes of a protected area order, and the following provisions shall apply in relation to any permit so granted—

(a) the Minister may—

(i) attach to it such conditions as he thinks fit,

(ii) revoke or amend it;

(b) the permit shall not operate as a release from any restrictions imposed under the Town and Regional Planning Acts, 1934 and 1939, or any other enactment and applicable to the area to which the order relates.

(6) (a) If any person, having an estate or interest in land within an area to which a protected area order applies, proves that his estate or interest is injuriously affected by the refusal of the Minister to grant him a permit or by any conditions attached to a permit granted to him by the Minister, he shall be entitled to recover compensation from the Minister for the injury to that estate or interest, and any question whether compensation is payable under this subsection or as to the amount of any compensation so payable shall, in default of agreement, be determined by an arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and under and in accordance with that Act.

(b) Where a person would, but for this paragraph, be entitled to compensation under this subsection and also under any other enactment in respect of the same matter, he shall not be entitled to compensation in respect of that matter under both this subsection and that other enactment, but may elect to receive compensation under either this subsection or that other enactment.

(7) If any person erects or adds to a building or erects or places any post, pole or other thing in contravention of a protected area order—

(a) that person shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding fifty pounds, and

- (b) the Minister may, whether or not any proceedings are taken in respect of the offence, cause such alterations to be made in the building, post, pole, or thing in respect of which the contravention took place as may be necessary in his opinion to ensure compliance with the order, and the expenses incurred by the Minister in so doing shall be recoverable by the Minister from the person by whom the contravention is committed as a simple contract debt in any court of competent jurisdiction.

PART V.

PROVISIONS IN RELATION TO STATE AERODROMES.

15.—(1) In this Part—

the expression “ authorised officer ” means a person being—

(a) a member of the Garda Síochána, or

(b) any person belonging to a class authorised in writing by the Minister to exercise the powers conferred on authorised officers by sections 19 and 20 of this Act;

the word “ bye-laws ” means bye-laws made under this Part;

the expression “ State aerodrome ” means an aerodrome established by the Minister under section 37 of the Principal Act.

Definitions for purposes of Part V.

authorised officer.

bye-laws

State aerodrome.

(2) References in this Part to a contravention of a bye-law include references to a failure or refusal to comply with the bye-law.

16.—(1) The Minister may make, in relation to any State aerodrome, bye-laws for any one or more of the following purposes—

(a) the exclusion therefrom of persons,

(b) the exclusion therefrom of vehicles,

(c) the admission thereto of persons,

(d) the admission thereto of vehicles,

Bye-laws in relation to State aerodromes.

- (e) the formation of queues of persons and vehicles within, or seeking admission to, the aerodrome,
 - (f) the prohibition of trespassing on the aerodrome by persons or animals,
 - (g) the securing of the safety of the aerodrome and of aircraft using it against damage and, in particular, damage by fire,
 - (h) the restriction of smoking in the aerodrome,
 - (i) the preservation of order and good conduct in the aerodrome,
 - (j) the prevention of nuisances in the aerodrome,
 - (k) the safe custody and re-delivery or disposal of any property found in the aerodrome or in any aircraft or vehicle therein, the fixing of the charges to be made in respect of such safe custody or re-delivery, and the application, if any such property is disposed of by being sold, of the moneys arising from the sale,
 - (l) generally for the proper management, operation and supervision of the aerodrome.
- (2) The Minister may, in relation to any State aerodrome, make bye-laws for all or any of the following purposes—
- (a) the specification of the routes to be followed by vehicles,
 - (b) the prohibition or restriction of the use of specified roadways by vehicles generally or during particular hours or at particular times or in particular circumstances,
 - (c) the prohibition of the driving of vehicles on a specified roadway otherwise than in a specified direction,
 - (d) the regulation of traffic generally.
- (3) The Minister may make, in relation to any State aerodrome, bye-laws for all or any of the following purposes—
- (a) fixing the places (in this section referred to as parking

places) in which vehicles, whether unattended or not, may remain stationary either indefinitely or for any period not exceeding a specified period,

- (b) appointing the conditions to be observed in regard to vehicles remaining stationary in parking places,
- (c) fixing the period during which, the purposes for which and the conditions under which vehicles may remain stationary in places, other than parking places,
- (d) prohibiting the keeping or leaving any vehicles stationary in any place (including parking places) for a period exceeding the period authorised in that behalf by the bye-laws or for a purpose other than a purpose so authorised in that behalf or otherwise than for a purpose (if any) or in accordance with the conditions (if any) prescribed in that behalf by the bye-laws.

(4) The Minister may make bye-laws prohibiting the driving of vehicles within a State aerodrome at a speed exceeding a specified speed.

(5) In making, under this section, any bye-laws in relation to a State aerodrome, the Minister may—

- (a) define, in such manner as he thinks proper, what shall constitute, for the purposes of any provision of the bye-laws, a class of persons or vehicles,
- (b) make different provisions in relation to different parts of the aerodrome,
- (c) make different provisions in relation to different classes of persons to whom the bye-laws apply,
- (d) make different provisions in relation to different classes of vehicles to which the bye-laws apply,
- (e) exempt from the operation of the bye-laws any particular class of persons or vehicles.

(6) If any person contravenes any bye-law made under this section, that person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

(7) Where any matter in respect of which bye-laws are made under this section is the subject of any enactment (other than this

Act) or any instrument made thereunder, then, the operation of that enactment or instrument, in so far as it relates to that matter, shall be suspended during the continuance in force of those bye-laws.

17.—(1) The Minister may, in relation to any State aerodrome, make bye-laws defining the duties of persons in command of aircraft which are for the time being on the ground in that State aerodrome.

Bye laws defining duties of persons in command of aircraft which are for the time being on the ground in a State aerodrome.

(2) If any person in command of an aircraft, which is for the time being on the ground in a State aerodrome to which any bye-law made under this section relates, contravenes the bye-law, he shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for any term not exceeding one month.

18.—Bye-laws in relation to a State aerodrome shall be displayed at the aerodrome in such manner as the Minister considers best adapted for giving information to persons affected by the bye-laws.

Publication of bye-laws.

19.—(1) If, in any State aerodrome to which a bye-law relates, any person (in this subsection referred to as the offender) contravenes the bye-law—

Removal and arrest of offenders in State aerodromes.

(a) an authorised officer may do either or both of the following things—

(i) require the offender to give his name and address,

(ii) order the offender to leave the aerodrome;

(b) if the offender, on being required by an authorised officer to give his name and address, refuses to give his name or refuses to give his address or gives a name or address which is known to, or reasonably suspected by, the authorised officer to be false or fictitious, the authorised officer may without warrant arrest him;

(c) if the offender, on being ordered by an authorised officer to leave the aerodrome, refuses or fails to do so, the authorised officer may either remove him from the aerodrome by force or without warrant arrest him.

(2) Where an authorised officer, who is not a member of the Garda Síochana, arrests a person under this section, he shall, forthwith, deliver him into the custody of a member of the Garda Síochana to be dealt with according to law.

(3) If any person—

- (a) on being required by an authorised officer acting under this section to give his name and address, refuses to give his name or address or gives a false or fictitious name or address, or
- (b) on being required by an authorised officer acting under this section to leave a State aerodrome, refuses or fails to leave it, or
- (c) having left a State aerodrome in pursuance of the requirement of an authorised officer acting under this section or having been removed from a State aerodrome under this section, returns thereto on the same day,

that person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

20.—Where an authorised officer finds any vehicle, animal or other thing in a State aerodrome in contravention of a bye-law relating to that aerodrome, he may remove the vehicle, animal or other thing to a place either inside or outside that aerodrome.

Removal of
vehicles, etc.

21.—If any person—

- (a) obstructs or impedes an authorised officer in the lawful execution of his powers and duties as an authorised officer under section 19 or 20 of this Act, or
- (b) assaults an authorised officer in the lawful execution of those powers and duties,

Obstruction of
and assault on
authorised
officers.

that person shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding twenty pounds or, at the discretion of the Court, to imprisonment for any term not exceeding six months.

- 22.**—For the avoidance of doubts it is hereby declared that—
- (a) a State aerodrome is a public place for the purposes of any enactment;
 - (b) the word "road" shall, for the purposes of Part X of the Road Traffic Act, 1933 (No. 11 of 1933) include a road in a State aerodrome.

State aerodrome to be a public place and roads therein to be roads for purposes of Part X of the Road Traffic Act, 1933.

- 23.**—For the purposes of the management of Dublin Airport, Aer Rianta, Teoranta, may, unless and until the Minister otherwise directs, act as his agent.

Management of Dublin Airport.

- 24.**—(1) The Minister may sell water from any water supply works maintained by him in connection with a State aerodrome.

Power of Minister to supply water at a State aerodrome.

- (2) Notwithstanding anything contained in the Waterworks Clauses Act, 1847, or the Waterworks Clauses Act, 1863,—

- (a) the Minister may, from water supplied to him at a State aerodrome by a sanitary authority, sell, with the consent of that sanitary authority, water to any person, and, for that purpose, may affix pipes and apparatus to any pipes used for the conveyance of the water supplied by that sanitary authority,
- (b) where water is sold to a person under paragraph (a) of this subsection, that person may take and use the water so sold.

PART VI.

PAYMENT OF SUBSIDIES TO AER RIANTA, TEORANTA.

- 25.**—(1) (a) The Minister for Finance may from time to time by order authorise the payment of subsidies to Aer Rianta, Teoranta, on such terms and conditions as may be specified in the order but no such order may be made after the expiration of five years from the passing of this Act.

Payment of subsidies to Aer Rianta, Teoranta.

- (b) Every order made under this subsection shall be laid before each House of the Oireachtas as soon

as may be after it is made, and if a resolution annulling such order is passed by either such House within the next subsequent twenty-one days on which such House has sat after such order is laid before it, such order shall be annulled accordingly but without prejudice to the validity of anything previously done under such order.

(2) Any moneys required for the payment of subsidies under this section shall be paid out of moneys provided, whether before or after the passing of this Act, by the Oireachtas.

FIRST SCHEDULE.

Section 4

ENACTMENT REPEALED.

Number and Year (1)	Short title (2)	Extent of Repeal (3)
No. 40 of 1936	The Air Navigation and Transport Act, 1936.	Subsection (1) of section 2, in so far as that subsection defines the expression "State aircraft." Section 42.

Sections 10, 11 and 12.

SECOND SCHEDULE.

PART I.

1. The lands (in this paragraph referred to as the originally demised lands) demised by a Lease dated the 27th day of June, 1906, and made between Sir Compton Meade Domville of the one part and Sarah O'Toole of the other part and therein described as "All that and those the said part of the lands of Collinstown and Rock with the house thereon containing one hundred and eighty-six acres and thirty-eight perches be the same more or less situate lying and being in the Barony of Coolock and County of Dublin and delineated on the map in the fold hereof" except—

- (a) that part of the originally demised lands, namely, part of the said lands of Collinstown containing one acre statute measure, which was acquired in the year 1915 by the

North Dublin Rural District Council for the purpose of
the Labourers (Ireland) Acts, 1883 to 1906,

(b) that part of the originally demised lands which was assigned to one Anne Moran by a Deed of Exchange dated the 21st day of June, 1929, made between the said Anne Moran of the one part and the Minister for Defence of the other part and is therein described as "All that part of the lands of Rock containing seven acres three roods and thirty-four perches statute measure or thereabouts and shown on the plan annexed hereto and therein coloured green situate in the Barony of Coolock and County of Dublin",

(c) that part of the originally demised lands which is comprised in a Lease dated the 20th day of May, 1930, made between the Minister for Finance of the one part and the North Dublin Rural District Council of the other part and is therein described as "All That and Those that part of the lands of Collinstown containing two acres and thirty six and one third perches statute measure or thereabouts as delineated and described and outlined in red on the map endorsed hereon being that portion of the lands comprised in the part of Collinstown Aerodrome lying between the Cuckoo Stream and the public road and adjoining the existing labourers' cottages and plots situate in the Barony of Coolock and County of Dublin."

2. The lands comprised in Folio 1951 County of Dublin in Register of Freeholders maintained under the Registration of Title Act, 1891.

3. The Lands granted by a Lease in Perpetuity dated the 1st day of March, 1920, expressed to be made between Robert Donovan of the one part and the President of the Air Council of the other part and therein described as "All that part of the lands of Little Forest containing sixteen acres one rood and nineteen perches or thereabouts statute measure and situate in the Parish of Swords Barony of Nethercross and County of Dublin and for the purposes of identification described in the plan annexed hereto and therein surrounded with a Red Verge line."

4. The lands comprised in Folio 1936 County Dublin of the Register of Freeholders maintained under the Registration of Title Act, 1891.

PART II.

1. That part of the lands comprised in Folio 3924 County Dublin of the Register of Freeholders maintained under the Registration of Title Act, 1891, which consists of part of the lands of Forrest Little containing six acres two roods and twenty-eight perches or thereabouts statute measure situate in the Barony of Nethercross and County of Dublin.

2. The lands comprised in and conveyed by an Indenture dated the 13th day of June, 1927, made between David Barry of the one part and the Minister for Defence of the other part.

THIRD SCHEDULE.

Sections 11 and 12

1. The lands comprised in Folio 15167 County Clare of the Register of Freeholders maintained under the Registration of Title Act, 1891.

2. The lands vested in the Minister by an order made on the 8th day of March, 1945, by the Minister in exercise of powers conferred by the Emergency Powers (No. 315) Order, 1944 (S. R. & O., No. 74 of 1944), which said lands are described in the first-mentioned Order as "All that portion of the former Monteagle Arms Hotel premises situate in the townland of Foynes, barony of Shanid and County of Limerick, being part of the lands registered in Folio 2910 of the Register County Limerick and comprised of (1) an open yard of 1927 square feet or thereabouts in area and buildings of 1431 square feet or thereabouts in floor area, as shown more particularly hatched blue on the annexed map and (2) an open yard of 1470 square feet or thereabouts in area as shown more particularly coloured pink on the said annexed map."

Number 1 of 1959.

AIR NAVIGATION AND TRANSPORT ACT, 1959.

ARRANGEMENT OF SECTIONS.

PART I.

PRELIMINARY AND GENERAL.

Section.

1. Short title and collective citation.
2. Commencement.
3. Interpretation.

PART II.

AMENDMENTS OF THE PRINCIPAL ACT.

4. Amendment of section 18 of the Principal Act.
5. Amendment of the First Schedule to the Principal Act.

PART III.

PROVISIONS IN RELATION TO THE 1955 PROTOCOL TO THE
WARSAW CONVENTION.

6. Application of Part III.
7. 1955 Protocol to the Warsaw Convention to have the force of law in the State.

PART IV.

CARRIAGE BY AIR WHICH IS NOT INTERNATIONAL.

8. Amendment of section 20 of the Principal Act.

SCHEDULE.

AIR NAVIGATION AND TRANSPORT ACT, 1959.

AN ACT TO AMEND SECTION 18 OF AND THE FIRST SCHEDULE TO THE AIR NAVIGATION AND TRANSPORT ACT, 1936, TO ENABLE EFFECT TO BE GIVEN TO A PROTOCOL (SIGNED AT THE HAGUE ON THE 28TH DAY OF SEPTEMBER, 1955) TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON THE 12TH DAY OF OCTOBER, 1929, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [18th March, 1959.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

PART I.**PRELIMINARY AND GENERAL.**

1.—(1) This Act may be cited as the Air Navigation and Transport Act, 1959. Short title
and collective
citation.

(2) The Air Navigation and Transport Acts, 1936 to 1950, and this Act may be cited together as the Air Navigation and Transport Acts, 1936 to 1959.

2.—(1) This Act (except Parts III and IV and the Schedule) shall come into operation immediately upon the passing thereof. Commencement

(2) The following provisions of this Act, namely, Parts III and IV and the Schedule, shall come into operation on such day as shall be fixed for that purpose by order of the Government.

3.—In this Act—

“the Principal Act” means the Air Navigation and Transport Act, 1936;

Interpretation.
1936, No. 40.

“the 1955 Protocol to the Warsaw Convention” means the Protocol (signed at The Hague on the 28th September, 1955) to amend the Warsaw Convention;

“the Warsaw Convention” has the same meaning as in the Principal Act.

PART II.**AMENDMENTS OF THE PRINCIPAL ACT.**

4.—(1) The following clause shall be substituted for clause (ii) of paragraph (b) of section 18 of the Principal Act—

Amendment of
section 18 of
the Principal
Act.

“ (ii) in deducing any relationship—

(I) a person adopted under the Adoption Act, 1952 (No. 25 of 1952), shall be considered as the child of the adopter or adopters born to him, her or them in lawful wedlock and not to be the child of any other person,

(II) subject to sub-clause (I) of this clause, an illegitimate person shall be considered the legitimate offspring of his mother and reputed father,

(III) a person in *loco parentis* to another shall be considered the parent of that other;”.

(2) Subsection (1) of this section shall not apply in respect of an action to enforce the liability of a carrier in respect of the death of a passenger where the death occurred before the passing of this Act.

5.—The First Schedule to the Principal Act is hereby amended in the following respects—

Amendment of
the First
Schedule to
the Principal
Act.

(a) the word “baggage” shall be substituted for the word “luggage” wherever the latter word occurs,

(b) the expression “baggage ticket” shall be substituted for the expression “luggage ticket” wherever the latter expression occurs,

- (c) the word "cargo" shall be substituted for the word "goods" wherever the latter word occurs,
- (d) the expression "air waybill" shall be substituted for the expression "air consignment note" wherever the latter expression occurs.

PART III.

PROVISIONS IN RELATION TO THE 1955 PROTOCOL TO THE WARSAW CONVENTION.

6.—This Part shall apply only in respect of States which are parties to the 1955 Protocol to the Warsaw Convention. Application of Part III.

7.—(1) The provisions of the 1955 Protocol to the Warsaw Convention, as set out in the Schedule to this Act, shall have the force of law in the State, and the following provisions of the Principal Act, namely section 18 (as amended by section 4 of this Act) and the First Schedule (as amended by section 5 of this Act) shall have effect accordingly. 1955 Protocol to the Warsaw Convention to have the force of law in the State.

(2) The Government may by order from time to time certify who are the parties to the 1955 Protocol to the Warsaw Convention, in respect of what territories they are respectively parties and to what extent they have availed themselves of the right of reservation provided for in Article XXVI of the 1955 Protocol to the Warsaw Convention.

(3) Any sum in francs mentioned in Article 22 of the First Schedule to the Principal Act, as amended by Article XI of the Schedule to this Act, shall, for the purposes of an action against the carrier, be converted into the currency of the State at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the Court.

PART IV.

CARRIAGE BY AIR WHICH IS NOT INTERNATIONAL.

8.—In section 20 of the Principal Act—

- (a) references to the First Schedule to the Principal Act shall be construed as references to the said First Schedule as amended by section 5 of this Act and by the Schedule to this Act,
- (b) the reference to section 18 of the Principal Act shall be construed as a reference to the said section 18 as amended by section 4 of this Act.

Amendment of section 20 of the Principal Act.

Number 29 of 1959.

AIR NAVIGATION AND TRANSPORT
(No. 2) ACT, 1959.

ARRANGEMENT OF SECTIONS.

Section.

1. Interpretation.
2. Increase of capital of the Company.
3. Restriction on State guarantee of debentures of the Company.
4. Short title and collective citation.

AIR NAVIGATION AND TRANSPORT (No. 2) ACT, 1959.

AN ACT TO AMEND AND EXTEND THE AIR NAVIGATION
AND TRANSPORT ACTS, 1936 TO 1959.

[11th August, 1959.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

1.—In this Act—

Interpretation.

"the Company" means Aer Rianta, Teoranta, being the company formed in pursuance of section 68 of the Principal Act;

"the Principal Act" means the Air Navigation and Transport Act, 1936, No. 40.

2.—Subsection (1) of section 21 of the Air Navigation and Transport Act, 1946, is hereby amended by the substitution of "£10,000,000 (ten million pounds) divided into ten million shares of one pound each" for "£2,000,000 (two million pounds) divided into two million shares of one pound each", and any reference in Part IV of that Act to the said section 21 shall be construed as including a reference to that section as amended by this section.

Increase of
capital of
the Company.
1946, No. 23.

3.—The power to give guarantees with respect to debentures issued by the Company which is conferred on the Minister for Finance by section 75 of the Principal Act shall not be so exercised that the total amount of principal moneys the due payment of which stands at any time guaranteed pursuant to that section exceeds £5,000,000 (five million pounds).

Restriction on
State guarantee
of debentures
of the Company.

4.—(1) This Act may be cited as the Air Navigation and Transport (No. 2) Act, 1959.

Short title
and collective
citation.

(2) The collective citation the Air Navigation and Transport Acts, 1936 to 1959, shall include this Act.

Number 36 of 1959.

**SHANNON FREE AIRPORT DEVELOPMENT
COMPANY LIMITED ACT
1959 (No. 36)**

ARRANGEMENT OF SECTIONS.

Section.

1. Definitions.
2. Power to Minister for Finance to take up shares of the Company.
3. Advances of moneys out of the Central Fund.
4. Holding and sale by the Minister for Finance of shares.
5. Exercise by the Minister for Finance of right or power exercisable by holder of shares.
6. Disposition of dividends, etc., on shares held by the Minister for Finance.
7. Exemption from stamp duty.
8. Grants to the Company.
9. Restriction on amount of certain grants made by the Company.
10. Provisions having effect in certain circumstances.
11. Restriction on making of grants by An Foras Tionscal.
12. Expenses.
13. Short title.

SCHEDULE.

PROVISIONS HAVING EFFECT SO LONG AS THE MINISTER FOR FINANCE HOLDS ANY SHARES OF THE COMPANY OR ANY MONEYS BORROWED BY THE COMPANY THE DUE REPAYMENT OF WHICH IS GUARANTEED BY THAT MINISTER HAVE NOT BEEN REPAID OR ANY MONEYS PAID BY THE MINISTER UNDER A GUARANTEE HAVE NOT BEEN REPAID TO HIM BY OR RECOVERED BY HIM FROM THE COMPANY.

SHANNON FREE AIRPORT DEVELOPMENT COMPANY LIMITED ACT, 1959.*

AN ACT TO AUTHORISE THE MINISTER FOR FINANCE TO TAKE UP SHARES OF THE SHANNON FREE AIRPORT DEVELOPMENT COMPANY LIMITED, TO PROVIDE FOR THE MAKING OF GRANTS TO THAT COMPANY AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID.

[8th December, 1959.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

1.—In this Act—

Definitions.

the airport" means the entire area within the outer margin of the red line marked ABCDEFG on the map annexed to the Customs-Free Airport (Variation of Limits) Order, 1958, but, where, after the passing of this Act, any order is made under section 2 of the Customs-Free Airport Act, 1947, altering that area and is for the time being in force, means that area as so altered;

S.I. 1958, No. 258.

1947, No. 5.

the Company" means the Shannon Free Airport Development Company Limited;

the Minister" means the Minister for Transport and Power.

2.—The Minister for Finance may from time to time take up by subscription any class or classes of shares of the Company and the amounts, not exceeding in the aggregate one and one-half million pounds, which may be subscribed under this section shall be determined by the Minister for Finance after consultation with the Minister.

Power to Minister for Finance to take up shares of the Company.

* The official translation of this Act is printed opposite.

3.—(1) All moneys from time to time required by the Minister for Finance to meet payments required to be made by him to the Company in respect of any shares taken up by him under this Act shall be advanced out of the Central Fund or the growing produce thereof.

Advances of moneys out of the Central Fund.

(2) For the purpose of providing moneys for the sums advanced out of the Central Fund under this section, the Minister for Finance may borrow from any person any sum or sums, and for the purpose of such borrowing he may create and issue securities bearing such rate of interest and subject to such conditions as to repayment, redemption or any other matter as he thinks fit, and shall pay the moneys so borrowed into the Exchequer.

(3) The principal of and interest on any securities issued by the Minister for Finance under this section and the expenses incurred in connection with the issue of such securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

4.—(1) The Minister for Finance may hold for so long as he thinks fit any shares of the Company taken up by him under this Act and may, as and when he thinks fit, sell all or any of such shares.

Holding and sale by the Minister for Finance of shares.

(2) The net proceeds of a sale by the Minister for Finance of shares of the Company shall be paid into or disposed of for the benefit of the Exchequer.

5.—Where the Minister for Finance holds shares of the Company, he may exercise a right or power exercisable by the holder of the shares and, where the right or power is exercisable by attorney, he may, if he so thinks proper, exercise it by his attorney.

Exercise by the Minister for Finance of right or power exercisable by holder of shares.

6.—All dividends, bonus and other moneys received by the Minister for Finance in respect of shares of the Company held by him shall be paid into or disposed of for the benefit of the Exchequer.

Disposition of dividends, etc., on shares held by the Minister for Finance.

7.—Section 112 of the Stamp Act, 1891, shall not operate so as to require the Company to deliver to the Registrar of Joint Stock Companies any statement or to pay any stamp duty under that section in respect of any increase of the capital of the Company.

Exemption from stamp duty.

1891, c.39.

8.—(1) The Minister, with the consent of the Minister for Finance, may, out of moneys provided by the Oireachtas, make grants to the Company—

Grants to the Company.

(a) to enable the Company to do such things as are calculated either directly or indirectly to encourage or facilitate the establishment and carrying on of commercial, industrial and trading enterprises at the airport, and

(b) to meet the running expenses of the Company.

(2) The aggregate amount of grants under this section shall not exceed five hundred thousand pounds.

9.—(1) Where a grant is made by the Company for the provision of machinery and equipment in connection with any industrial or commercial enterprise at the airport, the amount of the grant shall not exceed one-half of the cost of the machinery and equipment.

Restriction on amount of certain grants made by the Company.

(2) Where a grant is made by the Company for the training of workers for the purpose of any industrial or commercial enterprise at the airport, the amount of the grant shall not exceed the actual amount of wages paid to such workers during the period of their training, together with, in the case of workers trained outside the State, the amount of their travelling and subsistence expenses.

10.—The provisions of the Schedule to this Act shall have effect so long as—

Provisions having effect in certain circumstances.

(a) the Minister for Finance holds any shares of the Company, or

(b) any moneys borrowed by the Company the due repayment of which is guaranteed by the Minister for Finance under the State Guarantees Act, 1954, as amended by the State Guarantees Act, 1954 (Amendment of Schedule) Order, 1959, have not been repaid, or

1954, No. 9.

S.I. 1959, No. 49.

(c) any moneys borrowed by the Company, the due repayment of which is so guaranteed and the amount of which has been paid by the Minister for Finance under the guarantee, have not (together with interest thereon at the rates appointed by that Minister) been repaid by the Company to him or recovered from the Company by him.

11.—After the passing of this Act, An Foras Tionscal shall not make a grant in respect of the establishment, development or maintenance of an industrial undertaking at the airport.

Restriction on making of grant by An Foras Tionscal.

12.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

13.—This Act may be cited as the Shannon Free Airport Development Company Limited Act, 1959.

Short title.

SCHEDULE.

Section 10.

PROVISIONS HAVING EFFECT SO LONG AS THE MINISTER FOR FINANCE HOLDS ANY SHARES OF THE COMPANY OR ANY MONEYS BORROWED BY THE COMPANY THE DUE REPAYMENT OF WHICH IS GUARANTEED BY THAT MINISTER HAVE NOT BEEN REPAID OR ANY MONEYS PAID BY THE MINISTER UNDER A GUARANTEE HAVE NOT BEEN REPAID TO HIM BY OR RECOVERED BY HIM FROM THE COMPANY.

1. Notwithstanding anything contained in the Companies Acts, 1908 to 1959, or in the memorandum or articles of association of the Company, an alteration in the said memorandum or articles shall not be valid or effectual unless made with the previous approval of the Minister for Finance given after consultation with the Minister.

Restriction on alteration of memorandum and articles of association.

2. (1) The Company shall keep, in such form as may be approved by the Minister, with the concurrence of the Minister for Finance, all proper and usual accounts of all moneys received and expended by it and, in particular, shall keep, in such form as aforesaid, all such special accounts as the Minister may from time to time direct.

Accounts and audits.

(2) Accounts kept in pursuance of this section shall be submitted annually by the Company to an auditor for audit at such time as the Minister, with the concurrence of the Minister for Finance, directs and the Company shall furnish a copy of the accounts as so audited, together with a copy of the auditor's report thereon, to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

3. (1) The Company shall, in each year, at such date as the Minister may direct, make a report to the Minister of its activities during the preceding year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas. Annual report.

(2) Whenever the Minister so directs, such annual report shall also include information on such particular aspects of the Company's activities under this Act as the Minister may specify.

4. (1) Where a director of the Company is nominated either as a candidate for election to either House of the Oireachtas or as a member of Seanad Éireann, he shall thereupon cease to be a director of the Company. Membership of either House of the Oireachtas by directors, officers or servants of the Company.

(2) Where a person who is either an officer or a servant in the employment of the Company becomes a member of either House of the Oireachtas—

(a) he shall, during the period (in this section referred to as the secondment period) commencing upon his becoming entitled under the Standing Orders of that House to sit therein and ending either when he ceases to be a member of that House or, if it should sooner happen, upon his resignation or retirement from such employment or upon the termination of such employment by the Company, stand seconded from such employment,

(b) he shall not be paid by, or entitled to receive from, the Company any salary or wages, as the case may be, in respect of the secondment period,

(c) if there is in force a scheme made by the Company for the payment of superannuation benefits to or in respect of the officers or servants of the Company and the scheme establishes a fund to which the Company and the person pay contributions—

(i) the secondment period shall, for the purposes of the scheme, be deemed to be service of that person which is reckonable for superannuation benefits under the scheme if, but only if—

- (I) he was in the permanent employment of the Company and was a contributor under the scheme immediately before the commencement of the secondment period,
 - (II) he elects, by notice in writing given to the Company within three months after the commencement of the secondment period, to pay contributions under the scheme in respect of the secondment period in accordance with the provisions of this paragraph, and
 - (III) he pays, at such times and in such manner as the committee duly appointed under the scheme to administer the scheme may specify, contributions under the scheme in respect of the secondment period equal in amount to the aggregate of the contributions which he would have paid and the contributions which the Company would have paid in respect of the secondment period if he had remained without secondment under this paragraph in the service of the Company during the secondment period and had been in receipt of remuneration from the Company during that period,
- (ii) the Company shall not pay any contributions under the scheme in respect of the secondment period, but that part of the contributions payable by him as aforesaid which is equal to the amount of the contributions which the Company would have paid under the scheme in respect of the secondment period if he had remained without secondment under this subparagraph in the service of the Company during the secondment period and had been in receipt of remuneration from the Company during that period shall, for the purposes of the scheme, be deemed to have been paid by the Company,
 - (iii) if the secondment period is terminated by his death or by his retirement from such employment, he shall, for the purposes of the scheme, be deemed to have died in or to have been retired from the service of the Company, as the case may be, and to have been in receipt of remuneration from the Company immediately before such death or retirement, as the case may be,

(iv) if he does not pay or if, having paid contributions under the scheme in accordance with the provisions of this subparagraph, he ceases to pay contributions as aforesaid, he shall, for the purposes of the scheme, be deemed to have resigned from such employment—

(I) in case he ceases to pay contributions as aforesaid, on the date of the last payment, and

(II) in any other case, immediately before the commencement of the secondment period.

(3) If a person who is or was an officer or servant of the Company becomes entitled to a pension under the Ministerial and Parliamentary Offices Acts, 1938 to 1952—

(a) he shall not be entitled to reckon the whole or any part of his period of pensionable service, within the meaning of those Acts, for any superannuation benefits payable under a scheme made by the Company for the payment of superannuation benefits to or in respect of the officers or servants of the Company,

(b) if he has paid any contributions in accordance with the provisions of subparagraph (2) of this paragraph in respect of that period, so much thereof as is equal to the amount of the contributions which he would have paid in respect of that period under the scheme if he had remained without secondment under subparagraph (2) of this paragraph in the service of the Company during that period and had been in receipt of remuneration from the Company during that period, shall be returned to him if and when a payment of benefit or a return of other contributions is made to him under the scheme.

(4) A reference in subparagraph (2) or subparagraph (3) of this paragraph to the receipt by any person of remuneration from the Company shall be taken as a reference to the receipt by that person of remuneration from the Company at the rate at which he was being remunerated by the Company on the last day of his employment with the Company before his secondment under subparagraph (2) of this paragraph.

(5) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein shall, while so entitled, be disqualified from becoming a director of the Company or an officer or servant of the Company.

5. A scheme made by the Company for the payment of superannuation benefits to or in respect of the officers or servants of the Company shall not be valid unless made with the consent of the Minister given with the concurrence of the Minister for Finance.

Restriction on making of superannuation scheme.

Number 25 of 1961.

AIR NAVIGATION AND TRANSPORT
ACT, 1961.

1303

ARRANGEMENT OF SECTIONS.

Section.

1. Interpretation.
2. Increase of capital of the Company.
3. Advances to the Company out of the Central Fund.
4. Provision of money for advances to the Company out of the Central Fund.
5. Payment of interest on repayable advances.
6. Repayment of repayable advances.
7. Short title and collective citation.

Number 25 of 1961.

AIR NAVIGATION AND TRANSPORT ACT, 1961.*

AN ACT TO AMEND AND EXTEND THE AIR NAVIGATION
AND TRANSPORT ACTS, 1936 TO 1959.

[3rd August, 1961.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

1.—In this Act—

Interpretation.

“ the Company ” means Aer Rianta, Teoranta, being the Company formed in pursuance of section 68 of the Air Navigation and Transport Act, 1936;

1936, No. 40.

“ the Minister ” means the Minister for Transport and Power.

2.—Subsection (1) of section 21 of the Air Navigation and Transport Act, 1946, is hereby amended by the substitution of “ £13,000,000 (thirteen million pounds) divided into thirteen million shares of one pound each ” for “ £10,000,000 (ten million pounds) divided into ten million shares of one pound each ” (inserted by the Air Navigation and Transport (No. 2) Act, 1959), and any reference in Part IV of that Act to the said section 21 shall be construed as including a reference to that section as amended by this section.

**Increase of
capital of the
Company.
1946, No. 23.**

1959, No. 29.

3.—(1) For the purpose of enabling the Company to perform its functions, the Minister for Finance may, on the recommendation of the Minister, advance from time to time to the Company, out of the Central Fund or the growing produce thereof, such sums (not exceeding in the aggregate one million pounds) as the Company may from time to time request.

**Advances to the
Company out of
the Central Fund**

*The official translation of this Act is printed opposite.

(2) The sums advanced under this section shall be expended by the Company solely for the purpose of the functions of the Company.

(3) The sums advanced under this section shall be repayable with interest in accordance with the subsequent provisions of this Act.

4.—(1) The Minister for Finance may, for the purpose of providing for the advance of sums out of the Central Fund under section 3 of this Act borrow on the security of the Central Fund or the growing produce thereof such sums as shall be required for that purpose, and the Minister for Finance may, for the purposes of such borrowing, create and issue securities bearing such rate of interest and subject to such conditions as to repayment, redemption, or otherwise as he thinks fit, and shall pay all moneys so borrowed into the Exchequer.

Provision of money for advances to the Company out of the Central Fund

(2) The principal of and interest on all securities issued under this section and the expenses incurred in connection with the issue of the securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

5.—(1) The Company shall pay to the Minister for Finance on every sum advanced to the Company out of the Central Fund under section 3 of this Act interest from the date of the advance of the sum until the sum is repaid at such rate as shall from time to time be appointed by the Minister for Finance in respect of the sum, and the interest shall be paid by half-yearly payments on such days in every year as the Minister for Finance shall from time to time appoint.

Payment of interest on repayable advances.

(2) If the Company fails to pay to the Minister for Finance any interest payable by it under this section at the time appointed in that behalf under this section, the Company shall pay to the Minister for Finance interest at the rate appointed by the said Minister on the interest so unpaid from the time appointed as aforesaid until the unpaid interest is paid.

(3) All interest paid to the Minister for Finance by the Company under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

6.—(1) For the purpose of providing for the repayment by the Company of the advances made to it out of the Central Fund under section 3 of this Act, the Company shall make to the Minister for Finance half-yearly payments commencing on such date, and continuing for such number of years and being of such amounts and payable at such times as the Minister for Finance, after consultation with the Minister, shall appoint, and different dates, numbers of years, amounts, and times may be so appointed in respect of different portions of the advances.

Repayment of
repayable
advances.

(2) The several half-yearly payments to be made to the Minister for Finance by the Company under this section shall be applied by the said Minister as sinking funds for the repayment of the several portions of the advances in respect of which the half-yearly payments are made and when the Company has paid to the said Minister the full number of half-yearly payments appointed under this section in respect of any portion of the advances (together with any interest which may have become payable under this section in respect of any of the half-yearly payments) that portion of the advances shall be deemed to be fully repaid by the Company, without prejudice to the liability of the Company for any interest then unpaid in respect of that portion of the advances.

(3) If the Company fails to pay to the Minister for Finance any half-yearly payment or portion of a half-yearly payment payable by it to the said Minister under this section at the time appointed in that behalf under this section, the Company shall pay to the said Minister on the half-yearly payment or portion of a half-yearly payment interest at such rate as shall from time to time be appointed by the said Minister in respect thereof from the time appointed as aforesaid until the payment or portion is paid.

(4) All moneys paid by the Company to the Minister for Finance under this section in repayment of advances shall be paid into the Exchequer.

(5) All sums paid by the Company to the Minister for Finance under this section on foot of interest shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

7.—(1) This Act may be cited as the Air Navigation and Transport Act, 1961.

Short title and
collective
citation.

(2) The Air Navigation and Transport Acts, 1936 to 1959, and this Act may be cited together as the Air Navigation and Transport Acts, 1936 to 1961.

Number 31 of 1961.

SHANNON FREE AIRPORT DEVELOPMENT COMPANY LIMITED
(AMENDMENT) ACT, 1961.

ARRANGEMENT OF SECTIONS.

Section.

1. Interpretation.
2. Amendment of section 2 of the Principal Act.
3. Amendment of section 8 of the Principal Act.
4. Advances to the Company out of the Central Fund.
5. Provision of moneys for advances out of the Central Fund.
6. Payment of interest on advances.
7. Repayment of advances.
8. Short title and collective citation.

Number 31 of 1961.

**SHANNON FREE AIRPORT DEVELOPMENT
COMPANY LIMITED (AMENDMENT) ACT, 1961.***

AN ACT TO AMEND AND EXTEND THE SHANNON FREE
AIRPORT DEVELOPMENT COMPANY LIMITED ACT,
1959. [9th August, 1961.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

1.—(1) In this Act—

Interpretation.

“ the Principal Act ” means the Shannon Free Airport Develop- 1959, No. 36.
ment Company Limited Act, 1959;

“ the Housing Acts ” means the Housing (Financial and Mis-
cellaneous Provisions) Acts, 1932 to 1960;

“ the Minister ” means the Minister for Transport and Power.

(2) This Act shall be construed as one with the Principal Act.

2.—So much of section 2 of the Principal Act as provides that the aggregate of the amounts which the Minister for Finance may subscribe under that section in taking up shares of the Shannon Free Airport Development Company Limited (hereinafter called the Company) shall not exceed one and one-half million pounds is hereby repealed, and, in lieu thereof, it is hereby enacted that the aggregate of the amounts so subscribed shall not exceed three million pounds.

Amendment of
section 2 of the
Principal Act.

*The official translation of this Act is printed opposite.

3.—Subsection (2) of section 8 of the Principal Act is hereby repealed, and in lieu thereof, it is hereby enacted that the aggregate amount of grants to be made to the Company under that section shall not exceed one million and two hundred and fifty thousand pounds.

Amendment of section 8 of the Principal Act.

4.—(1) The Minister for Finance may from time to time, subject to the provisions of this section, make advances to the Company out of the Central Fund or the growing produce thereof to meet one-half of the expenditure by the Company on the provision of dwellings for workers employed on the industrial estate established at the airport.

Advances to the Company out of the Central Fund.

(2) For the purposes of this section the amount of the expenditure of the Company on the provision of workers' dwellings shall be calculated after deduction of the amount of any grants received by the Company under the Housing Acts in respect of the provision of such dwellings.

(3) The aggregate amount of advances under this section shall not exceed four hundred thousand pounds.

5.—Subsections (2) and (3) of section 3 of the Principal Act shall apply to the provision of moneys for the sums advanced out of the Central Fund under the immediately preceding section of this Act as they apply to the provision of moneys for the sums advanced out of the Central Fund under subsection (1) of the said section 3 of the Principal Act.

Provision of moneys for advances out of the Central Fund.

6.—(1) The Company shall pay to the Minister for Finance on every sum advanced to the Company out of the Central Fund under section 4 of this Act interest from the date of the advance of the sum until the sum is repaid at such rate as shall from time to time be appointed by the Minister for Finance in respect of the sum, and the interest shall be so paid by half-yearly payments on such days in every year as the Minister for Finance shall from time to time appoint.

Payment of interest on advances.

(2) If the Company fails to pay to the Minister for Finance any interest payable by it under this section at the time appointed in that behalf under this section, the Company shall pay to the Minister for Finance interest at the rate appointed by the said Minister on the interest so unpaid from the time appointed as aforesaid until the unpaid interest is paid.

(3) All interest paid to the Minister for Finance by the Company under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

7.—(1) For the purpose of providing for the repayment by the Company of the advances made to it out of the Central Fund under section 4 of this Act, the Company shall make to the Minister for Finance half-yearly payments commencing on such date, and continuing for such number of years and being of such amounts and payable at such times as the Minister for Finance, after consultation with the Minister, shall appoint, and different dates, numbers of years, amounts, and times may be so appointed in respect of different portions of the advances. Repayment of advances.

(2) The several half-yearly payments to be made to the Minister for Finance by the Company under this section shall be applied by the said Minister as sinking funds for the repayment of the several portions of the advances in respect of which the half-yearly payments are made and when the Company has paid to the said Minister the full number of half-yearly payments appointed under this section in respect of any portion of the advances (together with any interest which may have become payable under this section in respect of any of the half-yearly payments) that portion of the advances shall be deemed to be fully repaid by the Company, without prejudice to the liability of the Company for any interest then unpaid in respect of that portion of the advances.

(3) If the Company fails to pay to the Minister for Finance any half-yearly payment or portion of a half-yearly payment payable by it to the said Minister under this section at the time appointed in that behalf under this section, the Company shall pay to the said Minister on the half-yearly payment or portion of a half-yearly payment interest at such rate as shall from time to time be appointed by the said Minister in respect thereof from the time appointed as aforesaid until the payment or portion is paid.

(4) All moneys paid by the Company to the Minister for Finance under this section in repayment of advances shall be paid into the Exchequer.

(5) All sums paid by the Company to the Minister for Finance under this section on foot of interest shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

8.--(1) This Act may be cited as the Shannon Free Airport Development Company Limited (Amendment) Act, 1961. Short title and
collective citation

(2. The Principal Act and this Act may be cited together as the Shannon Free Airport Development Company Limited Acts, 1959 and 1961.

ISRAEL

PRELIMINARY

The Ministry of Transport and Communications, Legal Advisor's Office, of Israel, informed the editor, in regard to aviation laws in force, as follows:

The Israeli Parliament has adopted in 1950, the Aviation Law 1950 (Sefer Hahukim No. 33 dated 6.2.50, page 73).

The said law contains various amendments to the Palestine Mandatory Aviation Law, namely the U.K. Air Navigation (Colonies, Protectorates and Mandated Territories) Order 1927.

The new law was destined to enable the application of the 1927 law in Israel and to amend it so as to adapt it to the needs of the State of Israel and to the new international instrument governing the subject.

The 1927 Law as so amended has been sufficient to cover current activities of the Civil Aviation authorities in Israel.

A special commission of experts is about to be set up in the near future by the Minister of Transport and Communications for the preparation of a new basic Civil Aviation Law.

This Ministry has prepared a new law governing Carriage by Air, based upon the 1929 Warsaw Convention and the 1955 Hague Protocol. The new law will govern both international and internal carriage. This law is to replace the Carriage By Air (Colonies, Protectorates and Mandated Territories) Order, 1934 (Palestine Gazette No. 511 of 9.5.1935), which gave effect in Palestine to the 1929 Warsaw Convention.

As regards technical regulations, we had the advantage of advice of the ICAO Technical Assistance Mission for the working out of new sets of regulations concerning:

- (a) Licensing of aviation personnel.
- (b) Airworthiness of aircraft.

These regulations have been prepared by this office and were considered and approved by a committee composed of experts in aviation from amongst the Israeli Aviation companies, The Israeli Aircraft Maintenance Institute and the Israeli Aviation Authorities.

The licensing of personnel regulations have been duly published in the State's Official Gazette (Kovetz Hatakanot No. 615 of the 18.6.1956).

The airworthiness regulations were given effect to, on an administrative basis, by the Director of Civil Aviation and after an experimental period of administrative application, they will be duly promulgated.

There was no need for a new basic law to give a legal basis to those regulations; the existing law, as supplemented in 1950 was sufficient in this respect.

There are various other regulations promulgated by the Minister of Transport and Communications, such as the Civil Aviation Regulations (Licensing of Air Transport Services), 1956 (Kovetz Hatakanot No. 624 of 26.7.1956) and also the Civil Aviation Regulations (Fees), 1956 (Kovetz Hatakanot No. 624 of 26.7.1956).

No. 14

AIR NAVIGATION (AMENDMENT) LAW, 5710--1950*

1. The Air Navigation (Colonies, Protectorates and Mandated Territories) Order, 1927¹⁾, shall henceforward be referred to, and that title, wherever appearing, shall henceforward be read, as "the Air Navigation Law, 1927".

Change of title.

2. The Air Navigation Law, 1927, shall be amended as follows:

Amendment of Air Navigation Law, 1927.

(a) The expression "Order" shall, wherever appearing, be replaced by the expression "Law".

(b) The words "British aircraft" or "British aircraft registered in the Colony" shall, wherever appearing, be replaced by the words "Israel aircraft".

(c) The words, "a licensed aerodrome, a Royal Air Force aerodrome, an aerodrome under the control of the Secretary of State for Air or the Governor" shall, wherever appearing, be replaced by the words "an aerodrome".

(d) Paragraph (2) of article 3 shall be replaced by the following paragraph:

"(2) "Israel aircraft" means aircraft registered in the State in accordance with this Law".

(e) Subparagraph (b) of article 3 shall be replaced by the following subparagraph:

"(b) to all foreign aircraft when such aircraft are in or over the State;"

(f) In article 5 —

(1) condition (iv) specified in paragraph (1) shall be deleted;

(2) proviso (a) shall be replaced by the following proviso:

"(a) Condition (i) shall not apply to Israel aircraft, and shall not apply to the aircraft of a state with which a convention relating to air navigation entered into by or on behalf of the State is for the time being in force, so long as the conditions of the convention are complied with by such state."

(g) Articles 6, 8, 8A, 8B and 9 shall be repealed.

(h) The following article shall be inserted after article 7:

"Place of departure and landing of aircraft.

8. An aircraft shall not depart or land within the area of the State except on an aerodrome approved by the Minister of Communications as an aerodrome for the category of aircraft to which such aircraft belongs."

(i) The word "licensed" in proviso (ii) to article 10(2) shall be deleted.

(j) Article 19 shall be replaced by the following article:

"Prohibited carriage.

19. A foreign aircraft or an aircraft engaged in international navigation shall not carry explosives of war, arms of war, or munitions of war, except for use in signalling in accordance with the provisions of Schedule IV."

(k) Article 22A shall be repealed.

* Passed by the Knesset on the 13th Shevat, 5710 (31st January, 1950) and published in *Sefer Ha-Chukkim* No. 33 of the 19th Shevat, 5710 (4th February, 1950) p. 73; the Bill and an Explanatory Note were published in *Hatsot Chok* No. 26 of the 20th Kislev, 5710 (11th December, 1949) p. 31.

1) *Laws of Palestine* vol. III, p. 2411 (English Edition).

(l) In article 28(3) —

- (1) subparagraph (i) shall be replaced by the following subparagraph:

"(i) for the reason only of non-compliance with condition (iv) specified in paragraph (1) of article 4, or so much of condition (v) specified in paragraph (1) of article 5 as requires certificates of airworthiness to be carried in aircraft, or";

- (2) the words "paragraphs (1) and (2) of Article 8" in subparagraph (ii) shall be deleted.

(m) In article 29 —

- (1) the words "or the licence of any aerodrome in the Colony" in paragraph (1) shall be deleted;

- (2) paragraph (4) shall be deleted;

- (3) the words "or liable to be suspended under paragraph (4) of this article" in paragraph (5) shall be deleted.

(n) In article 31(1) —

- (1) the definition of "Aerodrome" shall be replaced by the following definition:

"'Aerodrome' means any ground or water area held and administered by the State and intended to be used, either wholly or in part, for the departure or landing of aircraft;";

- (2) the definitions of "Proprietor of an aerodrome" and "Licensed aerodrome" shall be deleted.

(o) In Schedule I —

- (1) paragraph 1 shall be replaced by the following paragraph:

"1. The Minister of Communications may establish a Registry of Aircraft and may appoint an officer to act as Registrar of Aircraft (hereinafter referred to as "the Registrar").";

- (2) paragraph 2 shall be replaced by the following paragraph:

"2. (1) An aircraft shall not be registered in the State unless —

- (a) its ordinary base is situate in the State;

- (b) it is owned wholly either —

- (i) by a resident; or

- (ii) by a company or corporation founded and duly registered in the State, the principal place of business of which is in the State and at least two-thirds of the directors of which are residents, and which is both nominally and actually controlled by residents;

- (c) the Minister of Communications has permitted such registration in writing;

provided that the Minister of Communications may direct the registration of an aircraft in the State even where the conditions specified in this subparagraph are not fulfilled, if he is satisfied that the registration is required in the public interest.

- (2) The Minister of Communications may grant, refuse to grant and withdraw a permission under subparagraph 1(c), and may also attach conditions to such a permission and add to and vary all or any of such conditions.

- (3) An aircraft shall not remain registered in the name of a natural or juristic person no longer fulfilling the conditions specified

in subparagraph (1) or a condition attached by the Minister of Communications to a permission under this paragraph.

(4) "Resident", for the purposes of this paragraph, means a person who has been a permanent resident of the State since the 5th Iyar, 5708 (14th May, 1948) or who entered the State legally after the said date and has on the date of submission of his application been a permanent resident of the State for at least three months.";

(3) in the fourth paragraph —

(i) the words "the Secretary of State for Air" shall, wherever appearing, be replaced by the words "the Minister of Communications";

(ii) subparagraph (2) shall be replaced by the following subparagraph:

(2) If the Registrar has doubts as to whether an application is in order and complies with all the conditions as aforesaid, he shall refer the matter to the Minister of Communications, who may at his discretion order or prohibit registration.";

(4) paragraphs 5 and 9 shall be repealed;

(5) in the tenth paragraph, the words "the Air Ministry" shall be replaced by the words "the Minister of Communications";

(6) paragraph 14 shall be replaced by the following paragraph:

"14. The nationality and registration marks of an aircraft shall be such as the Registrar may prescribe.".

(p) In Schedule II —

(1) in the first paragraph —

(i) the words "which the Minister of Communications or a person appointed by him in that behalf has at his discretion" shall be inserted between the words "certificate of airworthiness" and the words "validated or issued";

(ii) the following sentence shall be added at the end:

"A certificate of airworthiness shall be validated or issued in accordance with such conditions and directions as the Minister of Communications may from time to time prescribe.";

(2) in the second paragraph —

(i) the words "in any other part of His Majesty's dominions or" shall be deleted;

(ii) the words "on behalf of His Majesty" shall be replaced by the words "on behalf of the State";

(iii) the words "over British territory" shall be replaced by the words "over the area of the State";

(3) paragraph 3 shall be repealed.

(q) In Schedule V, the words "in any other part of His Majesty's dominions or" in paragraph 2(1)(b) shall be deleted.

ITALY

PRELIMINARY

INTRODUCTION

The present air law of Italy, although amended and purged of "corporative norms" after the fall of Fascism, is still an integral part of the general Code of Navigation enacted in 1942. It forms the Second Part of this Code; while Part Three contains criminal and disciplinary provisions, and Part Four comprises additional and transitory provisions, both also contain provisions dealing with the law of the air, and maritime and inland navigation. Moreover, whenever the provisions on air law do not sufficiently or entirely cover certain fields of law as, for instance, insurance, mortgages and the like, the provisions of the maritime law are referred to as applicable. Thus, even though there is no complete fusion of the several branches of laws, a superimposition and intermixture of one field of law with several others was the result. The Code shows the effect of this attempt of combining all fields dealing with navigation.

This expediency was also due to the fact that, when the Code of Navigation was being prepared, Italian maritime law was a somewhat neglected branch of the law. Maritime law was still based on the Merchant Marine Code of 1877, the Second Book of the Code of Commerce, and on a number of special enactments which could not effectively cope with the great changes and the evolution of technology which brought Italy into the group of major sea powers of the world. Air navigation was governed by the fairly recent Law of 1923 and the Regulations of 1925.

After many years of study in this direction, Antonio Scialoja, a noted legal scholar, produced a compilation of draft laws in matters of sea, inland and air navigation, not only to fill the gaps, but to mark achievements worthy of the great Italian tradition in the field of legal science.

The Code of Navigation, enacted in 1942, not only established a "unitary" system but was intended to open the doors to a further process of unification of the various subjects. However, this unification faced the opposition of many Italian scholars who objected to the attempt of uniting such a vast and varied area of law, particularly since air law and maritime law were not regarded as two subdivisions of the same subject. In view of technological developments, this seems even more true today.

ITALIAN CODE OF NAVIGATION ¹

GENERAL PROVISIONS

Art. 1. (Sources of navigation law.) In navigation, whether maritime, on land and in the air, this Code, the laws, regulations and correlative norms ² and the customs related to it, shall apply.

In the absence of legal provisions on navigation and of any provisions which may apply by analogy the [provisions of] the civil law shall apply.

Art. 2. (Territorial waters.) Gulfs, bays and coves whose shores are part of the territory of the Kingdom ³ shall be subject to the sovereignty of the State when the distance between the extreme points of the opening of the bay, gulf or cove does not exceed twenty nautical miles. If such distance is greater than twenty nautical miles only that portion of the gulf, bay or cove comprised within said twenty miles shall be subject to the sovereignty of the State.

The area of the sea along the continental and insular shores up to six nautical miles at sea and along the straight lines joining the extreme points as indicated in the previous paragraph shall also be subject to the sovereignty of the State.

The various provisions established for certain purposes by laws, regulations and international conventions shall be an exception.

Art. 3. (Air space subject to sovereignty of the State.) The airspace over the territory and territorial waters of the Kingdom shall be subject to the sovereignty of the State.

Art. 4. (Italian ships and aircraft in localities not subject to the sovereignty of any State.) Italian ships on the high seas and Italian aircraft in a place or airspace not subject to the sovereignty of any state shall be considered as [being in] Italian territory.

Art. 5. (Law regulating acts performed aboard ships and aircraft in navigation.) Act occurring aboard ship or aircraft during navigation in places and in the airspaces subject to the sovereignty of a foreign state shall be regulated by the national law of the ship or aircraft in all those cases in which, in application of the laws in general, the law of the place where the act was performed or the fact occurred, should apply.

The provisions of the preceding paragraph shall apply to acts performed aboard a ship or aircraft of foreign nationality during the course of navigation in places or in the airspace subject to the sov-

¹ Italian Code of Navigation (Including Air Navigation) as approved by Royal Decree No. 327 on March 30, 1942 with amendments up to 1961 in:

a. La Libreria dello Stato. *Codice Della Navigazione*, Roma 1959

b. *Gazzetta Ufficiale* (Official Gazette) 1960-1961.

² With the fall of Italian Fascism in 1943 the Corporative System and its norms were abolished first by Royal Decree N.721, August 3, 1943, which suppressed the State organs issuing such rules and later, after the defeat of Italy in World War II, by virtue of Decree No. 369 it was done with the remainder of the Fascist state organization.

The Civil Code and the Code of Civil Procedure and other laws there incorporated as amended deal with the matter on such specific points. (Franchi-Feroci-Ferrari. *Quattro Codici*. Edit. Hoepli, Milano, 1960.)

³ With deliberation of the Constituent Assembly, 1947, Italy from Kingdom became a Republic. Therefore, whenever the word "Kingdom" appears, read "Republic." And whenever "King-Emperor" or "the King," appears, read "the President of Italian Republic."

ereignty of the Italian State provided there is reciprocity with the State to which the ship or aircraft belongs.

Art. 6. (Law regulating real rights [*in rem*] and mortgages on ships and aircraft.) Property or other real rights, and mortgages on ships and aircraft, as well as the forms of publication of the acts establishing these rights, the transfer and extinction of such rights, shall be regulated by the national law of the ship or aircraft.

Art. 7. (Law regulating liability of the shipowner and operator.) The liability of a shipowner or operator of an aircraft for the actions of the crew shall be regulated by the national law of the ship or aircraft.

The same law shall regulate the legal limits of the total amount of debts or liability of a shipowner or operator for obligations assumed by them personally.

Art. 8. (Law regulating the powers and duties of a captain.) The powers, duties and other attributes of the captain of a ship or aircraft shall be regulated by the national law of the ship or aircraft.

Art. 9. (Law regulating the employment contract.) The employment contracts of seamen, personnel of inland navigation, and flight personnel shall be regulated by the national law of the ship or aircraft unless otherwise agreed upon by the parties if the ship or aircraft is of foreign nationality.

Art. 10. (Law regulating charter contracts of ships and aircraft.) Lease, charter and transport contracts shall be regulated by the national law of the ship or aircraft unless otherwise agreed upon by the parties.

Art. 11. (Law regulating contributions to the general averages.) Contributions to the general averages shall be regulated by the national law of the ship or aircraft.

Art. 12. (Law regulating obligations arising from ship or aircraft collisions.) Obligations arising from collisions of ships or aircraft on the high seas or other places or in airspace not subject to the sovereignty of any state shall be regulated by the national law of the ships or aircraft if they have a common nationality; otherwise by Italian law.

Art. 13. (Law regulating obligations arising from assistance, salvage and recovery.) Obligations arising from assistance, salvage and recovery on the high seas shall be regulated by the national law of the ship or aircraft which has rendered assistance or made the recovery.

The same law shall regulate the partition of the compensation for assistance, salvage and recovery between the shipowner or operator and the crew.

Art. 14. (Jurisdiction.) Apart from the cases provided for in Art. 14 of the Code of Civil Procedure, claims concerning the collision of ships or aircraft as well as assistance, salvage and recovery on the high seas or other places or in airspace not subject to the sovereignty of any State may be filed with the courts of the Kingdom if the ship or aircraft which caused the collision or was assisted or salvaged, or

the persons saved, or the things salvaged or recovered were within the territory of the Kingdom.⁴

PART TWO—AIR NAVIGATION

BOOK ONE—ADMINISTRATIVE ORGANIZATION OF NAVIGATION

TITLE ONE—ADMINISTRATIVE AGENCIES OF NAVIGATION

Art. 687. (The Competent Minister.) The administration of air navigation is under the direction of the Minister of aeronautics.⁵

Art. 688. (Territorial Aeronautical Districts.) The territory of the Kingdom is divided into air traffic areas; the areas are subdivided into airport districts.

An inspector of air traffic is in charge of each area; and a director for each district.

Art. 689. (Agencies of Local Administration.) The inspector of air traffic shall exercise, in the area of the respective area, the duties conferred upon him by this Code, the laws and regulations.

The administrative functions relating to navigation and to the air traffic which are carried on in a state airport and its surroundings shall be exercised by the director of the airport.

Supervision of activities which are carried on in private airports shall be exercised by delegates of the airport of the emergency landing field, appointed by the Minister of Aeronautics.

Art. 690. (Mixed Jurisdiction.) At airports situated within the limits of the maritime district supervision of ships, floating crafts and aircrafts in port or after landing, shall be exercised by the director of the airport in accord with the commander of the port.

Art. 691. (Supervision of national traffic abroad.) Supervision over navigation and over national traffic abroad shall be exercised by the consular authorities.

TITLE TWO (PUBLIC PROPERTY ASSIGNED TO NAVIGATION)

Art. 692. (Property of the Aeronautic Domain.) The following are parts of the aeronautic domain:

- a) military airports and civil airports established by the State;
- b) every structure or state establishment assigned to the service of air navigation.

Art. 693. (Works of Public Interest.) Works which, by decree of the Minister of Aeronautics, are declared necessary by the State for

⁴ Art. 4 of the Code of Civil Procedure states with regard to jurisdiction: "A foreigner may be brought before the courts of the Republic as a defendant if:

"A foreigner may be brought before the courts of the Republic as a defendant if:

1. he is a resident or has elected [Italy] as his domicile, or has an authorized representative [in Italy] admissible in court in accordance with Art. 77, or has accepted Italian jurisdiction unless the request concerns real property located abroad (See Civil Code Arts. 43, 47 and 1387);

2. the claim concerns property located in the Republic or an inheritance of an Italian citizen or [an inheritance] opened in the Republic, or obligations contracted or to be executed there (Civil Code, Arts. 456 and 1173);

3. if the claim is connected with another one pending before an Italian judge or concerns protective action measures to be carried out in the Republic or related to them upon which the Italian judge has jurisdiction;

4. or, as in a case of reciprocity, the court of the country to which the foreign belongs recognizes the request filed against an Italian citizen."

⁵ Now Minister of Defense.

the establishment and enlargement of airports and other aeronautical establishments intended for State services or for civil air traffic are considered for all intents and purposes to be of public interest.

Art. 694. (Lease of land on state airports.) The Minister of Aeronautics, in agreement with the Minister of Finance, may, in accord with the needs of public use, grant leases to private individuals for a period not to exceed twenty years, for portions of land on state airports, for the construction of hangars or other buildings or establishments to be used for purposes connected with air traffic.

For the construction and the management of warehouses for materials or substances which present a danger of fire or explosion, the rules established by the regulations shall be observed.

Art. 695. (Lease for the use of hangars and other buildings.) On state airports, in accord with the needs of air service, the air traffic inspector may grant the use of hangars or other buildings for a minimum period of three months.

The lessee shall deposit security.

Art. 696. (Amount of Rent.) For the leases provided for in the preceding article the amounts of rent and security shall be established by the chief of internal revenue of the district, in agreement with the air administration and with the applicant.

In case of disagreement the Minister of Finance shall decide.

Art. 697. (Revocation of Leases.) The leases provided for in Article 694 may be revoked for specific reasons inherent in the public use of the port or for other reasons of public interest; the leases mentioned in Article 695 may be revoked at the discretion of the aeronautic administration.

Revocation shall not entail a right of indemnification. In the case of a partial revocation an adequate reduction in the rent must be made, except as provided for in the first paragraph of Article 44.

The leases under which permanent structures have been built, the air administration shall pay indemnification according to the last two paragraphs of Article 42, unless otherwise established.

Art. 698. (Supervision over Activities of Lessees.) Supervision over the activities carried out on the basis of leases is exercised, within the limits of each district, by the director of the airport.

Art. 699. (Deferment [applicable provisions].) Unless otherwise stated in this chapter, the regulations of Articles 37, 38, 40, 41; 43 to 49, and 54 shall apply. The powers vested in the Chief of the Area by Article 54 shall be given, for the air domain, to the director of the airport.

TITLE THREE—REGULATIONS AND POLICE OF AIRPORTS

CHAPTER I. THE USE OF STATE AIRPORTS

Art. 700. (Airports Open to Civil Traffic.) The following are open to civil air traffic:

a) airports and civil flying fields instituted by the State and permanently designated to the service of air navigation;

b) military airports and flying fields designated for aviation by the Minister.

Art. 701. (Use of state airports.) Private planes may land, stand and take off from state airports open to civil traffic within the limits prescribed by the regulations.

Foreign aircraft may be admitted under conditions of reciprocity, or when such reciprocity has been established by international conventions, except for the power of the Minister of Aeronautics to give temporary authorization.

The rights for the use of state airports are established by regulation. Such rights include the corresponding services of the personnel, according to the rules of the same regulations.

Art. 702. (Use of emergency airfields.) Except for the provisions of Article 841, the landing and taking off of private aircraft at emergency airfields are allowed only in case of necessity.

Art. 703. (Use of state airfields.) The use of airfields established by the State and open to civil traffic is allowed only for gliders.

Foreign gliders may be admitted there on conditions of reciprocity.

CHAPTER II. AIRFIELD AND OTHER PRIVATE AIR INSTALLATIONS

Art. 704. (Establishment of airfields and other private installations.) The establishment by private individuals of airports, emergency airfields, airfields and other air installations must be authorized in advance by the Minister of Aeronautics.

The authorization gives the right to use the airdrome or the installations. The respective fees must be approved by the Minister of Aeronautics.

Art. 705. (Supervision over airdromes and other private air installations.) Supervision over the activities undertaken on the basis of the authorization referred to in the preceding article, is exercised, for airdromes which have an airport delegate, or on an emergency airfield, by the delegate himself; in other airdromes it is exercised by the airport director of the district.

Likewise, the airport director supervises the activities carried out outside the airdrome, with regard to other aeronautical installations.

Art. 706. (Private radioelectric installations.) Private radioelectric installations are under the technical control of the ministers of communications and aeronautics, who establish together the installation procedure and the use thereof.

Art. 707. (Register of airdromes and of private installations.) Airdromes and other installations, constructed and operated by private individuals, are listed in a register kept by the Minister of Aeronautics, according to the procedure established by the regulations.

The acts and facts relative to the transfer of the property or of the management of an airdrome or its installations must be recorded in the register.

The register may be consulted by anyone who so requests.

Art. 708. (Use of private airdromes.) Except in case of necessity, the consent of the operator of the airdrome must be obtained for the use of a private airdrome not open to traffic.

Art. 709. (Opening of private airdromes to traffic.) The opening to civil air traffic of private airdromes set aside for special uses shall be subject to authorization of the Minister of Aeronautics.

For the needs of public interest the Minister may moreover declare certain private airdromes open to traffic; in such case the operator has the right to an indemnity determined in compliance with the regulations.

Art. 710. (Changes relative to property in airdromes or other installations.) The alienation, the location of airdromes or of other private air installations, as well as the establishment of usufruct rights may not take effect if they are not authorized by the Minister of Aeronautics. When such authorization is not granted within sixty days from the submission of the request, it shall be considered denied.

Notification of Inheritance by death of the property or rights in airdromes or other above-mentioned installations must be given to the Minister of Aeronautics within fifteen days from the acceptance of the inheritance or from the acquiring of the legacy. Within three months from that notification the Minister may proceed to expropriation in the public interest.

Art. 711. (Changes related to the operation of airdromes or other installations.) The cessation of the operation of airdromes or of other private air installations shall not take effect if it is not authorized by the Minister of Aeronautics.

In case of forced execution, the purchaser or the person to whom the airdrome or installation has been adjudicated, may not take over the activities of the same without the authorization of the above-mentioned minister.

When the authorization provided for in the preceding paragraph has not been granted within sixty days from the presentation of the request, it shall be considered denied.

Notice of succession by death in the management of an airdrome or other private installation must be given to the Minister of Aeronautics within fifteen days from the acceptance of the inheritance or from the acquisition of the legacy. Within three months from the notification, the Minister may revoke the authorization to operate the airdrome or installation.

Art. 712. (Revocation of Licence.) A licence to operate an airdrome or other private air installations may in any case be revoked for specific reason of public order or general interests of navigation.

Art. 713. (Cessation of Operation.) The cessation of operation of airdromes and other installations is subject to licence from the Minister of Aeronautics.

The Minister may prescribe a term before which the cessation may not take place, or provide for the temporary official operation subject to payment to the private individual of an adequate indemnity according to the rules or the regulations or he may proceed with expropriation in the public interest.

When the Minister does not give his approval within sixty days from the request, the authorization shall be considered denied.

CHAPTER III. RESTRICTIONS ON PRIVATE PROPERTY

Art. 714. (Obstacles to Flight Operation.) In the neighborhood of airdromes and other air installations, plantations, installations or structures which impede flight operations or the functioning of the installation shall be forbidden.

The elimination of plantations, the demolition of existing installations, and in general the modification of existing land conditions may be ordered.

This order may be decreed by the Ministry of Defense.⁶

⁶ Amended by Art. 17 of the D.P.R., June 28, 1955, No. 1106.

Art. 715. (Works interfering with Navigation.) The Minister of Aeronautics may order the placement of signals on installations, works, or plantations which constitute an obstacle to navigation.

The Minister may also order, according to the rules established by the regulations, that for such works or installations other measures be adopted which are indispensable for the safety of navigation.

For military airdromes the powers of the Minister for Defense mentioned in the preceding paragraphs shall be vested in the commanders of the territorial air zone or of the aeronautics.

Art. 716. (Setting up of Electric Lines.) The Minister of Aeronautics may forbid the setting up or the running of electric lines, aerial cables, trolley lines, and aerial tramways on property located in the vicinity of airdromes or other aeronautical establishment.

In the case of military airdromes, the powers of the Minister for Defense mentioned in the preceding paragraphs shall be vested in the commander of the Territorial air zone or of the aeronautics.⁷

Art. 717. (Indemnity.) In the cases provided for in Article 714, paragraph one, and Article 716, no indemnity is due in the cases provided for in the second paragraph of Article 714 an indemnity shall be determined according to the rules on expropriation for public interest.

In the cases provided for in Article 715, paragraph one, the expenses of the establishment, maintenance, and the operation must be reimbursed in the cases provided for in the second paragraph of the above-mentioned article an indemnity is due within the limits and according to the procedure established by the regulation.

CHAPTER IV. AIRDROME POLICE

Art. 718. (Functions of the Police.) The functions of the police are exercised by the director of the airport on the airport in which he has his headquarters, extending also to the limits of the air-district, to other state airdromes, to private ones in which there are no representatives of the airport and to emergency airfields.

On private airdromes where there are representatives of the airport or an emergency airfield, the functions of the police shall be exercised by such delegates.

Art. 719. (Movement of aircrafts on airports.) In accordance with the provisions of the regulations, the director of the airport shall regulate and supervise the landing, water-alighting take-off movement, and the stops of aircraft at the airport.

Art. 720. In accordance with the rules of the regulations, the director of the airport regulates and supervises the loading, unloading and storing of merchandise, and the embarkation and debarkation of passengers at the airport.

Art. 721. (Airplane shelters and repairs.) In accordance with the needs of the service and the conditions provided for by the regulations, the director of the airport may authorize the sheltering of an aircraft in the hangars existing at the airport.

The above-mentioned authority may also authorize the execution of work on aircraft by airport personnel.

⁷ Amended by Ar. 17 of the D.P.R., June 28 and June 19, 1955, No. 1106.

Art. 722. (Operator's duties and obligations.) The operator of the aircraft shall provide for supervision of aircraft sheltered in a hangar at a state airport.

The operator shall be held liable for damages to the personnel and material of the State properties.

Art. 723. (Storage of objects at the airport.) The director of an airport may allow the storing of merchandize or of other materials at the airport and determine the procedure and the charges.

The storing of substances which present danger of fire or explosion shall be subject to the authorization of the Minister of Aeronautics and to the observance of the rules advisable for guaranteeing the public safety.

The above-mentioned authorization is required even when the storage is made in hangars or buildings of lessees.

In the case of careless storage of foods or goods left after the expiration of the specified term, the director of the airport shall proceed according to the rules of Article 64.

Art. 724. (Meteorological bulletins and signals for navigation.) The director of the airport shall take care of the publication of meteorological bulletins and of information which in any way increase the safety of air navigation. He shall also arrange for the signals necessary for air navigation.

For the airdromes of the district in which there is a military command, the signals shall be subject to its agreement.

For seaplane *airports* located within, or in the immediate vicinity of, sea or interior ports, the signals shall be in accordance with the maritime authority, with that having charge of inland navigation.

Art. 725. (Supervisory and Subsidiary Services.) Supervision over, and coordination of radio-electric and other subsidiary services, as well as of supervisory services, shall be exercised by the director of the airport in the area of the district.

The director of the airport shall also supervise the above-mentioned services.

Art. 726. (Employment of means for urgent necessities.) The director of an airport may, in case of urgent necessity of service, order that the aircraft and every other means of transportation with the related personnel which are at the airport, be placed at his disposition. He may likewise order that any other facility he considers necessary be placed at his disposition.

Art. 727. (Assistance to aircrafts in danger.) The director of an airport who has been notified of an aircraft in danger or of an aircraft that has crashed or of some other accident shall immediately provide for assistance, and if he does not have at his disposal, or cannot obtain the necessary means, shall notify other authorities who may usefully intervene.

When the air authority cannot intervene in time, the first necessary measures must be taken by the municipality or by the maritime authority if the disaster occurred at sea.

Art. 728. (Compensation and indemnification.) Whenever in the rescue operations specified in the preceding article means belonging to private individuals have been employed, the persons who have given help shall have a right to compensation for the help usefully given and in any case, to indemnification for damages and reimburse-

ment of expenses, according to the criteria established by Article 983 *et seq.* When such elements are present, and in other cases according to criteria established by the regulations.

Art. 729. (Removal of wreckage.) In the case of the crash of an aircraft within the perimeter of an airdrome of the district, the director of the airport shall order the owner to provide for the removal of the wreck at his expenses, and shall specify a period of time for the execution of the job.

If the owner does not carry out the order within the time specified the authority shall *ex officio* take measures for the removal and sale of the wreck on behalf of the State. If the proceeds from the sale are insufficient to cover expenses, the owner shall reimburse the State for the difference. If the proceeds from the sale of the wreck are greater than the expenses, the difference shall be divided among the privileged creditors and the mortgagees of the aircraft.

In cases of urgency the authority may *ex officio* take the necessary measures on behalf and at the expense of the owner.

Art. 730. (Injunction for reimbursement of expenses.) For the reimbursement of anticipated expenses, or in some manner incurred on behalf of private individuals, the director of the airport shall ask the judge of the jurisdiction to issue an executory injunction by a decree.

If the debtor has not made the payment twenty days after the notification of the injunction, the director of the airport may proceed to execution.

Within the above-mentioned period the debtor may appeal from the decree denying the existence of the credit or its amount after having deposited the amount specified in the injunction.

The protest is made before a judge who has jurisdiction as to such amount.

TITLE FOUR—AVIATION PERSONNEL

Art. 731. (Distinction of Aviation Personnel.) Aviation personnel include:

- a) flight personnel
- b) personnel assigned to ground services
- c) technical-management personnel for aeronautical construction.

Art. 732. (Categories of Flight Personnel.) Flight personnel are divided into four categories:

1. Personnel assigned to the command, guidance, and piloting of aircraft:
2. Personnel assigned to radioelectric apparatus;
3. Personnel assigned to engines and other mechanisms of aircraft
4. Personnel assigned to complementary services.

Art. 733. (Personnel assigned to ground services.) The personnel assigned to ground services include:

- 1) the traffic control officer and other non-flight personnel of the air transport enterprises;
- 2) the personnel, other than flight personnel of the air work enterprises:

- 3) the personnel, other than flight personnel of flying schools;
- 4) the personnel assigned to services on the airfields.

Art. 734. (Technical-management, Construction Personnel.) The technical-management personnel of aeronautical construction include:

- 1) aeronautical engineers;
- 2) aeronautical experts.

Art. 735. (Registers of Air Personnel.) Flight personnel of the first three categories are registered in national registers; those of the fourth category are entered into a special register.

The traffic control officer and the technical-management personnel of aeronautical construction are registered in two separate national registers.

Art. 736. (National Organization of Aviation personnel.) The above registers and the register of aviation personnel are kept by the national organization of aviation personnel.

The organization established according to the orders of the regulations is a legal entity.

The regulations establish the other characteristics of the organization.

Art. 737. (Requirements for registration in the registers.) Italian citizens who fulfill the requirements for each of the categories established by the regulations may obtain registration in the above registers and the register of aviation personnel.

The Minister of Aeronautics may authorize the entering of Italians not resident in the country in the registers.

Foreigners may be entered in the above registers and the register of aviation personnel only in cases and under the conditions established in international conventions, or with prior authorization from the Minister of Aeronautics.

Art. 738. (Work documents for aviation personnel.) Flight personnel are furnished with a registration booklet. Likewise traffic control officers are furnished with a registration booklet; technical-management personnel of aeronautical construction are furnished with a registration certificate.

The form and effect of such work documents are established by the regulations.

Art. 739. (Professional Titles.) The professional titles for flight personnel of the first category, assigned to transportation services, are:

- a) superior commander;
- b) first commander;
- c) commander;
- d) first class navigator
- e) second class navigator
- f) first pilot
- g) second pilot

The professional titles for flight personnel of the first class, assigned to other services are: test pilot, and instructor pilot.

The professional titles for flight personnel of the second category are:

- a) chief wireless operator;
- b) first wireless operator;
- c) second wireless operator.

The professional titles for flight personnel of the third category, assigned to transportation services are:

- a) chief mechanic;
- b) first mechanic;
- c) second mechanic.

The professional titles for flight personnel of the third category, assigned to other services are: test flight mechanic, flight mechanic in aviation schools.

Art. 740. (Placement of flight personnel.) The placement of persons whose names are entered in the rolls and the register of flight personnel is provided for, in the territory of the Kingdom, exclusively by an office established according to the rules specified by law. The operator has the right of free choice among the persons entered in the books of said office.

Art. 741. (Prohibition of Mediation.) Mediation, even gratuitous, for the placement of persons entered in the rolls and in the register is prohibited.

Any compensation related to an activity carried out in conflict with such disposition may be recovered.

Art. 742. (Hiring abroad.) The hiring of flight personnel abroad, for the purpose of making them members of the crew of national airplanes shall be under the supervision of the consular authorities.

TITLE FIVE—RULES GOVERNING AIRCRAFT

CHAPTER I. CLASSIFICATION OF AIRCRAFT

Art. 743. (Definition of aircraft.) An aircraft shall be deemed any machine suitable for transportation of persons or goods by air from one place to another.

The classification of the aircraft, in accordance with their technical features, shall be established by regulations.

Art. 744. (State aircraft and private aircraft.) State aircraft are military aircraft and all aircraft owned by the Government and assigned exclusively for police, customs, mail and other government services. All other aircraft are deemed private aircraft. Except for military, customs and police aircraft, State aircraft shall be deemed private for the purposes of international air navigation unless otherwise established in international conventions.

Art. 745. (Military aircraft.) Military aircraft are those specified as such by special laws.

Art. 746. (Aircraft assimilated to State aircraft.) The Minister of Air may decide to assimilate to State aircraft any aircraft which, although, they belong to, and are operated by private persons, are used for government service of a non-commercial character.

Art. 747. (Classification of private aircraft.) In relation to their use, private aircraft shall be classified as:

- a) aircraft of public transport intended for transportation of persons and goods for payment of some kind, or without compensation if the transportation is made by transport air enterprises;

b) aircraft for air work intended for industrial and commercial purposes or other use for payment other than transportation of persons and goods;

c) tours in aircraft intended for purposes other than those indicated in the preceding paragraphs and without payment.

The regulations shall determine other categories of aircraft, depending on their use.

Art. 748. (Rules applicable to military, custom and police aircraft.) Unless otherwise provided, the rules of this Code shall not apply to military custom and police aircraft.

CHAPTER II. LICENSING OF AIRCRAFT FOR FLIGHT

SECTION I—MARKINGS OF AIRCRAFT

Art. 749. (Licensing of aircraft for flight.) Aircraft recorded in the register kept by the competent offices and found airworthy as provided by this code shall be licensed for flight.

Aircraft which conform to the prescribed requirements of working and nationality are recorded in the aforementioned registers.

In regard to such registration and for all legal effects aircraft are distinguished by a marking of nationality and by the registration, or, in the case of gliders, by a number.

Art. 750. (Registration mark or number). The registration mark consists of a group of four letters as assigned by the Minister of Aeronautics, and must be different for each aircraft.

The number for gliders is assigned by the Royal National Aeronautical Union.

SECTION II—NATIONALITY REQUIREMENTS

Art. 751.^s (Nationality of Owners of Italian Aircraft.) Aircraft are deemed to comply with the requirements of nationality necessary for recordation in the national aircraft register or in the register of the Royal National Aeronautics Union if they wholly belong to the following:

a) the State, the provinces, municipalities and other Italian public institutions;

b) Italian citizens;

c) a company established and with its headquarters in the Kingdom when at least two-thirds of the capital belongs to Italian citizens, and when its president and two-thirds of the board of directors, including the managing director as well as the General director, are Italian citizens.

Art. 752. (Aircraft recorded in foreign registers.) Aircraft which are already recorded in a foreign aircraft register may not be registered.

^s D.L.C.P.S. August 1, 1947, No. 986.

Single article.—The Minister for Defense is hereby authorized to provide for recordation in the national aircraft register of aircraft belonging to stock companies established according to the legislative decree of the provisional Head of the State of September 4, 1946, No. 88.

The present decree shall go into force the day following its publication in the Official Gazette and shall be in force from April 1, 1947.

SECTION III—REGISTRATION OF AIRCRAFT AND QUALIFICATION FOR FLIGHT

Art. 753. (Registration of Aircraft.) The registration of aircraft must be requested by the owner within eight days from the granting of the airworthiness certificate and, for gliders, from the granting of the test certificate.

Art. 755. (Qualification of aircraft for flight.) Aircraft recorded in the national aircraft register are qualified to fly by the registration certificate.

Gliders are qualified to fly by the attestation of the Royal National Aeronautics Union that they are recorded in the register, by means of a notation on the test certificate.

Art. 756. (Registration certificate.) The registration certificate is issued by the Minister of Aeronautics and describes the individual marking of the aircraft, its type and principal characteristics, the use to which it is to be assigned, the name and domicile of the owner, the airport where it is habitually sheltered, as well as any other indications required by the regulations.

Alterations or repairs which show modifications in the type and value of the aircraft must be noted on the certificate.

Art. 757. (Marking of Nationality.) Aircraft recorded in the national aircraft register have the mark of nationality established by the regulations.

SECTION IV—LOSS OF NATIONALITY REQUIREMENTS AND CANCELLATION OF REGISTRATION

Art. 758. (Loss of Nationality Requirements.) The owner of an aircraft recorded in the national register must notify the Minister of Aeronautics within eight days or, in the case of a glider, the Royal National Aeronautics Union, of registration in a foreign register, as well as of any other fact which involves the loss of nationality requirements.

The authority which has received the notification or has learned by some means of any of the facts mentioned in the first paragraph, shall proceed by affixing in the office of the director of the airport in which the aircraft is habitually kept and by inserting of legal announcements in the newspapers to the publication of a notice requesting interested persons to file claims within sixty days.

If, within the specified term, no opposition has been made, and no claims on the aircraft have been recorded, the authority shall cancel the registration.

In case of opposition, or if there are recorded claims or sureties on the aircraft, the cancellation may be made only if the opposition has been rejected by a final court judgment, or if the creditors have been satisfied, or if such rights have been extinguished, or if otherwise the owner has complied with the decision issued by the aviation authority for any amounts due to the administration, and by the court, upon the request of a party using due care to safeguard the interests of the creditors.

In other cases the Aeronautical Authority shall proceed to judicial sale of the aircraft.

Art. 759. (Loss of Nationality requirements in cases of succession and of adjudication.) When a national aircraft becomes the property of a foreigner by inheritance, the heir or legatee, within eight days from the acceptance of the inheritance or the acquisition of the legacy, must notify the authority indicated in the preceding article of such fact. The authority shall proceed in accordance with the rules of the second, third and fourth paragraphs of this article.

The same rules shall apply in the case of adjudication of an aircraft the period for notification shall run from the day of the adjudication.

Art. 760. (Dismantling of an aircraft.) The owner who intends to dismantle an aircraft, must notify the Minister of Aeronautics if the aircraft is in the Kingdom, or the consular authority if it is abroad, and surrender the documents and the logbook. The aforementioned authority shall proceed in accordance with the second paragraph of Article 758.

If within sixty days from the publication, objections have been made by creditors, or if rights and sureties on the aircraft are revealed such authorization may be given only after the objections have been registered by final court decision, or the creditors have been satisfied or the rights extinguished, or, otherwise, the owner has complied with the procedures prescribed by the air authorities for any amounts due to the administration, and by the court, on the demand of a party using due care to safeguard the interests of the creditors.

However, dismantling may be authorized immediately when it is necessary for reasons of urgency ascertained by the Italian Aviation register in the Kingdom and by the consular authorities abroad.

The rules of the preceding paragraph shall not apply to gliders.

Art. 761. (Presumed loss.) When three months have elapsed since the day of the last communication, an aircraft shall be presumed to have been lost on the day following the one on which the last communication was received.

Art. 762. (Cancellation of an aircraft from the Register.) An aircraft shall be cancelled in the register when :

- a) it is lost or presumed lost ;
- b) it has been dismantled ;
- c) it has lost its nationality requirements as specified in Article 751 ;
- d) it has been registered in a foreign register.

The cancellation of an aircraft must be requested by the owner, or it may be made *ex officio*.

With the act of cancellation the authority shall also withdraw the flight certificate or the test certificate.

CHAPTER III. AIRWORTHINESS OF AN AIRCRAFT

Art. 763. (Conditions of airworthiness.) In order to fly, an aircraft must be airworthy, properly equipped, and prepared for the tasks for which it is intended.

Art. 764. (Certificate of airworthiness and test certificate.) The fitness of an aircraft for flights shall be attested by a certificate of airworthiness, or, for gliders, by a test certificate.

The airworthiness certificate attests to the technical fitness of the aircraft for a specified employment or service, and to its assignment to one

of the categories specified in Article 747. The test certificate also attests to the fitness of a glider for use.

Art. 765. (Employment of aircraft.) An aircraft may be used only for the service or employment belonging to the category to which it has been assigned according to the airworthiness certificate.

However, an aircraft may be assigned to a service or an employment belonging to a category requiring lesser technical aptitudes; but in this case the most favorable status provided for an aircraft of the lesser category does not apply.

Art. 766. (Issuance of airworthiness and test certificates.) The airworthiness and test certificates are issued by the Italian aircraft register.

The conditions for the issuance, the formalities, their duration and renewal shall be established by the regulations.

For the purpose of Article 754, the register must immediately notify the Minister of Aeronautics or the Royal National Aeronautics Union of the issuance of airworthiness or test certificates.

Art. 767. (Modification of aircraft.) After the issuance of the airworthiness or test certificate, modifications may not be made on the aircraft without previous notification of the Italian aircraft register.

Art. 768. (Examination and inspection.) The Italian aircraft register provides, in the cases and under the procedures established by the regulations, for inspection and periodical examination of aircraft in order to ascertain their airworthiness and use.

An aircraft may be submitted to inspections or unscheduled extraordinary examinations whenever the register deems it necessary or when damage has occurred which might impair the airworthiness of the aircraft or the functioning of its parts. The register must make unscheduled examinations whenever so requested by the aeronautics or consular authorities.

The cost of such periodic and unscheduled examinations and of inspections shall be borne by the operator.

Art. 769. (Examinations and inspections abroad). The examinations and inspections discussed in the preceding article shall be carried out abroad by the Italian aircraft register or by foreign institutions with which agreements for that purpose have been made.

Art. 770. (Probatory effect of certificates issued by the register.) The certificates and all other technical attestations issued by the Italian aircraft register shall have the validity of public documents until the contrary is proven.

CHAPTER IV. AIRCRAFT DOCUMENTS

Art. 771. (Documents aboard.) With the exception of gliders and save for the disposition of Art. 840, aircraft must carry on board during flight:

- (a) a registration certificate;
- (b) an airworthiness certificate;
- (c) sanitary and customs documents;
- (d) a logbook;
- (e) a list of passengers;
- (f) other documents prescribed by laws and by the regulations.

Sailing gliders must carry on board, during flight, certificates of

registration and airworthiness, as well as the other documents prescribed by law and by the regulations.

Free gliders must carry on board, during flight, test certificates and the other documents prescribed by law and by the regulations.

Art. 772. (Logbooks.) In the logbook shall be noted the route followed and the road travelled, the notes carried out, the incidents and, in general any occurrences of special importance which took place during the flight. In it there shall also be recorded the facts indicated in Article 835, any testaments recorded, marriages performed according to Article 834, crimes committed on board and measures adopted, and the information required by the sanitary aeronautics police.

Art. 773. (Aircraft books.) Besides the logbook, aircraft used for the transportation of passengers or goods must be provided with booklets concerning the aircraft, the engines and the signals and, there must be recorded therein the information established by the regulations.

The above mentioned books must be kept at the airport where the aircraft is habitually based.

Art. 774. (Keeping of the books.) The rules for the authentication and keeping of aircraft books shall be established by the regulations.

The books must be kept by the operator for two years after the last registration.

Art. 775. (Probative effect of notations on aircraft documents.) The provisions of Articles 2700 and 2702 of the Civil Code shall apply to any annotations on the documents of the aircraft except annotations relating to the operation of the aircraft on the books specified in Articles 772 and 773, which shall constitute *prima facie* evidence in favor of the operator provided they are kept in order; they shall constitute *prima facie* evidence against the operator but the person who wants to take advantage thereof may not separate their contents.

TITLE SIX—RULES GOVERNING AIR SERVICES

CHAPTER I. SCHEDULED AIRLINE SERVICES

Art. 776. (Licenses.) Airline transport services may not be established or operated without a government grant by means of a royal decree.

The license shall not be valid for more than ten years.

Art. 777. (Nationality of Licensee.) Except for the disposition of Art. 779, operation of airline transport services may be licensed only to persons, enterprises or companies capable of possessing national aircraft in the sense of Art. 751, which have financial and technical means sufficient to guarantee that they can provide scheduled services for the duration of the license.

The administrative and technical management must be in the hands of Italian citizens.

Art. 778. (Companies to be formed.) A license may also be granted to a company to be formed, if the organizers bind themselves in a public act, to form the company legally so that it will fulfill the requirements set forth in the preceding article within three months from the date of publication of the decree of license in the Official gazette.

Art. 779. (International Airline Services.) International airline services may also be licensed to foreigners when it is provided for in international conventions.

Art. 780. (Reserve of foreign trade.) Services of air transport between airports in the Kingdom are reserved for national enterprises, unless otherwise provided for in international conventions.

In addition to the cases provided for in the preceding paragraph, and for reasons of the general interest foreign enterprises may also be permitted by royal decree to engage in such transportation.

Art. 781. (Declaration of public interest.) The decree of license shall contain a declaration of public interest in the work necessary for the establishment and the carrying on of the licensed line.

Art. 782. (Security furnished by the Licensee.) Unless there is a waiver, the licensing decree shall specify the amount of security which must be given by the licensee or, as in the case of Article 788, by the organizers of the company to be established.

The security shall be returned at a rate proportionate to the degree of the progress of the work; the last installment shall be returned after testing the work and the material.

Art. 783. (Prohibition to cease service.) The licensee may not cease the service, either wholly or in part, without previous authorization from the Minister of Aeronautics.

Art. 784. (Loss of a license). The licensee shall forfeit the license:

a) when he has not begun service on the day stipulated in the license unless the delay is due to causes for which he is not responsible;

b) when, in the case provided for in Article 788, the organizers do not fulfill the obligation of setting up the company, to which the license has been granted, under terms and conditions established in said article;

c) in other cases indicated in the license decree.

In case of forfeiture the not yet returned security shall escheat to the Treasury.

Art. 785. (Suspension and revocation of license.) For reasons of public interest, the Minister of Aeronautics may suspend a license and, if he deems it advisable, initiate revocation of the license.

Art. 786. (Return of equipment at the termination of a license.) At the expiration of a license, the licensee must return to the administration the equipment and materials given him to use in normal condition of efficiency.

Unless otherwise established in the license decree, all fixed equipment constructed by the licensee shall remain the property of the State without compensation.

Art. 787. (Supervision of the services of the line.) Supervision over the services of the line is performed, in the respective districts, by the inspector of air traffic and by the director of the airport.

CHAPTER II. SERVICES OF THE LINES

Art. 788. (Licenses.) Service for the transport of passengers and goods of non-scheduled or occasional character, service of air work and flying schools may not be carried on without the appropriate license from the Minister of Aeronautics, according to the conditions established by the regulations.

Art. 789. (Conditions for issuance of licenses.) The licenses provided for in the preceding article may be issued only to persons, enterprises or companies specified in Article 751.

Art. 790. (Duration of licenses.) Licenses shall be valid for not more than three years and shall always be revocable.

Art. 791. (Prohibition to cease operations.) The service, for which a license has been issued, may not be suspended, even in part, without prior authorization from the Minister of Aeronautics.

TITLE SEVEN—AVIATION POLICE

CHAPTER I. GENERAL PROVISIONS

Art. 792. (Supervision over air traffic.) Supervision over the observance of the provisions regarding air traffic is exercised, within each district, by the director of the airport.

Art. 793. (Prohibition to fly.) Flight over specified zones of the territory of the Kingdom may be prohibited by the Minister of Aeronautics for military or public security reasons.

The same minister may, for exceptional reasons of public interest, prohibit air traffic over all of the territory of the Kingdom.

Art. 794. (Foreign aircraft.) With the exception of military, customs and police aircraft foreign aircraft may fly over territory of the Kingdom under conditions of reciprocity or when this is provided for in international conventions, except that in every case the Minister of Aeronautics shall have power to grant temporary authorization.

Foreign military customs and police aircraft may not fly over the territory of the Kingdom without special authorization from the Minister of Aeronautics.

Art. 795. (Foreign military aircraft.) Military aircraft of a foreign State shall enjoy the treatment established by the conventions and by international customs when they have obtained the authorization required in the preceding article.

Without such authorization foreign military aircraft shall not enjoy the above-mentioned treatment even when they are obliged to land due to an act of God or by order of the authorities.

Art. 796. (Requirement to affix identification marks.) A national aircraft may not fly unless it bears a marking in the manner established by the regulations of nationality and registration or a number.

A foreign aircraft must bear the marks required by the State in which it is registered or those prescribed by international conventions.

Art. 797. (Requirement to carry licenses and permits on board.) National and foreign aircraft may not fly if their flight personnel are not furnished with the required permits, licenses, certificates and documents of qualification and if these documents are not carried on board.

Art. 798. (Requirement to carry insurance for damages to third persons on land.) No aircraft may fly unless insured for damages to third persons on the ground, according to the regulations of this code, with an insurance company duly authorized for such purpose by the Minister of Aeronautics.

The contents of the insurance policy must be shown in the note indicated in Art. 1010, and authenticated by the Minister of Aeronautics.

CHAPTER II. TAKE-OFF AND LANDING OF AIRCRAFT

Art. 799. (Take-off of aircraft.) Except for the regulations of articles 702, 841 and 844, aircraft must take off from an airport.

However, in the case provided for in Article 804 a flight may take off from the place where an aircraft has landed. The owner of the land must notify the competent authority of the fact, when he learns of it, in accordance with the regulations.

Art. 800. (Aircraft with destinations abroad.) Aircraft leaving for abroad may take off only from customs airports, unless they have special authorization from the Minister of Aeronautics, in agreement with the ministries concerned.

An aircraft leaving the customs territory of the State is deemed to be leaving for abroad.

Art. 801. (Formalities before take-off.) Before taking off the commander must arrange to have the aircraft inspected by the director of the airport.

The commander of an aircraft carrying a logbook must also see that the director of the airport notes the take-off clearance in the logbook.

Art. 802. (Authorization to take-off.) The director of the airport may not authorize the take-off of an aircraft if the operator and the commander have not fulfilled the requirements of the police and of flight safety as well as the sanitary and customs requirements, and if they have not provided for the payment of the taxes and fees due.

Art. 803. (Requirement to land during the trip.) The commander of an aircraft must land with the greatest promptness at the nearest airport when he receives such order by means of signals established by the regulations, or as soon as he becomes aware that he is flying over a prohibited area.

Art. 804. (Aircraft landing.) With the exception of the regulations of Art. 841 and 844 voluntary landings of aircraft may be made only at airports.

In case of a landing at a place other than at an airport, the commander of the aircraft and, when he is aware of the fact, the owner of the property where the landing took place, must notify the competent authority, in accordance with the regulations.

Art. 805. (Landing of aircraft coming from abroad.) Aircraft coming from abroad may land only at customs or sanitary airports, unless they have special authorization from the Minister of Aeronautics in agreement with the ministers concerned.

Aircraft which enter the customs of the Kingdom are deemed to come from abroad.

Art. 806. (Prohibition to land.) The director of an airport may prohibit the landing of aircraft for reasons of flight safety.

Art. 807. (Formalities subsequent to landing.) Immediately after landing the commander of an aircraft must comply with the customs and sanitary formalities and present his logbook to the director of the airport.

The director of the airport shall affix a visa on the log after inspecting the registration and ascertaining that they are in order.

The commander of an aircraft which does not have a log or is exempt from the requirement of a visa, shall appear before the director of the airport and inform him of the point of departure of the aircraft.

The commander of an aircraft must in every case provide the director of the airport with all the information requested concerning the completed trip.

Art. 808. (Foreign Aircraft.) If international agreements do not provide otherwise, the regulations of this chapter shall also apply to foreign aircraft.

CHAPTER III. DISCIPLINE ABOARD IN FLIGHT

Art. 809. (Authority of the Commander.) Every person aboard is subject to the authority of the commander.

Art. 810. (Discipline aboard.) The personnel of the aircraft must cooperate and comply with the instructions concerning duties and discipline on board.

Art. 811. (Obligations of the crew in case of danger.) The crew members must cooperate in safeguarding passengers and cargo until the commander orders them to jump by parachute or otherwise to abandon the aircraft.

Art. 812. (Obligation to cooperate in the recovery.) If an aircraft is lost, and if requested immediately after the accident by the commander of the aircraft or the director of the airport, the members of the crew shall assist in recovering the wreckage.

Art. 813. (Members of the crew subject to the draft.) Members of the crew subject to the draft or a recall to service may not be disembarked in a foreign country without authorization from the competent authority except to join the crew of another national aircraft returning to the Kingdom.

Art. 814. (Radio communications equipment and services.) Public radio communication service aboard an aircraft is subject to a license issued according to the regulations.

The installation and use of a radio transmitting equipment on board of aircraft is subject to special authorization from the Minister of Aeronautics.

Art. 815. (Embarkation of sick passengers.) For the embarkation of sick passengers rules established by the laws and special regulations shall be observed.

Art. 816. (Loading of arms, munitions, and poison gases.) The loading on aircraft of arms and munitions of war and of poison gases is subject to special authorization from the Minister of Aeronautics.

Rules for the transportation of hunting weapons and munitions shall be established by the regulation.

Art. 817. (Embarkation of forbidden or dangerous merchandise.) When goods whose transportation is forbidden by police rules, or whose transportation is or may become dangerous or harmful to the aircraft, people or cargo in the course of flight, the commander of the aircraft shall proceed in the manner provided for in Article 194.

Delivery of materiel in custody, in the sense of the preceding article, must be made to the director of the airport, if the landing takes place in the Kingdom, or to the consular authorities if the landing takes place abroad.

Art. 818. (Custody of objects belonging to persons who die or disappear on the trip.) Objects belonging to persons who die or disappear during a trip shall remain in the custody of the commander of

the aircraft until the next landing place is reached where they shall be delivered to the director of the airport or to the consular authorities.

The method of custody, of notification, and of sale shall be established by the regulation.

When no interested persons make known their claims within five years from the notification, the sum realized from the sale shall escheat to the national security fund for aircraft personnel.

Art. 819. (Throwing things from an aircraft.) Except in case of necessity, it is forbidden to throw from aircraft in flight any objects or articles, without special authorization from the Minister of Aeronautics except for prescribed ballast. Liability for damage to third persons on the ground shall subsist under all conditions.

Art. 820. (Use of parachutes.) Without authorization from the Minister of Aeronautics the use of parachutes is permissible only in case of necessity.

Art. 821. (Crossing the border.) Every aircraft coming from or going abroad must cross the border between the points and along the route established by the Minister of Aeronautics.

Art. 822. (Flight over inhabited areas and airports.) For a flight over inhabited centers or gatherings of persons as well as over airports the limits and rules established by the regulations must be observed.

Art. 823. (Flight over private property.) The flight over private property by aircraft must be made in such a manner as not to damage the interests of the owner of the property.

Art. 824. (Customs supervision.) Aircraft navigating within the territory of the State shall be subject to customs supervision.

Art. 825. (Other provisions.) The rules for the transportation and use of photographic and cinematographic equipment, sanitary provisions and the rules of air traffic shall be established by regulations and by special laws and regulations.

TITLE EIGHT—INQUIRIES CONCERNING ACCIDENTS

Art. 826. (Summary inquiry.) Upon being notified of an air accident in his district, the director of an airport shall immediately communicate with the judicial authorities and, if necessary, initiate a summary inquiry in accord with the police authorities.

At the termination of the inquiry the director of the airport shall transmit the findings to the Minister of Aeronautics.

Art. 827. (Formal technical inquiry.) After examining the information obtained and the conclusions reached in the course of the summary inquiry, the Minister of Aeronautics shall decide if there is any reason to hold a formal technical inquiry.

If he holds in the affirmative, the Minister shall transmit the proceedings to a technical-administrative commission, constituted according to the regulations. This commission shall ascertain the causes of, and responsibility for the accident.

Art. 828. (Persons heard in the course of the inquiry.) In addition to the persons called upon to testify, during the course of the inquiry, the insurer, the damaged, or their assignees, and, in general, any person who has an interest in the aircraft or the cargo may be heard.

Art. 829. (Report on formal technical inquiry.) The commission shall draw up a report of the information obtained and the conclusions reached regarding the cause of, and responsibility for the accident, which shall be transmitted to the Minister of Aeronautics.

Art. 830. (Air disasters at sea.) If the accident occurs at sea, the authority, who is notified thereof shall inform the nearest airport management and the maritime authorities.

Without thereby affecting the second paragraph of Article 727, the maritime authorities shall proceed, in agreement where possible with the air authorities to the rescue of persons and goods, and ascertain the facts, and shall send a copy of their report on the accident and on the help given to the management of the nearest airport.

Art. 831. (Missing aircraft.) If no news has been received of an aircraft and there are valid reasons to believe that it is missing, the Minister of Aeronautics shall order a formal technical inquiry.

Art. 832. (Accidents to foreign aircraft.) If an accident occurs to a foreign aircraft in the territory of the Kingdom, the Minister of Aeronautics shall notify the Minister of Foreign Affairs.

The airport director and the commission of inquiry are empowered to interrogate the crew and passengers of the foreign aircraft.

Art. 833. (Accidents to Italian aircraft abroad.) If an accident occurs to an Italian aircraft abroad, the Italian consular authorities shall report to the Minister of Aeronautics, who shall turn over the proceedings to an administrative technical commission of investigation.

TITLE NINE—VITAL STATISTICS PROCEDURES IN FLIGHT

Art. 834. (Matrimony in imminent danger of death.) During flight and when it is not possible to obtain the services of the competent authorities in the Kingdom, or of the consular authorities abroad, the commander of an aircraft may perform a marriage according to the provision of Article 101 of the Civil Code.

The marriage certificate issued by the commander, must be noted in the log and delivered at the next landing at an airport to the director of the airport or to the consular authorities together with an extract from the log.

Art. 835. (Births, deaths and disappearances on board.) The commander of an aircraft must note in his log book any births and deaths which occur on board as well as disappearance from the aircraft of persons whose bodies could not be recovered, and he must notify the director of the next airport at which he lands or the consular authorities.

The above-mentioned authorities shall record the declarations of the commander and of witnesses, and shall include the statements prescribed for the compilation of the respective statistics or the circumstances of the disappearance and the search undertaken.

Art. 836. (Transmission of findings and proceedings to the competent authorities.) The aeronautics or consular authorities shall transmit a copy of the marriage act and of the report of the declarations of births or deaths to the competent authorities in compliance with the regulations concerning vital statistics; a copy of the report in regard to a disappearance (*Art. 1205*) shall be transmitted to the prosecutor for the King.

Art. 837. (Report of a disappearance in case of the loss of an aircraft.) If an aircraft is lost, the director of the airport in the district in which the accident occurred or, if abroad, the consular authorities, shall provide for the compilation of a report regarding the disappearance and take steps for their transmission to the authority indicated in the preceding article.

If the loss is presumed, the same proceedings shall be compiled and transmitted by the director of the last airport at which the aircraft landed in the Kingdom, or, if the last airport is in foreign territory, by the consular authorities of the place.

In the report the above-mentioned authorities shall record the declarations of the survivors, and in case of presumed loss, the ascertainment of the information provided for in Article 761; they shall declare whether, in their opinion, on the basis of the circumstances, the missing persons should be considered to have perished.

Art. 838. (Consequences of disappearance.) The consequences of a disappearance from an aircraft or the loss of an aircraft shall be regulated by Articles 211 and 212.

TITLE TEN—SPECIAL PROVISIONS

CHAPTER I. TOURIST FLIGHTS

Art. 839. (Exemption from recording a visa on the log.) Tourist aircraft are not required to have their logs authenticated; but on leaving the pilot must indicate, to the director of the airport the next landing place.

Art. 840. (Exemption from keeping a log.) Tourist aircraft, equipped only to make short non-stop flights and to return to their take-off airport, are exempted from keeping a log.

Art. 841. (Take-off and landing.) The take-off and landing of tourist aircraft may take place also on private airfields designated for that purpose by the Air Minister.

Art. 842. (Special facilities.) Tourist aircraft built in Italy are exempt from paying for the right to leave from, land on, or take shelter on State airdromes and enjoy the services of the personnel without charge, as indicated by the regulations, and receive the reports of the meteorological services of the State.

The regulations shall establish special customs exemptions for the flight of tourist aircraft.

Art. 843. (Foreign aircraft.) Under condition of reciprocity, the provisions of this chapter shall apply also to the foreign tourist aircraft.

CHAPTER II. FLIGHT OF GLIDERS

Art. 844. (Flight and landing.) Gliders may take-off from, and land only on airfields.

Art. 845. (Exemption from keeping books.) Except for the documents required by Article 711, gliders are not required to have either a logbook or other books indicated in Article 773.

Art. 846. (Facilities.) Gliders enjoy the facilities provided for in Article 842.

Art. 847. (Foreign gliders.) Under condition of reciprocity the provisions of this chapter shall apply to foreign gliders.

BOOK TWO—OWNERSHIP AND OPERATION OF AIRCRAFT

TITLE ONE—CONSTRUCTION OF AIRCRAFT

Art. 848. (Declaration of construction.) A person undertaking the construction of the aircraft must first notify the Air Minister and specify the factory in which the fuselage and the engines will be built.

Such declaration shall be noted in the construction registry kept by the Air Ministry.

Art. 849. (Notification of construction to the Italian Air Registry.) In addition to the declaration mentioned in the preceding article, the builder, must notify the Italian Air Registry within ten days from the beginning of the work of the construction of aircraft and describe the proposed undertaking. Notice also must be given with regard to alterations and repairs to be made on the aircraft, prior to making them.

Art. 850. (Technical control over construction.) The Italian Air Registry exercises technical control over such construction within the limits, and according to the rules established by the laws and regulations.

Art. 851. (Suspension of construction on order of the authorities.) The Minister of Aeronautics may at any time order the suspension of construction if the declaration or notification provided for in Articles 848 and 849 has not been made. He may also order the suspension of a construction which is under the direction of a person who lacks the required qualifications, or which, in the opinion of the Italian Air Register, is not being carried on in accordance with good technical practice or in regard to which the regulations have not been observed.

Art. 852. (Form of construction contracts.) A construction contract for an aircraft, subsequent modifications and rescission must be in writing in order to be valid.

Art. 853. (Publicity of construction contracts.) Construction contracts for an aircraft must be made public by being recorded in the construction registry. Otherwise, the aircraft shall be deemed as being constructed on behalf of the constructor himself, until otherwise proved.

After the recordation has been made, changes and rescission of the contract shall have no effect in regard to third parties who, under whatever title, have acquired and retained rights in the aircraft under construction, unless they are recorded in the above-mentioned register.

Art. 854. (Form of the title, documents to be delivered and execution of the registration transcription.) In regard to the form of the title to be transcribed, the provision of Article 867, first paragraph, shall apply.

In regard to the documents to be delivered to the office and the execution of the transcription in the construction register Articles 253 and 870 shall apply.

Art. 855. (Liability of the constructor.) An action for damages against a constructor for defects and hidden flaws must be brought within two years from the delivery of the work.

A purchaser who has been made defendant for payments may claim the right to invoke the warranty provided that within the above mentioned time limits he has objected to the defects and the hidden flaws.

Art. 856. (Rules applicable to a construction contract.) If not otherwise specified in this chapter, the rules on contracts shall apply.

Art. 857. (Form and publication of acts affecting ownership of aircraft construction.) Acts establishing, transferring and extinguishing ownership or other real rights in aircrafts under construction or parts thereof must be in accordance with the forms established in Article 864.

To have the effect provided for in the Civil Code, such documents must be published by transcribing them in the Construction Register. In the same register must be recorded acts and documents for which the Civil Code so provides.

The registration shall be carried out in the form and manner established in Articles 867, 868, and 870.

Art. 858. (Test of aircraft.) Upon completion of work, the constructor or the owner shall request test of the aircraft by the Italian Aviation Register in order to obtain an airworthiness certificate, and in case of gliders, a test certificate.

For new types of aircrafts a certificate of approval for that type must be requested.

Art. 859. (Registration of aircraft after the test.) The authority, which is requested to register the aircraft in the National Aviation Register after the test, must reproduce in such register and record on the certificate of registration all the information made in accordance with Articles 857 and 1030 in the construction register.

Art. 860. (Construction of gliders.) The provisions of Articles 848 to 854, 857 and 859 shall not apply with regard to the construction of gliders.

TITLE TWO—OWNERSHIP OF AIRCRAFT

Art. 861. (Rules applicable to aircraft.) Unless otherwise provided, aircraft shall be subject to the provisions dealing with personal property.

Art. 862. (Appurtenances and separable parts.) Parachutes, tools and instruments, fittings and, in general, all objects intended for the service or the decoration of an aircraft in a permanent manner shall be considered appurtenances.

The use [of such appurtenances] may be made by a person other than the owner or by a person who does not have a real right in it. Engines shall be considered separable parts.

Art. 863. (Rules for appurtenances of foreign property and rights of third parties over appurtenances.) The status of appurtenances and of separable parts of foreign property and the rights of third parties in them are regulated by Articles 247 and 248. For the purposes of these articles the information in the certificate of registration shall take the place of that of the aircraft inventory.

Art. 864. (Forms of documents pertaining to the ownership of aircraft.) Acts of establishing, transferring and extinguishing ownership or other real rights in an aircraft, or parts thereof, must be in writing in order to be valid.

In a foreign country such documents must be executed by the consular authorities. The provisions of the preceding paragraph shall not apply to gliders.

Art. 865. (Publication of documents pertaining to ownership of aircraft.) For purposes of the Civil Code, documents pertaining to

establishment, transferral or cancellation of property or other real rights in an aircraft or parts thereof shall be made public by recordation in the national aviation register, with an annotation on the registration certificate or, in the case of a glider, by recordation in the register or certificates of the Royal National Aeronautics Union [now the *Aero Club d'Italia*]. In the same manner shall be made public all other documents and requests for which the Civil Code requires registration.

Art. 866. (Office competent to effect publication.) The publication must be requested from the Air Minister of Aeronautics in regard to aircraft registered in the national aviation register, or with the Royal National Aeronautics Union, in the case of gliders.

Publication must also be requested from the director of the airport or the consular authority of the place where the aircraft is located or, in the case of gliders, from the local office of the Royal National Aeronautics Union of the district where the glider is usually kept. The above-mentioned authorities shall immediately transmit the presented documents at the expense of the applicant to the Minister or to the Royal National Aeronautics for recordation in the register.

Art. 867. (Form of the title for publication.) The recordation and annotation may not be made except by virtue of a deed title in the form prescribed in Article 2657 of the Civil Code (par. 181).

A declaration by the pilot, with an authenticated signature shall be sufficient in the case of a glider.

Art. 868. (Documents for publication.) A person requesting publication must deliver the documents indicated in Articles 253 and 254 to the competent office.

Art. 869. (Presentation of certificate of registration.) If publication is requested for an aircraft which has a certificate of registration, the applicant, in addition to delivering the documents stipulated in the preceding article, must present the certificate to the office at which the application is made for the prescribed annotation.

However, when publication is requested of the Minister of Aeronautics and, due to the fact that the aircraft is in another locality, it is not possible to present the registration certificates, the Minister shall make the recordation in the register and shall, at the expense of the applicant, dispatch a telegram to the director of the airport or to the consular authority at the place where the aircraft is located or to which it is flying, so that the annotation on the registration certificate may be made there.

Art. 870. (Form of publication.) For the form of publication Article 256 shall apply.

The contents of the note shall be recorded in the register where the aircraft is licensed or registered.

The contents of the recorded note are inserted in the registration certificate, if any, of the aircraft.

Art. 871. (Order of precedence and priority in recordations.) If several documents are published in accordance with the provisions of the preceding articles, precedence, as established by the Civil Code, shall be determined by the date of recordation in the national aviation register or in the registration certificate.

In case of a discrepancy between the recordations in the register and the annotations on the registration certificate, the information in the register shall prevail.

Art. 872. (Joint ownership of an aircraft.) When an aircraft belongs in shares to more than one person, Articles 259 to 264 shall apply.

Art. 873. (Sale of a share in an aircraft to a foreigner.) A joint owner of an aircraft may not sell his share to foreigners without the consent of all other co-owners.

TITLE THREE—FLIGHT ENTERPRISES

CHAPTER I. OPERATOR

Art. 874. (Declaration of the operator.) Before commencing operation, any person who operates an aircraft must file a declaration in the form and according to the rules perscribed in Articles 268 to 270, to the director of the airport in whose district the airdrome is located where the aircraft is usually kept or, if the craft is a glider, to the Royal National Aeronautics Union.

When the operation is not performed by the owner, the declaration may be made by the owner unless the operator attends to it.

Art. 875. (Publication of the declaration.) The declaration of operation must be recorded in the register kept by the director of the airport who has jurisdiction in the meaning of the preceding article and must be noted on the registration certificate.

For gliders the declaration of operations shall be recorded in the certificate register kept by the Royal National Aeronautics Union.

When an aircraft is away from the airdrome where it is usually kept, the airport director shall make the recordation in the register, and shall notify by telegram, at the expense of the applicant, the director of the airport or the consular authority of the place where the aircraft is located at that time or toward which it is flying, so that the annotation on the registration certificate may be made there.

If there is any discrepancy between the recordation in the register and the annotation on the registration certificate, the information on the register shall prevail.

Art. 876. (Presumption of operation.) In the absence of a declaration of operation properly published, the operator shall be presumed to be the owner until the contrary is proved.

Art. 877. (Appointment of the commander.) The operator shall appoint the aircraft commander and, at any time, may relieve him of his command.

Art. 878. (Liability of operator.) The operator shall be liable for the crew and for the obligations contracted by the commander in regard to the aircraft and its flight.

However, the manager shall not be liable for the discharge by the commander of the obligations of assistance and rescue provided for in Articles 981 and 982, or for other obligations imposed by law on the commander as head of the flight.

Art. 879. (Use of an aircraft without the permission of the operator.) The operator shall be jointly liable with any person who makes use of the airplane without his consent, when he has not used due care to avoid such use. However, even in such case the obligation of the

operator shall be limited to the rules established by the provisions of the second title of Book Three.

CHAPTER II. TRAFFIC CONTROL OFFICERS

Art. 880. (Duties of the traffic control officer.) In the area of the airport, the traffic control officer shall supervise all matters which concern the management of the enterprise, with the exception of duties conferred on others by the operator.

Art. 881. (Publication of powers.) The powers conferred on the traffic control officer, with the authenticated signature of the person conferring them, and subsequent changes and revocation, must be deposited with the director of the airport, in whose district the traffic control officer exercises his authority, for publication in the register kept for that purpose according to the rules established by the regulations.

In case the above-mentioned publication is not made, the functions of the traffic control officer are deemed general within the limits established by the preceding article, and limitations, changes and revocation may not be invoked against third persons, unless the principal proves that such third person had notice when the event occurred.

Art. 882. (Functions of the traffic control officer.) The traffic control officer shall have custody of customs and sanitation documents, of the list of passengers, and of other documents specified in the regulations; he also has charge of aircraft books with the exception of the log.

CHAPTER III. THE COMMANDER OF THE AIRCRAFT

Art. 883. (Command of an aircraft.) The command of an aircraft may be given only to persons possessing the prescribed qualifications.

Art. 884. (Designation of commander.) When the crew of an aircraft consists of several persons of equal rank who may be entrusted with the command, the operator must designate which one of them shall assume the function of commander. Such designation must be noted in the log.

Art. 885. (Death or impediment of the commander.) In case of death or impediment of the commander, command of the aircraft shall devolve directly upon the other members of the crew, according to their respective rank until directions are received from the operator or, if there are none, until the next landing, where the airport director or the consular authorities shall appoint a temporary commander.

Art. 886. (Hiring of a foreign commander abroad.) In a foreign country, the command of a national aircraft may be entrusted to a foreign national in the cases and in accordance with the rules specified in Article 294.

Art. 887. (Flight command, representation, and legal powers.) The commander of an aircraft shall have exclusive authority over flight operations and navigation. During landings he must provide for the safeguarding of the aircraft.

The commander shall represent the operator. In regard to persons having an interest in the aircraft and the cargo he shall exercise the powers assigned to him by law.

Art. 888. (Vital statistics, procedures and testaments.) The commander of an aircraft shall exercise the functions of a vital statistics

official provided by this Code, and receive last wills and testaments according to the rules of Article 616 of the Civil Code.

Art. 889. (Duties of a commander before departure.) Before taking off, the commander must personally ascertain that the aircraft is ready for the flight to be made, and that it is properly equipped and manned. He must also ascertain that the cargo is well loaded and centered and that weather conditions permit safe navigation.

Art. 890. (Board documents and keeping of the log.) The commander shall ensure that the required documents relative to the aircraft, the crew, the passengers and the cargo are on board during the trip. He shall also ensure that the log is regularly kept.

Art. 891. (Abandonment of an aircraft in danger.) The commander may not order the abandonment of an aircraft in danger until he has tried all means of the art of flying to save it.

The commander must be the last to abandon the aircraft and do everything possible to save the documents on board and valuable objects entrusted to his custody.

Art. 892. (Limits of the commander's authority.) Except in the places where the operator or his representative with the necessary powers are located, the commander may have necessary repairs carried out and purchases made which are necessary for the continuation of the trip, and, when required, he may borrow money to cover such needs. He may also dismiss and hire members of the crew for the remainder of the flight.

The presence of the operator or one of his representatives with the necessary powers may be invoked against third parties only when they have notice thereof. However, the presence of the operator in his place of domicile and the presence of the representative in the place for which he has been conferred the duly published powers, are presumed to be known to the interested parties until the contrary is proven.

Art. 893. (Provisions for flight safety.) During flight the commander must make the necessary provisions for the safety of the aircraft, the passengers, and the cargo.

Art. 894. (Sale and mortgage of aircraft.) A commander may not sell or mortgage an aircraft without a special order from the owner.

CHAPTER IV. THE CREW

Art. 895. (Members of the crew.) The crew shall consist of the commander and other persons assigned to the flight service of the aircraft.

Art. 896. (Composition of the crew.) The composition of the crew shall be determined by the operator depending on the type and employment of the aircraft, in accordance with the rules and within the limits established by special laws and regulations.

The composition of the crew of an aircraft which is a public service for the transportation of passengers must in every case be approved by the Air Minister.

Art. 897. (Hiring of crew members.) The crew of a national aircraft must consist of persons registered in the rolls or register of flight personnel.

Art. 898. (Hiring of unregistered or foreign crew abroad.) In case of necessity, the consular authority in a foreign country may authorize

the hiring of persons not registered in the rolls or register, even if they are foreign citizens, until the aircraft's return to its first national airport, provided, such persons have the prescribed professional rank or a corresponding one.

Art. 899. (Hierarchy on board.) The hierarchy of the members of a crew is established by the rank of the categories specified in Article 732 and, within each category, by the rank of the professional titles indicated in Article 739.

TITLE FOUR—LABOR CONTRACT OF FLIGHT PERSONNEL

CHAPTER I. FORMATION OF THE CONTRACT

Art. 900. (Physical aptitude.) In hiring of persons registered in the rolls or registers of flight personnel as members of the crew the rules on a medical examination must be observed to ascertain the physical aptitude of the person for the type of work to which he will be assigned on board.

The procedures for such examinations are established in the regulations.

Art. 901. (Aptitude of minors eighteen years old.) With the consent of his father or guardian a minor of eighteen years listed on the register in the fourth category of flight personnel may be employed in complementary services on board, sign contracts therefor, and exercise the rights and activities involved.

The revocation of consent for registration in the register by the persons exercising paternal or guardianship powers, does not deprive the minor of the ability to exercise the rights and activities under contracts previously concluded or to the right to work until the end of the flight.

Art. 902. (Types and duration of contracts.) A labor contract may be concluded either for a definite or an indefinite period.

A contract shall be deemed to be for an indefinite term if no definite term was justified by the specialty of the relationship.

Art. 903. (Form of contracts.) A labor contract for an undetermined time must be in writing.

Art. 904. (Contents of contracts.) A labor contract concluded in writing must contain:

- 1) the name, paternity and domicile of the employee;
- 2) his qualifications and duties;
- 3) the beginning date of the contract and, if it is for a predetermined time, its duration;
- 4) the duration of the trial period, if any;
- 5) the amount and manner of payment;
- 6) the indication of the collective contract, if any;
- 7) the date and place where the contract was signed.

CHAPTER II. EFFECTS OF THE CONTRACT

Art. 905. (Service on board.) An employee shall not be required to perform services other than those for which he is hired.

However, while aboard, for better flight conditions, the commander of the aircraft shall have the right temporarily to use the members of

the crew in services different from those for which they were hired, provided they are not disqualified by category and rank. In case of necessity for the safety of the flight, the crew may be used in any capacity whatever.

Members of the crew who exercise functions different from those for which they were hired shall have a right to the higher compensation due for such functions.

Art. 906. (Unauthorized loading of merchandize.) The commander and other members of the crew may not bring merchandise on an aircraft on their own account without the written consent of the operator or one of his representatives.

A member of a crew who violates the prohibition of the preceding paragraph must pay twice the price of the transportation current at the place and on the date of the shipment for the same trip and for merchandise of the same kind as that unlawfully shipped, without thereby affecting the duty to pay damages.

Art. 907. (Flight pay.) Flight personnel and persons who are temporarily required to render services on board shall, apart from the payment agreed upon, receive flight pay established according to corporative regulations, and in absence thereto according to usage.

Art. 908. (Arrest of employees.) In the case of arrest of an employee during employment, the employee shall have the right to payment for the duration in the amount established by corporative laws and regulations, and in the absence thereof, when the arrest is made without any fault on his part for the period of one year.

Art. 909. (Illnesses or injuries of employees.) An employee who contracts an illness or receives an injury has the right to treatment at the expense of the operator within the limits established by the corporative laws and regulations, and in the absence thereof, by usage, and to compensation for the duration [of his contract] in the amount established by the corporative rules or in the absence thereof, by usage.

However, if the worker intentionally contracted the illness, or contracted the illness or received the injury through his own fault while he was on the ground and not because of his employment, the operator shall still be obliged to provide medical care, but he shall have right to recover expenses.

In the cases provided for in the preceding paragraph, employees do not have a right to compensation for the entire time during which they are unable to work.

Art. 910. (Indemnity for loss of clothing.) In the case of the loss of clothing or of baggage as a consequence of a flight accident the employee shall receive indemnification in the amount established by corporative regulations and in the absence thereof, by usage.

Art. 911. (Compensation for services in the case of the loss of an aircraft.) An employee who, following the loss of an aircraft, gives his services in recovering the wreckage according to the provisions of Article 812, shall have the right to special compensation in the amount fixed by the corporative laws and regulations, or in the absence thereof, in an amount determined on the basis of the risk incurred, the hardships endured, and his usual wages.

CHAPTER III. TERMINATION AND CANCELLATION

Art. 912. (Extension of a contract.) A work contract for a pre-determined period shall lose its effect at the expiration of the established term; but if the term expires in the course of a trip, the contract shall be extended to the time when the aircraft returns to its point of departure.

However, the operator may land personnel at an intermediate landing point and assume the expenses of their repatriation. In this case, the contract shall be effective up to the day of return to the point of departure.

Art. 913. (Termination of contract for an indeterminate time by either party.) A work contract for an indeterminate time may be terminated by the operator or the employee provided the other contracting party is advised in advance of the terms established by corporate regulations or, in the absence thereof, by usage.

Art. 914. (Termination of a contract by operation of law.) A contract shall be terminated by operation of law:

- 1) in case of the death of the employee;
- 2) when the employee is stricken from the rolls or the register, or suspended, or deprived of his professional capacity or of the right to exercise the profession of airman;
- 3) when a person exercising parental or guardianship power revokes his consent to allow a minor of 18 years to be inscribed in the register according to Article 735.

- 4) in case of withdrawal of the license of an employee provided for by the regulations.

Art. 915. (Presumption of loss of an aircraft.) When it is presumed that an aircraft is lost, the work contract shall be deemed terminated in regard to the presumptive heirs of the employee and of other representatives as of the day after that on which the last news is received.

Art. 916. (Right of an operator to terminate a contract.) An operator shall have the right to terminate a contract at any time or place, but must preserve the rights of the employee.

However, in case of arrest, illness, or injury of an employee, the operator may not avail himself of this right before the end of the period established by the corporate regulations or, in the absence thereof, by usage.

Art. 917. (Change of operator.) In case of a change of operators, the new operator shall succeed his predecessor in all rights and obligations deriving from the work contract, but the employee may request termination of the contract.

If an aircraft is on a trip, such termination may be requested only upon arrival on a national airport.

Art. 918. (Wages owed to an employee in case of termination of contracts.) In case of the termination of a contract, the wages, if established in time, shall be due up to the day of the termination.

CHAPTER IV. RIGHTS DERIVING FROM TERMINATION AND RESCISSION OF A CONTRACT

Art. 919. (Indemnity in case of termination of a contract for an indeterminate term by the operator.) In case of the termination of a work contract for an indeterminate time by the operator, an indemnity

equal to the number of days of pay determined by corporative regulations and in the absence thereof, by usage, for every year or fraction of a year of service, shall be due to the employee.

Art. 920. (Indemnity in case of termination of a contract for an indeterminate time.) In case of termination of a work contract for an indeterminate time there shall be an indemnity in an amount established by the preceding article, except when the termination is due to a fact imputable to the employee.

Art. 921. (Indemnity in the case of the presumed loss of an aircraft.) If a work contract is deemed terminated according to Article 915, an indemnity shall be due in the amount established by the corporative regulations or, in the absence thereof, equal to two months' salary.

The indemnity shall be allotted to the persons indicated in the first paragraph of Article 936, and shall be divided among them in equal parts: lacking the above-mentioned persons, the indemnity shall be payable to the Social Security Fund for aviation personnel.

Art. 922. (Indemnity in case of termination of a contract). If the operator avails himself of the right to terminate a contract for an indeterminate time without previous notice according to Article 916, the employee, in addition to the indemnity provided for in Article 920, shall have the right to additional indemnity equal to the wages for the number of days during which notice should have been given.

If, in the case provided for in the preceding paragraph, a shorter notice is given than that required in Article 913, an indemnity shall be due equal to the number of days lacking in regard to giving the required notice.

Indemnification shall not be due if the termination of the contract is the fault of the employee.

Art. 923. (Determination of the Indemnity). When, according to the provisions of this code, an indemnity is commensurate with the payment established in the work contract, the payment shall include the wages or the base pay and the other indemnities of a fixed and continuing character, as provided in the corporative rules.

CHAPTER V. REPATRIATION

Art. 924. (Obligation to repatriate). When a work contract ends or is terminated in a different place from that in which it was concluded, the operator shall provide for the repatriation of the employee.

If the termination of the contract is due to the fault of the employee or to illness or injury, in the cases provided for in the second paragraph of Article 909, the operator shall have the right to be reimbursed by the employee for the expenses incurred by his repatriation.

In case the operator fails to provide for repatriation, it shall be carried out at the expense of the aeronautics authority or the consular authorities. The aeronautics authorities shall issue an injunction against the operator for reimbursement of the expenses sustained by the State.

Art. 925. (Contents of the obligation to repatriate.) The obligation to provide for repatriation of an employee shall include the expenses necessary for the trip, lodging and maintenance up to arrival at the destination, as well as during the period of quarantine, if any.

In addition to the cases provided for in the second paragraph of the preceding article, an operator shall pay an employee, during his repatriation, a daily amount equal to the indemnity established in Article 823.

In the case of loss of an aircraft the operator shall also furnish the crew with the necessary clothing.

Art. 926. (Repatriation of an ill or injured employee.) If an employee is taken off a plane for illness or injury, the commander must deposit with the aeronautics or consular authorities a sum necessary for his treatment and repatriation, as well as the indemnity due him according to the second paragraph of the preceding article.

In a foreign country where there are no consular authorities, the commander must provide for the expenses of an employee during his treatment and deposit with the agency or the person entrusted with the treatment the amount indicated in the preceding paragraph.

Repatriation taking place before the employee is completely cured, shall be made according to the prescriptions of the doctor who has been treating the worker; when the trip must be made by sea or air, it shall be on a ship or aircraft provided with medical services if the medical prescription so requires.

Art. 927. (Place of repatriation.) The repatriation of an employee is accomplished with his return to the place where he was hired.

However, if the employee so wishes and it does not increase the expense, the repatriation may be carried out by returning the employee to such other place as he may indicate.

Art. 928. (Repatriation on another aircraft.) The obligation to provide for the repatriation of an employee may be discharged by obtaining for the person a paid job on another aircraft which is going to the place of repatriation or nearby. In the latter case the operator must pay the expenses for the return to the place of repatriation.

If the wages earned by the employee on board the aircraft on which he has been placed is lower than the pay due him according to the second paragraph or Article 925, the operator shall make up the difference.

Art. 929. (Repatriation of foreigners hired for Italian aircraft.) The provisions of this chapter shall apply to foreigners employed on national aircraft provided the States of which they are citizens assure equal treatment to Italian citizens.

CHAPTER VI. GENERAL PROVISIONS

Art. 930. (Transfer attachment or seizure of wages due an employee.) The wages of an employee may be transferred, attached or seized up to one fifth of their amount and only for provisions owed by law and certain debts which may be collected from the operator because they contracted on his behalf.

The amount owed by the operator for the repatriation of a worker, or the expenses of his treatment, may not be transferred, attached or seized even within the limits established by the preceding paragraph.

Art. 931. (Clothing and tools may not be seized or attached.) In addition to the articles which, according to the Code of Civil Procedure

and special laws, are not subject to seizure or attachment, the following may not be seized or attached for any reason:

1) clothing of flight personnel needed for their service on board;

2) instruments and other objects belonging to flight personnel and used in their profession.

Art. 932. (Exercise of rights by heirs and other representatives in case of presumed loss of an aircraft.) The rights of presumptive heirs of an employee and other representatives when an aircraft is presumed lost, may be enforced only after cancellation of the aircraft in the register.

Art. 933. (Effect of call or recall to military duty.) The effect on a work contract of a call or recall to military duty of an employee, and the treatment of the employee in such cases are determined by special laws, by the corporative regulations, or in the absence thereof, by usage.

Art. 934. (Preference in hiring.) Flight personnel who are considered to be no longer qualified for flight service, including illness, shall have a right to preference within the limits of their aptitudes in the hiring of non-flying personnel.

Art. 935. (Requirement of insurance.) The operator shall insure personnel who regularly or occasionally navigate attached to the flight service against flight risks, according to the rules and within the established limits of the corporative regulations.

Such insurance shall relieve the operator from liability for flight accidents of the personnel in the cases provided for by the law on compulsory insurance for accidents on the job.

For risks other than those of flying, the provisions of special laws shall apply.

Art. 936. (Rights of beneficiaries.) The spouse and children of an insured person shall be beneficiaries of the right to insurance in case of the death of the insured person as specified in the preceding article.

However, at the time when the policy is taken out, or afterward, the insured person may designate the beneficiary for one third of the insurance if he has children or a spouse and children, and for one half if he only has a spouse.

In case of subsequent marriage or birth of children, the rights of the beneficiary designated in the policy shall be reduced to the portions indicated in the preceding paragraph.

The division of the insurance indemnity between the spouse and children is made in equal parts.

Art. 937. (Statute of limitation.) The rights deriving from a work contract of a member of the flight personnel shall terminate at the end of two years after the day of the landing at the place where he was hired, following the expiration or termination of the contract.

The statute of limitations on the rights due to the presumptive heirs of the employee and to other representatives, in case of the presumed loss of an aircraft, shall run from the date of the cancellation of the aircraft in the register.

Art. 938. (No departures may be made from rules.) The provisions of Articles 900 to 905, 909, second paragraph, 917, 924 to 932, 935 and 936, either by the corporative rules or individual work contracts, shall not be derogated.

The provisions of Articles 908, 909, third paragraph, 911 to 916, 918 to 923, and 934, may be derogated by corporative regulations; they may not be derogated by individual work contracts except in favor of the employee.

BOOK THREE—OBLIGATIONS CONCERNING THE MANAGEMENT OF THE NAVIGATION

TITLE ONE—CONTRACTS OF USE OF AIRCRAFT

CHAPTER I. LEASE AND CHARTER

Art. 939. (Form of Contract. Referral [applicable provisions].) The lease and charter of an aircraft shall be made in accordance with the provisions of Articles 376 to 383; 384 to 395, and contracts shall be in writing in every case.

CHAPTER II. TRANSPORTATION

SECTION I—TRANSPORTATION OF PERSONS AND CARGO

Art. 940. (Form of contract.) A contract of transportation of persons must be in writing. However, the ticket issued by the carrier shall prove the conclusion of the contract for the trip indicated on the ticket itself.

Art. 941. (Insurance of passengers against flight risks.) The operator of regular air line services must insure each passenger against the risks of the flight for the amount of five million two hundred thousands liras.

If he fails to fulfill such obligations, he must pay the indemnity and the amounts, which would have been paid by the insurer within the limits of the provisions related to obligatory insurance of passengers.⁹

Art. 942. (Carrier's liability in the transportation of persons.) The carrier shall be held liable for damages arising from delay and negligence in the execution of the transportation as well as from accidents which may befall a passenger from the beginning of the operation of embarkation until the completion of landing, unless he proves that he and his agents took all the possible and necessary measures and due care to avoid such accident.

Art. 943. (Indemnity limits in the transportation of persons.) The compensation due by a carrier in case of liability not caused by fraud or gross negligence on his part or that of his agents, shall not be more than five millions two hundred thousands liras for each person.

In the same case, if the carrier has fulfilled his insurance obligation as specified in Article 941, the compensation due by him for accidents suffered by a passenger shall not exceed the difference between the above amount and the amount due to the injured party on the basis of the insurance contract.¹⁰

Art. 944. (Liability and limits of compensation in the transportation of luggage not consigned to the carrier.) The carrier shall be held liable for the loss and damage of luggage not consigned to him as well

⁹ This Article has been thus amended by Art. 3 of Law No. 202 of April 16, 1954; see also Law No. 229 of April 4, 1957.

¹⁰ This Article was thus amended by Article 4 of the Law No. 202 of April 16, 1954.

as for objects in general that a passenger carries with him from the moment of embarkation until landing when the passenger is in a position to prove that loss or damages may be imputed to the carrier.

However, the compensation due by the carrier for cases in which fraud and gross negligence on his part or that of his employees are not involved shall not be more than two hundred thousands liras for each passenger.¹¹

Art. 945. (Liability and limits of compensation concerning consigned luggage.) The liability of the carrier in the transportation of luggage consigned to him and the corresponding limits of compensation shall be governed by the provisions related to liabilities and limits of compensation applicable for the transportation of goods.

Art. 946. (Loss and damage to luggage.) Loss of and damage to luggage consigned to a carrier during transport must be ascertained in a written claim within three days and damage caused by delay within fourteen days from reconsignment.

In the absence of such claim the provisions of the last paragraph of Article 954 shall apply.

Art. 947. (Gratuitous transportation.) The provisions of the preceding articles shall also apply to a contract for gratuitous transportation.

Art. 948. (Departure from liability provisions.) The provisions concerning the liability of the carrier and the limits of compensation in the transportation of passengers may not be changed in the carrier's favor.

The provisions regarding the liability of the carrier and the limits of compensation in the transportation of luggage may be changed in favor of the carrier only in domestic transportation.

Art. 949. (Referral to other applicable rules.) The provisions of Articles 397 to 418 shall apply to the transportation by air of persons and luggage in the absence of pertinent provisions in this section.

SECTION II—TRANSPORTATION OF GOODS

Art. 950. (Form of contract.) Carriage contracts must be in writing.

Art. 951. (Carrier's liability.) The carrier shall be liable for loss of and damage to goods consigned to him for transportation from the time in which he receives them to the time when he delivers them to the consignee as well as for damages due to delay unless it can be proven that he or his employees took all possible and necessary measures and due care to prevent loss and damages.

The carrier shall not be liable even if it is proved that the loss, damage, or delay were caused by a slight error in piloting, guidance and navigation, or when it is proved that the loss, damage, or delay were due to any cause whatsoever during the transportation by land or sea carried outside the airdromes in the execution of a contract of carriage by air, for the loading, unloading and transit shipment, except for the application of provisions governing liability for carriage by land and sea.

¹¹ This Article was thus amended by Article 5 of the Law No. 202 of April 16, 1954.

Art. 952. (Limits of compensation.) The compensation due by a carrier in case of liability not caused by fraud or gross negligence on the part of the carrier or his employees shall not be more than ten thousand liras for each kilogram of goods carried or a higher amount corresponding to the actual value of the transported goods as declared by the shipper before loading.

Until proved otherwise, the value declared by the shipper shall be presumed to be the actual value of the transported goods.¹²

Art. 953. (Departure from rules governing liability.) The provisions governing liability in the transportation of goods may be changed in favor of the carrier only in the case of domestic transportation.

Art. 954. (Loss of and damage to transported goods.) Loss of, and damage to goods during transportation must be declared by the person who has the right of delivery by means of a written claim or annotation on the carriage voucher within seven days from the day of the delivery.

Damages caused by delay must be declared in a similar manner within a period of 14 days.

In the absence of such claim or annotation, goods shall be presumed to have been delivered by the carrier in due time and in conformity with statements made in the carriage voucher and the interested party shall be barred from any action except when fraud is involved.

Art. 955. (Referral.) In the absence of provisions in this Section, Articles 425 to 438, and 451 to 456 shall apply to carriage by air.

SECTION III—AIR CARRIAGE DOCUMENTS

Art. 956. (Transportation document.) In the transportation of goods the shipper may request the carrier to issue a letter of air carriage or as many air carriage letters as there are the pieces to be transported.

Art. 957. (Compilation of the bill of lading.) The shipper shall prepare a bill of lading in triplicate, and in pursuance to letters (b), (c), (d), (e), (h), (i), and (l) of the following Article.

When the goods are taken in consignment, the carrier shall be obliged to complete the bill of lading with the remainder of information provided for in the preceding Article.

The sender shall be liable to the carrier for damages caused by omissions and inaccuracies in the proper information as specified in the first paragraph.

Art. 958. (Information on bill of lading.) The bill of lading must be dated and signed by the person who issues it and must state the following:

- (a) name and residence of the carrier;
- (b) name and residence of the shipper;
- (c) place and destination, and when the bill is issued to a particular person, the name and residence of the consignee;
- (d) nature, quality and quantity of goods to be transported as well as the number, weight and dimensions of pieces and their manner of marking;
- (e) apparent conditions of the goods or the packaging;
- (f) place and date of loading;

¹² This Article was modified by Article 6 of the Law No. 202 of April 16, 1954.

(g) transportation cost, as well as the date and place of payment and the person making it;

(h) price of the goods and amount of costs, if the transportation is made cash on delivery;

(i) declared value, if any;

(l) documents consigned to the carrier with the bill of lading;

(m) duration of the transportation and a summary indication of the route to be followed in case this has been agreed upon.

Art. 959. (Date of loading.) If the bill of lading does not indicate the loading date then the day of issuance [of the note] is presumed to be the day of issuance unless proved otherwise.

Art. 960. (Probatory effect of the bill of lading.) The information on the bill of lading regarding the number, weight and dimensions of pieces as well as the conditions of the packaging shall be *prima facie* evidence until proved otherwise; those regarding the nature, quantity and quality as well as the condition of the goods shall not be used as evidence against the carrier unless he has verified it himself in the presence of the shipper or they are included in the bill of lading or the information states the apparent condition of the goods.

Art. 961. (Originals of the bills of lading.) The bill of lading shall be issued in three original copies. The first must bear the indication "for the carrier", and must be signed by the shipper and consigned to the carrier; the second must bear the indication "for the consignee" and must be signed by the shipper and the carrier; it shall accompany the goods to be transported; the third shall be signed by the carrier and be given to the shipper on acceptance of the goods for transportation.

The original issued to the shipper pursuant to Article 964, gives to the holder the right to delivery of the goods therein specified, to their possession and the right to dispose of them in accordance with title thereto.

Art. 962. (Form and transfer of the original bill of lading issued to the shipper.) The original of the bill of lading given to the shipper may be to the holder, on order, or to a particular person.

The transfer of this original may be made in the manner and with the results provided for by the Civil Code for instruments of credits to bearer, order or nominative. However, for the transfer of a nominative bill of lading its annotation in the shipper's register provided in Article 2022 *et seq.* of the Civil Code is not required.

Art. 963. (Duplicates of the bill of lading.) Duplicates of the original bill of lading given to the shipper may be issued upon request of the person who has the right to dispose of the title. However, duplicates shall not confer the rights indicated in the second paragraph of Article 961.

Duplicates are not transferable and must contain explicit mention of such nontransferability, and must be distinguished and marked by the serial number of issuance.

Art. 964. (Acknowledgement of the holder of the bill of lading.) The holder of the transferable original of the bill of lading shall be entitled to exercise the right mentioned in the title by presenting the title itself or by a successive series of endorsements, or on the basis of the name in which it is made out, according to whether it is made out to holder, on order, or nominative.

TITLE TWO—LIABILITY FOR DAMAGES [CAUSED] TO THIRD PERSONS ON THE GROUND OR FOR DAMAGES CAUSED BY COLLISION

CHAPTER I. LIABILITY FOR DAMAGES TO THIRD PERSON ON THE GROUND

Art. 965. (Liability of the operator for damages to third parties on the ground.) The operator shall be liable from the take-off until landing for damages caused by the aircraft to persons and property on the ground, including those resulting from acts of God.

However, liability shall be excluded when (a) the operator proves that the damages were caused intentionally without connection with the operation of the aircraft by persons extraneous to the crew on board, and that he himself and his employees were unable to prevent them; (b) where the operator can prove that the damages were the fault of the damaged party.

Art. 966. (Contributory negligence of the damaged party.) If the act of the damaged party was a contributory cause to the damage, the amount of compensation shall be decreased in proportion to the seriousness of negligence and the importance of its consequences.

Compensation shall not be due for damages which the damaged party could have avoided by using ordinary care.

Art. 967. (Limits of total compensation.) The total compensation due by a carrier provided for in Article 965, shall be limited for each accident to ten thousands lire per kilogram of the weight of the aircraft plus that of the maximum load as indicated in the airworthiness and test certificates.

When the amount fixed on the basis of the weight of the aircraft is less than twenty-five million liras, or more than eighty million liras, the carrier shall remain liable for the balance until payment of such amount. If the damage is caused by a tourist aircraft, or by a glider, the minimum limit is reduced to ten million liras.¹³

Art. 968. (Division of claims by creditors.) Creditors for damages caused by accidents to persons, shall have a claim, within the maximum limit of eight million liras for each person of two thirds of the amount reserved for the total compensation due by the carrier; the creditors for damage to goods, shall have claim to the remaining one third.

However, if the amount of credits due for damages to goods is less than one third, those creditors for accidents caused to persons within the individual maximum limit indicated, shall have a claim to such amount. Likewise, if the amount of credits for damages to persons is less than two thirds, the creditors for damages to goods shall share the remainder.¹⁴

Art. 969. (Proportional reduction of credits.) When the total amount of compensation due to third persons who have suffered damages in the same accident is greater than the limits provided for in Article 967, the amount due to each one shall be reduced proportionally up to the total extent of the same limits.

Art. 970. (Preference.) In the preference of creditors for a limited amount, the credits of the third parties damaged who have given formal notice to the carrier or have, in some other way, made a claim

¹³ This Article has been thus amended by Article 7 of the Law No. 202 of April 16, 1954.

¹⁴ Thus amended by Article 8 of the Law No. 202 of April 16, 1954.

to their rights within six months from the day of accident, shall be preferred to the credits of third parties damaged who have given such notification or claimed their rights at a later date.

Art. 971. (Exclusion of the limitation on compensation.) The limitation on the compensation provided for in Article 967 shall not apply:

a) when the damaged party has proved fraud or gross negligence on the parts of the carrier, his employees or agents, and carrier is unable to prove that the damage is the result of error in piloting, guidance or navigation;

b) when the damaged party has proved fraud or gross negligence of the employees or agents, and the carrier cannot prove that he has taken all precautions necessary to prevent the damage;

c) when the carrier has not contracted for, or maintained in effect the insurance required in Article 798, or when the insurance does not cover the liability of the carrier in the manner and to the extent provided for in the preceding articles.

Art. 972. (Cases of the inapplicability of the preceding provisions.) The preceding provisions shall not apply when the liability between the carrier and the damaged party is regulated by a labor contract, a carriage contract, or some other contract.

Art. 973. (Statute of limitation.) The right to compensation for damages to third persons on the ground shall expire one year from the day when the damage occurred.

However, if the damaged party proves that it was impossible for him to receive notification of the damage or to identify the responsible party, the term shall start from the day of such information or identification. In any event, the right shall expire three years from the day on which the accident occurred.

CHAPTER II. LIABILITY FOR DAMAGES CAUSED BY COLLISION

Art. 974. (Damage caused by collision, explosion or similar causes.) In case of collision between aircraft in flight, or a flying aircraft and a vessel in motion, Articles 482 to 487 shall apply. The same provisions shall apply when the damages have been caused by explosion or some similar cause, even if actual collision did not occur between aircraft in flight, or the flying aircraft and the vessel in motion.

For the purposes of the preceding paragraph, an aircraft shall be deemed in flight from the time of its takeoff until the landing is accomplished.

Art. 975. (Limits of compensation.) The total amount of compensation due from a carrier shall be limited in any accident to the amount of ten thousand liras per kilogram of the weight of the aircraft including the weight of the maximum cargo, in accordance with the indications of the airworthiness and test certificates.

When the amount established on the basis of the weight of the aircraft is less than twenty-five million liras or more than eighty-three million liras, the carrier shall be liable up to the total of such amounts. If the case concerns a tourist aircraft or a glider the minimum limit shall be reduced to ten million liras.¹⁵

¹⁵ This article has been thus amended by Article 9, of Law No. 202 of April 16, 1954.

Art. 976. (Preference of creditors.) Articles 968 to 970 shall apply to the order of creditors on the limited amount. However, the compensation for damages to persons shall not exceed five million two hundred thousand liras for each person.

Art. 977. (Exclusion from limitation.) The provisions of letter (a) and (b) of Article 971 shall apply as to causes for exclusion from the limitation.

Art. 978. (Damages to third persons on the ground caused by collision.) In the cases provided for in Article 974, when third persons have been injured on the ground, the carriers shall be jointly liable, even when the injuries were caused by an Act of God.

The compensation shall be divided between the carriers according to the seriousness of the negligence committed respectively by the carriers or by their employees or agents in relationship to the consequences of such negligence; or it shall be divided in equal parts if the damage was caused by an Act of God, or if given the circumstances, it is not possible to ascertain the existence of the negligence or the gravity of the respective negligence and the relative consequences.

Art. 979. (Debarment from action of recourse.) A carrier shall lose the right of appeal against the other person obligated if he does not notify him within three months of the claim submitted to him by the damaged party.

This right shall expire one year from the day of payment of compensation to the damaged party.

Art. 980. (Limitation of debt in relationship to carriers.) The limits provided for in Article 975 shall apply also in regard to carriers jointly liable under Articles 484 and 978.

TITLE THREE—ASSISTANCE, SALVAGE AND FINDING OF WRECKS

CHAPTER I. ASSISTANCE AND SALVAGE (RESCUE)

Art. 981. (Duty to assist ships and aircraft in danger.) Assistance to ships or aircraft on the sea or inland waters, which are in danger of being wrecked, or to an aircraft crashed or grounded in a desert area shall be compulsory to the extent that it does not jeopardize the safety of the assisting aircraft, its crew and passengers, except in the case provided for in Articles 485 and 974, when persons on board the ship or the aircraft are in danger.

An aircraft commander who, during the voyage or when ready for departure, receives news of the danger to a ship or an aircraft shall be bound under the aforementioned circumstances and limitations to rush to render assistance when he can reasonably foresee a useful result, unless he is informed that such assistance is being given by others under more suitable, or conditions similar to those under which he himself could render it.

Art. 982. (Duty to rescue and help persons in danger.) When a vessel or aircraft in danger is totally unable, respectively, to sail or take flight, the commander of the assisting aircraft shall, under the circumstances within the limits indicated in the preceding article, attempt rescue and when this is impossible, assist the persons.

Equally, he shall be duty bound, within the same limitations, to attempt to rescue or give assistance to persons who are in danger of being lost at sea or on inland waters.

Art. 983. (Indemnity and compensation for assistance to a vessel or aircraft.) Assistance to a vessel or an aircraft which is not given in view of an express and reasonable refusal of the commander, shall give a right, within the limits of the value of goods or property salvaged, to compensation for damages received and to reimbursement of the expenses incurred, as well as to a reward if the assistance has proved even partially useful.

The reward is fixed in proportion to the success obtained, to the risks run by the assisting aircraft, to the efforts made and the time employed, and to the general expenses of the enterprise, if the aircraft is employed for the purpose of assistance, as well as of the danger to the property and its value.

Art. 984. (Indemnity and reward for salvage of property.) The salvage of goods which has not been carried out in view of the express reasonable refusal of the owners of the property or of the commander of the vessel or the aircraft in danger, shall give a right, within the limits established in the preceding article, to compensation for damages and to reimbursement of expenses as well as determined in accordance with the regulations of the previous article in cases when even a partially useful result has been achieved.

Art. 985. (Indemnity and compensation for assistance to, or rescue of persons.) Assistance to, and rescue of persons shall give a right to compensation for damages suffered and to reimbursement of expenses incurred by the rescuing aircraft only in the cases and within the limits in which the amount is covered by insurance or by the liability of the carrier if he has not fulfilled his insurance obligation in accordance with Article 941.

These cases, or others when there have been operations of assistance to ships or aircraft or of salvage of goods, assistance to, or rescue of persons, which have led to a useful result, shall further give a right to a reward, respectively, within the limits of the residual amount covered by insurance or by the liability of the carrier, after deduction of the amounts due for damage compensation and reimbursement of expenses, and within the limits of a quota equitably established of the reward relative to other operations. The compensation shall be determined in proportion to the risks incurred, the efforts made, and the time employed, as well as to the danger threatening the persons assisted or rescued.

Art. 986. (Validity of contractual determination of a compensation.) The determination of a compensation made by agreement or through arbitration shall not be valid with regard to crew members who do not accept it unless it has been approved by a trade union representing them.

Art. 987. (Concourse of operations and of rescuers.) When an aircraft, at the same time, has given assistance to a vessel or an aircraft and to persons, or goods have been salvaged and persons rescued, or assistance has been given to a ship or aircraft or to persons and goods have been salvaged and persons rescued, the amount of damages and of expenses shall be equitably divided among the various operations.

When several aircraft participated in the same operation of assistance or salvage, the provisions of Article 970 shall apply to the preference of the rescuers.

Art. 988. (Repartition of the compensation.) If the aircraft was not equipped for giving aid, compensation for assistance or salvage, shall be paid as follows: one third to the carrier and two thirds to the crew, among whom the amount shall be divided in accordance with the amount of assistance given by each one. The share of the compensation to be divided among the crew members may not be fixed by agreement at less than half of the entire compensation.

Art. 989. (Expenses sustained for compensations and rewards.) The amount spent for the compensation and reward given to aircraft for assistance to a vessel or an aircraft shall be divided among the parties interested in the expedition pursuant to Article 469 *et seq.* even when the assistance was not requested by the commander of the ship or aircraft in danger, or was given against his wish.

Art. 990. (Aircraft of the same owner or carrier.) The preceding provisions shall apply, as far as possible, when the assisting aircraft and the assisted one belong to the same owner or are operated by the same carrier.

Art. 991. (Right of action of the crew.) If a carrier cannot, or neglects to act to obtain compensation for assistance or salvage, the crew members shall have the right to action for the part which is due to them.

Art. 992. (Statute of limitation.) The right to compensation and reward for assistance or salvage expire two years from the day on which operations were terminated.

CHAPTER II. FINDING OF WRECKAGE

Art. 993. (Rights and duties of the finder.) Whoever by chance finds aircraft wreckage outside the localities indicated in Article 510, must, within three days of the discovery, report such discovery to the aeronautics authorities of the place or, in their absence, to the mayor of the municipality and, if possible, deliver the found objects to the owner, and if the latter is unknown to him and the value of the objects is more than fifty liras, the delivery must be made to the above-mentioned authorities.

A finder who carries out the duty of reporting and delivery shall have a right to reimbursement of the expenses incurred and to a premium equal to one tenth of the object's value up to ten thousand liras, and to one twentieth above it.

Art. 994. (Custody and transmittal of found objects.) The aeronautics authority who receives the found objects has the duty to provide for their custody.

When the owner does not claim the found objects within the terms established by the authority, or does not appear within six months from the day of the published announcement in case the owner is unknown, the authority shall, pursuant to the regulations, transfer the wreckage [objects found] to the State safe for the right of the finder to compensation or reward as established in the preceding article.

Art. 695. (Statute of limitation.) The right to reimbursement of expenses and the payment of the reward expires two years from the day of the discovery.

TITLE FOUR—INSURANCE

CHAPTER I. COMPULSORY INSURANCE OF PASSENGERS

Art. 996. (Floating policy insurance [Assicurazione in abbonamento].) The floating policy insurance taken out by a carrier in fulfillment of the obligation provided for in Article 941 shall apply to all passengers transported by aircraft in service on all air lines operated by him. The carrier shall monthly submit a numerical list of passengers transported to the insurer, and enclose therewith, for every trip made during the month, a copy of the passenger list as provided for in Article 771. (e).

Art. 997. (Liability.) The insurer shall be liable for the death of a passenger resulting from injuries received during a flight because of violent external causes, provided the accident was not due in part or entirely to the intent of the passenger.

The liability shall run from the moment when the passenger enters the vehicle for land or water transportation provided by the carrier to reach the airport of departure or to embark on the aircraft until, by said vehicle, the passenger, after landing, reaches his place of destination.

Art. 998. (Insurance indemnity.) The insurance must cover passengers up to the amount of five million, two hundred thousand liras.

To recover the indemnity the carrier may act for the passenger against the insurer.¹⁶

Art. 999. (Indemnities and assistance compensation.) In addition to the limits established in the preceding article, the insurer is liable for indemnities and compensations due for assistance to, or rescue of a passenger up to an amount of two million liras. However, the total amount of indemnities and compensations due by the insurer for one accident to an aircraft shall not exceed twenty million liras.

The insurer shall also be held liable for indemnities due for acts of assistance or salvage even when unsuccessful up to a total amount of two million liras for the same accident to the same aircraft.¹⁷

Art. 1000. (Recovery of insurance from a carrier.) The insurer may take action of recovery against a carrier for an indemnity paid to a passenger when the damage resulted from intent and gross negligence of the carrier or his employees or agents.

CHAPTER II. INSURANCE OF GOODS

Art. 1001. (Insurance of aircraft, goods and freight.) Aircraft insurance shall cover the aircraft as well as its equipment and separable parts.

The insurance on merchandise shall cover the price of the same at the time and place of loading, increased by ten per cent as a possible profit, as well as the expenses for loading the merchandise by prepaid freight and due in any event, and of the premium and insurance costs.

The insurance on freight to be earned is presumed, until the contrary is proven, to be contracted for the whole amount established by the charter of the aircraft.

¹⁶ This Article has been amended by Article 11 of the Law No. 202 of April 16, 1954.

¹⁷ This Article was thus amended by Article 12 of the Law No. 202 of April 16, 1954.

Art. 1002. (Aircraft in a hangar.) The insurer of an aircraft during the time when it is in a hangar or some other enclosed areas shall be held liable only for fire risks.

Art. 1003. (Damage to flight instruments and to the motor-propulsion group.) The insurer of an aircraft shall not be held liable for damages to instruments on board which are not caused by flight accidents.

Likewise, the insurer may not be held liable for damages to the engines, radiator, oil and fuel tanks, to propellers as well as to all other parts necessary for the normal functioning and protection of the engine itself which were not due to external causes which upset normal functioning of the aircraft.

However, the insurer shall be held liable for damages due to accidents caused by one of the above mentioned breakdowns.

Art. 1004. (Duration of aircraft insurance by the trip.) Aircraft insurance stipulated by the trip shall be in effect from the start of the takeoff maneuvers to the termination of those for handling at the place of destination.

The insurance shall be suspended if the trip is temporarily interrupted unless the interruption is included in the policy or is due to accidents for which the insurer is liable or to atmospheric conditions preventing safe navigation.

Insurance stipulated on the basis of a trip started shall begin at the hour indicated in the contract or, in the absence thereof, at twenty-four hundred hours (midnight) of the day of its conclusion.

Art. 1005. (Duration of insurance of goods.) The insurance of goods shall be in effect from the time when the merchandise is taken into consignment by the carrier until the time when it is delivered to the consignee in the warehouses of the carrier and, in any event, not later than 48 hours after its arrival in said warehouses.

If the aircraft on which the merchandise has been loaded cannot continue the trip and the merchandise is forwarded to its destination by land or water transportation, the insurance shall also cover the risks of such transportation.

Insurance stipulated on a trip basis shall start from the hour indicated in the contract or, in its absence, at twenty-four hundred hours (midnight) of the day of its conclusion.

Art. 1006. (Abandonment of an aircraft.) The insured may relinquish an aircraft to the insurer and claim indemnity for total loss in the following cases:

a) when the aircraft is lost or has become totally unable to fly and cannot be repaired, or the means for repairing it on the spot are lacking and cannot be obtained elsewhere, and the aircraft cannot be transported to a place where there are such means;

b) when an aircraft is presumed destroyed;

c) when the total repair costs for damages suffered by the aircraft amounts to four-fifths of its insurable value.

Art. 1007. (Abandonment of goods.) The insured may abandon merchandise to the insurer and request indemnity for total loss in the following cases:

a) When the merchandise is totally lost;

b) when the aircraft is presumed destroyed (lost);

c) when in the cases provided for in (a) of the preceding Article, 15 days from the date of the loss, or loss of airworthiness have passed for perishable goods, and 30 days for non-perishable goods and the same have not been recovered and forwarded to their destination;

d) When, independently of any cost, the damages for deterioration or loss in quantity constitute more than three-fourths of the insurable value.

Art. 1008. (Abandonment of freight.) The insured may relinquish to the insurer the freight and claim indemnity for total loss in the following cases:

a) when the right to the freight has been totally lost by the insured;

b) when the aircraft is presumed destroyed (lost).

Art. 1009. (Manner of abandoning an aircraft.) The statement of abandonment of an aircraft and that by which the insured declares that he does not want to acquire possession of the aircraft itself, must be made in the forms prescribed in Article 864 and made publicly known in accordance with Article 865 *et seq.*

CHAPTER III. INSURANCE FOR DAMAGES TO THIRD PERSONS ON THE GROUND AND FOR COLLISIONS

SECTION I—COMPULSORY INSURANCE FOR LIABILITY FOR DAMAGES CAUSED TO THIRD PERSON ON THE GROUND

Art. 1010. (Document proving the insurance.) In the insurance for damages to third persons on the ground, in addition to the policy, the insurer must issue to the carrier a statement containing the elements of the insurance for purposes provided for in Article 798.

In the case of disagreement the statement of the document authenticated by the Minister of Aeronautics shall prevail over those contained in the insurance contract with regard to the duration and territorial extension of the insurance.

Art. 1011. (Damages covered.) The insurer shall be liable within the limits and in the measure established in Articles 965 to 967 for damages suffered by third persons on the ground even as consequence of a collision.

Art. 1012. (Damages excluded.) The insurer shall not be liable for damages incurred outside the territorial limits indicated in the statement of the insurer, except when such limits were exceeded because of an Act of God, for purposes of assistance or salvage, or a mistake in piloting, guidance, or navigation.

Likewise, the insurer may not be held liable for damages which are a direct result of armed international conflicts or civil riots.

Damages resulting from fraud and gross negligence of the carrier and his employees and agents, or when fraud and gross negligence of the latter were involved, or when damages result from errors in piloting, guidance or navigation, or when the carrier has taken the proper measures to avoid them, shall be excluded from insurance.

Art. 1013. (Change in the person of the carrier.) In case of a change in the person of the carrier who contracted for the insurance this shall be continued with regard to the new carrier.

However, the previous and the new carrier must give immediate notice of the change to the insurer. The insurer, after receiving the notice may within 15 days revoke the contract, by giving 15 days' notice. The new carrier has the same right from the day of the change. The insurer and the carrier who gives notice of revocation, must immediately notify the Minister of Aeronautics of the matter.

If the insurer is not notified, the insurance shall continue with regard to new carrier but the latter is jointly liable with the former for the payment when it is not proved that the insurer, aware of the change, has not revoked the contract in the terms and the manner established below.

Art. 1014. (Extension of aviation insurance policy which expired during a trip.) Insurance which expires when an aircraft is traveling shall be automatically extended until completion [of the landing] at the place of destination, but the carrier must pay a supplementary premium proportionate to the premium established in the contract.

Art. 1015. (Rights of a third party against the insurer.) A third damaged party shall have a right to bring action against the insurers for damages suffered.

The insurer may not invoke against the third party any cause for rescission or annulment of the contract having retroactive effect.

In any other case of rescission of a contract, the rescission shall be held valid against third parties for accidents which occurred up to the moment when the insurance statement was withdrawn by the Ministry of Aeronautics but, in any event, not later than 15 days from the day on which the insurer notified the Ministry of the rescission which had taken place.

In addition, the insurer shall be bound to pay indemnities to third parties even in case the damage is considered excluded according to the third paragraph of Article 1012.

Except for the provisions of the preceding paragraphs, the insurer may invoke against the third party all the exceptions which may be brought against the carrier as well as those that the carrier may invoke against the damaged party.

Art. 1016. (Action of recovery of the insurer.) In the cases provided for in the second, third and fourth paragraphs of the preceding article, the insurer shall have the right to recovery (reimbursement) from the carrier for the amount paid to third damaged party.

SECTION II—INSURANCE FOR DAMAGES CAUSED BY COLLISION

Art. 1017. (Risk.) The insurer shall be held liable for the amounts due by a carrier for damages caused by an aircraft in flight in a collision with another aircraft in flight or with a vessel in motion even if no actual collision has occurred and the damages were caused by explosion or other similar causes. However, damages resulting from one of the causes provided for in Article 977 are excluded from indemnification. The expenses incurred by a carrier to oppose the claims of a third party shall also be borne by the insurer, provided they are incurred with the consent of the insurer.

Art. 1018. (Damages to third persons on the ground caused by collision.) In the cases provided for in the preceding article, the

insurer may not be held liable for damages caused by an aircraft to third parties on the ground.

Art. 1019. (Duration of liability.) The liability shall begin from the time of the takeoff maneuvers until the landing has been accomplished.

CHAPTER IV. COMMON PROVISIONS

Art. 1020. (Statute of limitation.) The provisions of Article 547 shall apply to the statute of limitation on rights resulting from an insurance contract.

The provisions of Article 973 shall apply to the statute of limitation on rights for damages suffered by third persons on the ground.

Art. 1021. (Referral.) The provisions of the Title on Insurance of the First Part, with the exception of Article 515, second paragraph, Article 527 and Article 538, shall apply to insurance against aviation risks, insofar as this has not been provided for in the present Title.

TITLE FIVE—PRIVILEGES AND MORTGAGES

CHAPTER I. PRIVILEGED CLAIMS

Art. 1022. (Liens—Priority of claims.) The privileges established in the present Chapter shall have preference over all other general or special privileges.

Art. 1023. (Liens on aircraft and freight.) The following credits shall have priority on all aircraft, and on the freight during the voyage in which such credit arose, on appurtenances and separable parts of the aircraft within the limits established in Article 1029, and accessories provided they arise after the commencement of the trip:

(1) Judicial costs due to the State or those incurred in the common interest of the creditors for acts of preserving the aircraft or for the process of execution; airport dues and similar dues and taxes, expenses, for the custody and care of an aircraft after its arrival at its destination:

(2) credits deriving from labor contracts of flight personnel;

(3) credits for amounts advanced by aeronautics, administrative, or consular authorities for the maintenance and repatriation of crew members, credits due for compulsory contributions to various institutions of assistance and social security for flight personnel:

(4) indemnities and compensation for assistance and salvage;

(5) indemnities for damages on the surface [caused] to third persons when the operator has not taken out or kept in force the compulsory insurance; the indemnity for aircraft collisions foreseen in Article 974; indemnities for death or injuries to the passengers and crew members as well as those for loss of, or damage to the cargo or luggage;

(6) credits derived from stipulated contracts or from transactions carried out by the commander by virtue of his legal powers even when he is the operator of the aircraft for exigencies connected with the preservation of the aircraft or the continuation of the voyage.

Art. 1024. (Priority claims on loaded goods.) The following shall have priority upon loaded goods:

(1) Judicial costs due to the State or incurred in the common interest of the creditors for preservatory acts on goods or for carrying out the execution:

(2) custom duties due on goods at the place of delivery;

(3) indemnities and compensations for assistance and salvage;

(4) credits resulting from the carriage contract including the expenses of unloading and the rent for the warehouses in which the unloaded goods have been deposited.

Art. 1025. (Extinction of privileges on aircraft and on freight.) The privileges on the aircraft and on freight shall be extinguished not only by payment of the debt itself but also with the lapse of a ninety day period.

Art. 1026. (Referral to other applicable rules.) For any matter not provided for in this Chapter the provisions of Articles 549 to 551, 553 to 555, paragraphs one, two and four and five of Articles 556, 557 to 560, and 562 to 564, shall apply.

CHAPTER II. MORTGAGES

Art. 1027. (Mortgage on aircraft.) Only a voluntary mortgage may be imposed on aircraft. Under penalty of nullity, the moragage may be imposed only by public act or simple contract containing specific indications of the elements of markings of the aircraft.

Art. 1028. (Mortgage on aircraft under construction.) A mortgage may be granted also for an aircraft under construction. It may be validly registered from the time the construction is recorded in the register of construction.

Art. 1029. (Object of mortgage.) The mortgage has as object the aircraft, it appurtenances and separable parts even if they are separated, except those which may belong to a person other than the owner of the aircraft according to a contract of an incontestable date or to the registration certificate of the aircraft.

Art. 1030. (Publicity of mortgage.) For purposes provided for in the Civil Code, a mortgage on aircraft must be made public through transcription in the national registry of aeronautics and an annotation on its registration certificate, or through transcription in the matriculation registry in the case of gliders.

A mortgage of an aircraft under construction is made public by being transcribed in the registry of construction. Other acts which must be recorded according to the Civil Code must be made public in the same way.

Art. 1031. (Competent office.) Publication bans must be requested from the registration office of the aircraft. But it may also be requested from authority indicated in the second paragraph of Article 886.

Art. 1032. (Documents for publicity of mortgage.) The person requesting the publicity of a mortgage must deliver to the office of jurisdiction the documents indicated in Art. 569.

If the request for publicity is for an aircraft which has a registration certificate, then the applicant must present this certificate to the office so that it may be provided with the required annotation. In

case the publicity is requested by the Ministry of Aeronautics and such presentation is not possible because the aircraft is elsewhere, the second paragraph of Article 869 shall apply.

Art. 1033. (Publicity procedure and execution.) The publicity must be carried out by the competent office in the manner provided in Art. 870.

Art. 1034. (Order of precedence and prevalence of registrations.) For publicity given to various proceedings in accordance with the preceding articles, as well as in case of discrepancy of the transcription on the register and annotations on the certificate of matriculation, Art. 871 shall apply.

Art. 1035. (Effect of mortgage.) A mortgage is operative from the time when it is recorded in the register of the aircraft.

Art. (1036). (Rank of mortgages in regard to privileges.) A mortgage shall rank after the privileges indicated in Article 1023; however, it shall be preferred to any other general or special privilege.

Art. 1037. (Referral to other applicable provisions.) For any matter not provided for in this Chapter, Articles 572, 573, 576 and 577 shall apply.

SECOND PART—AERIAL NAVIGATION

BOOK FOUR—PROCEDURE

TITLE ONE—JURISDICTION

Art. 1038. (Claim for compensation for aid or salvage.) A claim for compensation or payment for aid or salvage may also be brought before the court which authorized the attachment of an aircraft or the cargo thereof, to the extent of his jurisdiction.

Art. 1039. (Claim for damages to third persons on the ground or for damages caused by a collision.) A claim for reimbursement of damages to third persons on the ground or for damages caused by a collision may also be brought before the court which authorized the attachment of an aircraft or the cargo thereof, to the extent of his jurisdiction.

Art. 1040. (Plea to decline jurisdiction for joinder.) When several actions have been brought before different courts against the carrier, the operator, or the insurer on the basis of the same transportation contract, or the same act of aid, or the same collision of aircraft, or the same event which gave rise to damages to third persons on the ground, the court shall under judgment joining the parties a period of time for bringing their claim before the court which has jurisdiction in the venue of the domicile of the defendant or, in its absence, the court which first acquired jurisdiction.

The second paragraph of Article 40 of the Code of Civil Procedure shall apply.

TITLE TWO—APPLICATION OF LIMITATION OF LIABILITY OF THE OPERATOR

Art. 1041. (Court of jurisdiction.) An action on limitation shall be brought before the court of the venue in which the domicile of the defendant is located.

Art. 1042. (Persons who may bring the action.) A plea for an action in limitation may be brought by the operator and, when the cause of action is for amounts due for damages caused to third person on the surface, by the insurer.

Art. 1043 (Plea for commencement.) A plea for commencement shall be made before the court of jurisdiction in the sense of Article 1041.

The complaint shall indicate the name, connection, nationality and domicile of the complainant and shall include a declaration of residence and election of domicile by the complainant himself in the place where the court of jurisdiction is located, a detailed description of the aircraft, the place where it is and the accident which gave rise to the liability.

Simultaneously with the complaint and under penalty of dismissal, the complainant shall deposit with the court clerk:

a) The airworthiness or test certificate or a certified copy thereof:

b) a list of names of creditors subject to the limitation with information on their domicile, title and the amount owed to each;

c) the note of coverage required by the Air Ministry, or the insurance policy if the action is for compensation for damages caused to third parties on the ground.

Art. 1044. (Opening judgment.) After verifying the existence of the legal limitations in accordance with the plea of the operator or insurer, the court shall render judgment declaring the limitation proceedings opened. By the same judgment it shall designate a judge to determine the assets and liabilities, to allocate the amount and to inform the parties opposing the opening judgment, and to determine the assets and the status of allocation; he shall set the date for a statement of the assets within ten days from the date when the judgment was published; for the purpose of presenting this claim and title to the court, he shall grant to the creditors a time period not exceeding thirty days from publication of the judgment and sixty days for creditors domiciled abroad; within sixty days from expiration of the longest time period granted for presentation of claims and title of the creditors he shall set the date for a statement of the liabilities: within at least ten days but not more than twenty days from the last above mentioned date he shall set a date for a hearing during which the court will hear objections on the liabilities.

Art. 1045. (Transmittal and publication of opening judgment.) The judgment shall be transmitted by the clerk to the complainant and the creditors who appear on the list specified in Article 1043 by means of a registered letter with return receipt requested. An extract of the judgment shall also be transmitted by the clerk to the office of registration of aircraft and be published in the official Gazette of the Kingdom.

The office of registration, upon receipt of the judgment, shall make a record thereof in the register of aircraft and shall record it in the register of the office.

Art. 1046. (Effect of opening of proceedings.) Opening of the proceedings shall have the effect specified in Articles 625 and 626.

Art. 1047. (Objections by creditors.) The creditors may object to the opening judgment within fifteen days of its publication in the

official Gazette to reject application of the legal limitations invoked by the complainant.

Such objections shall have the effect specified in the second paragraph of Article 627.

Art. 1048. (Determination of assets.) Within the period set in the opening judgment and after hearing the complainant and the concurring creditors, the judge shall proceed to the determination of the assets on the basis of the criteria enumerated in Articles 967 and 975.

After the statement of assets has been deposited, the complainant and the creditors shall be notified thereof by registered letter with return receipt requested.

Art. 1049. (Deposit of limited amount.)

Within three days from determination of the assets the judge shall set a period of no more than five days for deposit of the limited amount computed on the basis of the assets, and of an amount sufficient for the costs of the proceeding, and shall determine the manner of such deposit.

The decision of the judge shall be transmitted to the complainant and the creditor in the manner specified in the preceding article.

Art. 1050. (Determination of liabilities and allocation.) Determination of liabilities, the status of allocation, and objections thereto, shall be subject to the provisions of Articles 634 to 638.

Art. 1051. (Bankruptcy of operator.) The effect of the bankruptcy of the operator subsequent to deposit of the limited amount shall be subject to the provisions of Article 639.

Art. 1052. (Deprivation of operator of benefit of limitation.) The operator shall be deprived of the benefit of the limitation if he does not deposit the limited amount or the amount for costs of the proceeding within the set period.

Art. 1053. (Declaration of abandonment of proceedings.) In the case of bankruptcy of the operator prior to deposit of the limited amount or in case of loss of the right is provided for in the preceding article, the provisions of Article 641 shall apply.

Art. 1054. (Import to operator.) When proceedings are initiated by the insurer, the acts shall also be imparted to the operator who must be heard whenever the complainant must be heard in the application of the provisions of this Title.

TITLE THREE—EXECUTION AND PREVENTIVE MEASURES

CHAPTER I. GENERAL PROVISIONS

Art. 1055. (Jurisdiction.) Proceedings in execution shall be pursued before the trial court in the place where the aircraft is located.

Preventive and judicial seizure shall be authorized by the judges who have jurisdiction in accordance with the rules of the Code of Civil Procedure.

Art. 1056. (Subject matter of expropriation and preventive measures.) Except for the exceptions specified in the following article, aircraft, parts thereof, and separate pieces and accessories may be subject to compulsory expropriations or to preventive measures.

When execution or attachment pertains to parts of an aircraft which is jointly owned by several persons, the judge, after hearing the joint

owners who are not debtors, may authorize the attachment or seizure of the whole aircraft if the debtor is joint owner of more than half of the value thereof. In such case the right of the joint owners who are not debtors in the part they own shall be converted in a right to the corresponding part of the price obtained at the judicial sale, and they shall be exempt from any share of the costs of the execution proceeding or the furnishing of surety.

Art. 1057. (Aircraft not subject to seizure or attachment.)

The following shall not be subject to expropriation or preventive measures:

State aircraft:

Aircraft actually in service on an airline and standby aircraft in the absence of a special authorization from the Air Ministry:

Aircraft commercially transporting passengers and goods ready for departure, provided the debts have not been incurred due to the trip which they are about to make or in process of completing. An aircraft shall be deemed ready to depart when the commander has received the permission specified in Article 802.

Art. 1058. (Provisions to prevent departure of an aircraft.) The judge who has jurisdiction in accordance with Article 1055, and in case of urgency, the directors of the airport and the judicial police of the place where the aircraft is, may take measures necessary to prevent departure of the aircraft.

Art. 1059. (Form and transmittal of summons.) The summons shall be worded and transmitted in accordance with the provisions of Articles 647 and 648, first paragraph; it shall become void if no seizure takes place within thirty days.

CHAPTER II. PROCEDURE OF COMPULSORY EXPROPRIATION

Art. 1060. (Judge to decide on execution.) Execution of expropriation shall be decided on by a judge.

In the proceedings before a trial court which consists of several judges the designation of the judge who decides on the execution shall be made by the president on the presentation by the court clerk of the record provided for in paragraph 3 of Article 1064 within two days from its meeting.

Art. 1061. (Methods of attaching aircraft.) Attachment shall be made and executed in accordance with the provisions of paragraphs 1 and 2 of Article 650.

When notification has been given or the receipt for telegraph or telephone communication has been returned, the creditor shall send a certified copy of the act to the registration office for the aircraft which shall transcribe it in the register and shall so note on the registration certificate of the aircraft in question. When an aircraft is under construction, the transcript shall be made in the register for aircraft under construction.

The same office shall transmit to the creditor a certificate attesting that the formal action provided for in the preceding paragraph has been taken.

Art. 1062. (Method of attachment of separate parts and appurtenances.) Attachment of separate parts and appurtenances of aircraft

shall be made in accordance with the rules of the Code of Civil Procedure concerning attachment of personal property.

Art. 1063. (Disposal of aircraft under attachment.) On request by an interested party and after hearing the mortgage creditors the chief of the judicial office of jurisdiction under Article 1055 may authorize that the aircraft which is under attachment in whole or in part, may undertake one or more trips and by means of an order prescribe guarantees and the preventive measures he deems necessary and require in all cases that adequate insurance be purchased.

On regard to such disposal over an aircraft under attachment the provisions of Article 652, paragraphs 2 to 5 shall apply.

Art. 1064. (Request for sale.) Within thirty days at the earliest and at the most within ninety days from the time of attachment the attaching creditor or one of the creditors who would benefit from an execution sale may demand sale of the aircraft or a part thereof by a request to the judge who has jurisdiction under Article 1055.

Such request shall be transmitted to the owner debtor, to the mortgage creditors, and to the creditors who intervene under Article 499 the Code of Civil Procedure, with an invitation to communicate their observations on the conditions of the sale and, in the case of a foreign aircraft, to do so to the consul of the State whose nationality the aircraft has.

Within the period of thirty days from notification and at the latest within ninety days from attachment the creditor making the demand shall deposit the notification of the request with the clerk of the judge who has jurisdiction under Article 1055, as well as an extract from the register of aircraft indicating the registered mortgage; these documents shall constitute the case file in accordance with Article 488 of the Code of Civil Procedure and shall also include the writ of attachment, the certificate specified in the last paragraph of Article 1061 of this code and, the written observations, if any, of the persons interested in the conditions of the sale.

Art. 1065. (Designation of the judge assigned to the execution and appraisal of value of the aircraft.) On presentation of the case file specified in the preceding article assembled by the clerk, the judge who has jurisdiction under Article 1055 shall proceed to (the) assign a judge for the execution and shall require from the Italian aircraft register an appraisal of the aircraft and shall set for deposit of the appraisal report a time period not exceeding thirty days.

When the authorization to make one or more trips is accompanied by the guarantees specified in Article 652, paragraph 2, the request for an appraisal shall be made at least ten days and at most thirty days after completion of the trip.

Art. 1066. (Order of sale.) At the expiration of a five day period from deposit of the appraisal report the judge assigned to the execution shall bear the owner-debtor, the claimant creditor and complainant, the mortgage or intervening creditors, and the consul of the State whose nationality the aircraft has and shall order sale at auction or otherwise.

An order for sale at auction must contain the information specified in Article 656.

An order for sale other than at auction must contain the information specified in Article 532, paragraph 2, of the Code of Civil Procedure.

Art. 1067. (Notification and publication of order for sale.) An order for a sale shall be communicated by the clerk of the judge assigned to the execution to the persons specified in the first paragraph of the preceding article if they have not appeared.

A note of the sale must also be inserted by the court recorder in the margin of the writ of attachment. A copy must be included in the register of the trial court of the place where the execution takes place, in that of the management of the airport and in the register of the royal national aeronautical Union. The judge may also order its publication in the aviation journals.

Art. 1068. (Form of sale.) The form of sale at auction shall be as provided for in Articles 658 to 666 of this Code.

The form of a sale other than at auction shall be as provided in Articles 570 to 575 of this Code.

Art. 1069. (Opposition.) In regard to opposition to execution, to executory writs, and to opposition by third parties, the provisions of Articles 667 and 669 shall apply.

Art. 1070. (Expropriatory measures against non-operating proprietor and third party proprietor.) When a judicial sale of an aircraft or parts thereof is proceeded to by privileged creditors of an operator who is not the owner or again at a third party proprietor of an aircraft, the provisions of Article 670 shall apply.

Art. 1071. (Sale of separate pieces and appurtenances.) The procedure for sale of separate pieces or property which constitutes appurtenances of an aircraft shall be governed by the rules of the Code of Civil Procedure concerning sale of personal property.

Art. 1072. (Extinction of privileges and mortgages.) In order to terminate privileges and mortgages on aircraft Articles 673 to 679 shall apply; however, proceedings shall be instituted before the trial judge at the place where the aircraft is located.

Art. 1073. (Referral.) In regard to execution for delivery of an aircraft or to gnashing or suspension of execution proceedings, the pertinent provisions of the Code of Civil Procedure shall apply.

For distribution of the sales price, Articles 680 and 681 of this Code shall apply.

CHAPTER IV. EXECUTORY PROCEEDINGS

Art. 1074. (Decision to authorize.) A decision authorizing judicial or conservative action shall contain the following:

1. a prohibition to the owner-debtor to dispose of the aircraft or a part thereof without permission from the court;
2. an order to the aircraft commander not to take off in the aircraft or, if an aircraft is on a trip, not to take off again from the airport of destination.
3. the identification markings of the aircraft or of the part thereof to which the authorization refers.

Art. 1075. (Notification of decision to authorize.) A decision to authorize must be notified by the creditor to the owner and to the aircraft commander. It shall also be notified to the non-operating owner

when the claimant is a creditor of the operator and holds an aeronautical privilege, and to the third party owner in the case of an aircraft or part of an aircraft which is subject to privileges or mortgages.

Art. 1076. (Publication of the measure.) After notification the decision shall be recorded by the creditor on the aircraft register and, in the case of non-registered aircraft, it shall be noted on the matriculation register.

Art. 1077. (Lifting of attachment.) The judge who has jurisdiction under the second paragraph of Article 1055, or the judge before whom a plea of validation has been brought, shall revoke the decision to authorize by an order when the debtor proves that he has furnished security equal to the value of the aircraft or to the amount, if it is less, of the debt increased by court cost, or, if the debts are for damages caused to third persons on the ground, when the debtor produces the security required by the Air Ministry or the insurance policy.

Art. 1078. (Disposal of aircraft under attachment.) Disposal of an aircraft under attachment shall be governed by the provisions of Article 652.

Art. 1079. (Referral.) In the absence of special provisions in this chapter the rules on attachment of the Code of Civil Procedure shall apply.

PART THREE—PENAL AND DISCIPLINARY PROVISIONS

BOOK ONE—PENAL PROVISIONS

TITLE ONE—GENERAL PROVISIONS

Art. 1080. (Applicability of penal provisions.) A citizen or a foreigner in the service of a national ship or aircraft who, on foreign territory, commits a crime specified in this Code shall be punished in accordance with this Code. A person sentenced abroad shall be retried if the Ministry of Justice so requests. However, the penal provisions of this Code shall not apply to new members and passengers of a foreign ship or aircraft unless otherwise provided for.

Art. 1081. (Complicity of foreigners in a crime specified in this Code.) In addition to the case regulated by Article 117 of the Criminal Code, when for a crime specified in this Code a particular personal quality is required, any person who, without possessing such quality, participates in a crime, shall be held liable only if he was aware of the personal quality of the guilty party. The Court, however, may reduce the penalty for any person who does not possess such quality.

Art. 1082. (Additional punishments.) In addition to the punishment specified in the Criminal Code the following additional punishment shall be provided by this Code:

(1) withdrawal of the maritime or aviation license if a crime is committed by a person who has been issued a license specified in articles 123 and 739, respectively;

(2) prohibition to exercise maritime and aeronautical professions for crimes committed by others belonging to the maritime and flight personnel respectively;

Penalties for minor offenses specified in this Code in addition to those established in the Criminal Code shall be:

(1) suspension of professional maritime, inland navigation and aviation licenses for violations committed by the personnel specified in (1) of the preceding paragraph, or loss of rank of commander, officer and noncommissioned officer of inland navigation.

Art. 1083. (Effect and duration of additional punishments.) Perpetual withdrawal of professional maritime or aeronautic licenses shall deprive the person sentenced of the right to exercise any function or service for which one of the licenses specified in Articles 123 and 739 is required. For temporary withdrawal such person shall be deprived of such right for a period of not less than a month and not more than five years. The withdrawal shall also carry the loss of the rights and privileges relating to such licenses.

The perpetual prohibition exercise the maritime and aeronautical profession shall deprive the punished person of the right to exercise such profession forever, while temporary withdrawal shall deprive him of such right for a period of not less than one month and not more than five years.

The prohibition shall involve the loss of rights and privileges pertaining to the above-mentioned professions.

Suspension of professional maritime, inland navigation and aeronautic titles shall deprive the person sentenced of the right to exercise any function or service which requires one of the licenses specified in Articles 123, 134 and 739 for a period of not less than fifty days and not more than two years. Suspension from the maritime or aeronautic or inland navigation service shall deprive the person sentenced of the right to exercise his profession for a period of not less than 15 days or more than two years.

Unless expressly established by the law for each single case, the duration of such punishment shall be equal to that of principal punishment for cases of conversion of the penalty because of the insolvency of the person sentenced. However, it may not, in any event, be less than the minimum or more than the maximum established for each additional punishment.

The provisions dealing with prohibition to exercise a profession or suspension from it shall also apply to prohibition or suspension as an additional punishment specified in this Article.

Art. 1084. (Aggravating circumstances for crimes committed by commanding officers, officers and non-commissioned personnel.) If any of the crimes specified in this Code is committed by the captain or officer of a ship, or by the commander or officer of an aircraft, the punishment shall be increased by one third when his position is not an element or an aggravating circumstance of the crime.

Art. 1085. (Aggravating circumstances for common crimes committed against a superior.) If any of the crimes specified in this Code is committed by one of the crew members of a ship or of the flight personnel of an aircraft against a superior while the latter is carrying out or fulfilling his duties, the punishment shall be increased by one third whenever the position of the injured person is not an element or an aggravating circumstance of the crime.

This provision shall also apply to a passenger committing a crime not specified in this Code against the captain or an officer of the ship

or against the commander or an officer of an aircraft while carrying out or fulfilling his duties.

Art. 1086. (Use of part of amounts derived from fines.) One half of the amount paid as a fine for crimes and violations provided for in this Code shall go to the National Seamen's Security Fund, the Fund for the Assistance of Dock Workers, the Relief Fund for the Personnel of Inland Navigation, or to the National Assistance Fund for Flight Personnel.

TITLE TWO—CRIMES IN PARTICULAR

CHAPTER I. CRIMES AGAINST THE STATE

Art. 1088. (Embarking on enemy ships and aircrafts.) A citizen who signs up on a ship or aircraft of a country at war with the Italian State shall be punished by imprisonment for a period of not less than five years unless the crime constitutes a more serious offense.

Art. 1089. (Contempt of the flag or other emblems of the State.) If the crimes provided for in Articles 291 and 292 of the Criminal Code are committed by a member of the crew of a ship or of aircraft personnel in foreign territory, the punishment shall be increased:

- (1) by one third if the crew member is a foreigner;
- (2) from one third to one half if the crew member is an Italian citizen;
- (3) from one half to two thirds if the act is committed by the captain or an officer of a ship or by the commander or officer of an aircraft.

Art. 1090. (Additional punishment.) Conviction for the crime provided for in Article 1088 shall be accompanied by perpetual deprivation of licenses and prohibition to practice the profession of the person convicted.

CHAPTER II. CRIMES AGAINST SHIP AND AVIATION DISCIPLINE

SECTION I—CRIMES AGAINST SHIP'S DISCIPLINE

Art. 1091. (Desertion.) A crew member who does not return to his ship or aircraft or abandons the same, shall be punished by imprisonment for up to one year if such act results in noticeable difficulty in navigation. But, if such act results in great inconvenience to public service, the punishment shall be up to two years imprisonment. If such act results in danger to the lives or safety of the personnel as well as to the safety of the ship or aircraft or their respective cargoes, the punishment shall be from one to three years imprisonment.

The provisions of this Article shall not apply if the act constitutes a more serious offense specified and provided for in other laws.

Art. 1092. (Aggravating circumstances.) The punishment shall be increased by one third whenever the crime has been carried out:

- (1) for political reasons;
- (2) by use of threats and violence;
- (3) abroad;
- (4) by persons in command of a ship's engines or in command, charge of, or while piloting an aircraft;
- (5) by three or more persons of the crew.

In regard to (5) of this Article, the punishment shall be increased by one third for the leaders and organizers.

Art. 1093. (Cause for nonpunishment.) In cases provided in the first paragraph of Article 1091, and even under the aggravating circumstances provided for in Article 1092, a guilty person shall not be punished if he returns to the ship before it sails, or, at any rate, not later than the third day from the day on which he was expected to be on board, or when he boards the aircraft before the takeoff.

Art. 1094. (Nonobservance of orders by a member of the crew.) A member of the crew who does not execute an order of his superior officer concerning a technical service on a ship or aircraft shall be punished by imprisonment for up to 3 months.

If the service concerns maneuvering, the imprisonment shall be from one to six months. But if such an act results in serious difficulty in navigation or great inconvenience to public service or public need, jeopardizes human life and safety or the safety of ships or aircraft and that of their respective cargoes, the imprisonment shall be from six months to three years.

If an order has been given to save a ship, a floating object or aircraft or to assist a ship, floating object or the aircraft or person in danger, the imprisonment shall be from one to four years.

Art. 1095. (Nonobservance of orders on the part of the passengers.) A passenger who does not carry out an order concerning the safety of a ship or aircraft shall be punished by imprisonment of up to three months or by a fine of up to 2,000 liras.¹⁷

Art. 1096. (Disobeying an arrest warrant.) A crew member who does not carry out a warrant of arrest on board a ship or aircraft shall be punished by imprisonment of up to three months or by a fine of up to 2,000 liras.

Art. 1097. (Abandonment by the commander of a ship or aircraft in danger.) A commander, who is not the last to leave a ship, floating object or aircraft in danger which is being abandoned, shall be punished by imprisonment for up to two years.

If his act results in fire, shipwreck or the sinking of the ship, or floating object, or in fire, crash and loss of the aircraft, the punishment shall be from two to eight years imprisonment. If the ship or aircraft is used for the transportation of passengers, the punishment shall be from three to twelve years of imprisonment.

Art. 1098. (Abandonment of a ship or aircraft by a crew member.) A crew member who, without the permission of the captain, leaves a ship, floating object or aircraft, shall be punished by imprisonment of up to one year. The same penalty shall apply to any member of the flight personnel who, without the permission of the commander, parachutes from or otherwise abandons an aircraft in danger.

If such act results in fire, shipwreck or sinking of the vessel, or floating object, or a fire, crash or loss of the aircraft, the punishment shall be from two to eight years of imprisonment. However, if the

¹⁷ In the original text of the Code, the fine consisted in the measure from 50 to 50,000 liras. Decree No. 679 of October 5, 1945, doubled such amounts. In 1947 amounts regarding fines were multiplied by eight. In fact, Article 7, third paragraph of Decree No. 1250 provided: "Fine applied for each crime in the Criminal Code, in those of special laws as well as any other pecuniary sanctions inflicted for violations as from the Code of Criminal Procedure shall be multiplied by eight." This increase went through further revision in 1961. In fact, Decree No. 603 of July 12, 1961, provided that the fine shall not be less than 2,000 liras or more than 2,000,000 liras.

ship or the aircraft is used for the transportation of passengers, the punishment shall be from three to twelve years of imprisonment.

SECTION II—CRIMES AGAINST NAVIGATION DISCIPLINE

Art. 1101. (Loading arms and ammunition for criminal purposes.) The captain of a national or foreign ship, floating object or aircraft, who loads arms and ammunition or persons for the purpose of smuggling, or for other crimes, shall be punished by imprisonment for from two to six years if the crime has not been completed.

Art. 1102. (Navigation in forbidden zones.) Apart from the cases provided for in Article 260 of the Criminal Code, the following shall be punished by imprisonment of up to two years and by a fine of up to 5,000 liras:

(1) the captain of a national or foreign ship or floating object who does not observe the prohibition or the limits of navigation as established by Article 83:

(2) the commander of a national or foreign aircraft who flies outside the established course as specified in Article 793.

SECTION III—PROVISIONS COMMON TO THE PRECEDING SECTIONS

Art. 1103. (Additional penalties.) Conviction for the crimes provided for in Articles 1091, 1094, 1096, 1099, 1101 and 1102 shall carry temporary prohibition to hold licenses or to exercise a profession.

In the event of conviction for the crimes provided for in Articles 1097, 1098 and 1100, the prohibition shall be permanent if the imprisonment is for not less than five years; the prohibition shall be temporary if the imprisonment is for less than five years.

CHAPTER III. CRIMES COMMITTED AGAINST AUTHORITIES ON BOARD AND CONSULAR AUTHORITIES

Art. 1104. (Offense against the captain, officers, noncommissioned officers or ranks.) A crew member of a ship or aircraft who insults the honor and the prestige of his superior in his presence or because of, or in the exercise of his duties, shall be punished by imprisonment of from six months to two years.

The same penalty shall apply to any person who commits the same offense by means of telegraph or telephone communication or by writing or sketches directed to his superior as a result of his duties.

Such punishment shall be increased by one third if the act has been committed by use of threats or violence, or when the offense has been committed in the presence of one or more persons.

If the offense has been committed by a passenger against the captain, an officer or a noncommissioned officer of a ship, or against a commander or a ranking member of the crew of an aircraft, the preceding provisions shall apply, but the punishment shall be reduced to an extent not exceeding one third, unless it constitutes a more serious offense.

Art. 1105. (Mutiny.) If the act does not constitute a more serious offense, the crew members of a ship or aircraft who number not less

than one third of the crew of the ship or aircraft shall be punished by imprisonment of from six months to three years, if they:

(1) disobey an order of the commander, collectively or upon previous agreement;

(2) collectively start tumultuous demonstrations.

Any person who, at the first approach, carries out the order or desists from participating in the demonstration shall be subject only to punishment for any offense already committed if it constitutes a different offense.

Art. 1106. (Aggravating circumstances.) The imprisonment shall be from one to five years:

(1) if the offense provided for in the preceding Article was committed under conditions which make it impossible to have recourse to the police;

(2) if, in the event provided for in (1) of the preceding Article, the order concerns a service connected with the safety of navigation, or, if the act has been committed with the aim of interrupting navigation, to change the route or jeopardize the safety of the ship or the aircraft, or their respective cargoes;

(3) if, in the case provided for in (2) of the preceding Article any of the persons was obviously armed or the act was carried out with threats.

For leaders, organizers and promoters, the punishment shall be increased up to one third.

Art. 1107. (Failure to intervene in order to prevent a crime.) A crew member of a ship or aircraft who, finding himself present when acts of threat and violence are committed against his superior while in the discharge of one of his duties, fails to assist or help him, shall be punished by imprisonment of up to one year or by a fine of up to 5,000 liras.

Any crew member of a ship or aircraft who, finding himself present when the acts described in Article 1105 occurs, does not use all means in his power to break up a meeting or impede a demonstration shall be subject to the same punishment.

Art. 1108. (Plot against the commander.) The crew members of a ship or an aircraft who, numbering three or more, agree to commit a crime against the life, personal safety, individual freedom or exercise of the powers of the commander, shall be punished by imprisonment for up to four years if the crime has not been completed.

For the promoters and organizers, the punishment shall be increased up to one third.

A crew member who, having learned about such agreement, fails to notify the commander, shall be punished by imprisonment of up to one year.

In any case, the penalty shall be less than one half of that established for the crime to which the agreement refers.

Art. 1109. (Failure to repatriate citizens (nationals).) The commander of a ship bound for a port of the Kingdom who, without a justified reason fails to comply with the request of a consular authority to transport nationals according to Article 197, shall be punished by imprisonment of up to six months or by a fine of up to three thousand liras.

Art. 1110. (Aggravating circumstances.) In the cases provided for in Articles 1105, 1106, 1107 and 1108, the punishment shall be increased by up to one third if the act has been carried out during navigation.

Art. 1111. (Additional punishments.) Conviction for the crimes provided for in Articles 1104, 1105 and 1108, include the temporary prohibition to hold licenses or exercise a profession.

Conviction for a crime under aggravating circumstances as provided for in Article 1106 shall include permanent prohibition to hold licenses and exercise a profession.

CHAPTER IV. CRIMES AGAINST THE SAFETY OF NAVIGATION

Art. 1112. (Performance or arbitrary removal and omission of signals.) Whoever arbitrarily orders or makes signals prescribed for maritime or air navigation, or removes signals for such navigation, shall be punished by imprisonment of up to one year or by a fine of up to 10,000 liras.

Anyone who, although required to do so, fails to give the signals prescribed for the safety of sea or air navigation or to provide other means required for this purpose shall be subject to the same penalty.

If such an act presents the danger of fire, shipwreck or the sinking of a ship, or fire, crash or loss of an aircraft, the punishment shall be imprisonment of from one to five years.

The provisions of this Article shall not apply if the act constitutes a more serious offense under another legal provision.

Art. 1113. (Failure to aid.) Whoever, under the conditions provided for in Articles 70, 107 and 726, fails to comply with the request of the competent authorities with all means at his disposal, give assistance to a ship, or an aircraft or to a person in danger, or to the extinction of a fire, shall be punished by imprisonment of from one to three years.

Art. 1116. (Flagrant abandonment of command.) Any commander, who, without need, leaves the navigation of a ship or an aircraft under such conditions that the direction is taken over by a person who does not meet the requirements to replace him, shall be punished by imprisonment of up to one year and by a fine of from two to five thousand liras.

The penalty shall be increased by up to one third if the act has been committed in cases in which the commander of the ship is duty bound personally to direct the ship's maneuvering.

Art. 1117. (Usurpation of command of a ship or aircraft.) Whoever wrongfully takes over, or keeps command of a ship or aircraft shall be punished by imprisonment of from one to five years.

Except for the case provided for in Article 1220, if the act has been committed by a person who has the license qualifying him for the technical services of the ship or aircraft, the imprisonment shall be from six months to two years.

Art. 1118. (Abandonment of a post.) A crew member of a ship, floating object or aircraft who, during the service connected with the safety of navigation, abandons his post shall be punished by imprisonment of from three months to one year.

Art. 1119. (Crew member asleep at his post.) A crew member of a ship, floating object or aircraft who, while on duty in a service connected with the safety of navigation, falls asleep, shall be punished by imprisonment of up to three months or by a fine of up to 2,000 liras.

Art. 1120. (Drunkenness.) The commander of a ship, floating object or the pilot of an aircraft who is in such a state of drunkenness, not caused by accident or act of God, as to impair or destroy his capacity to command or to pilot, shall be punished by imprisonment of from six months to one year.

A crew member of a ship, floating object or aircraft or a nautical pilot who during service connected with the safety of the ship, or at the moment when he takes over such service, is in such a state of drunkenness, not caused by accident or act of God, as to impair or destroy his capacity to perform his duty, shall be punished by imprisonment of from one to six months.

The penalty shall be increased by up to one-third if the drunkenness or the use of narcotics is habitual.

Art. 1121. (Conditions for more severe punishment.) In the cases provided for in Articles 1112 to 1120, the punishment shall be:

(1) imprisonment of from two to eight years, if the act results in the burning, shipwreck or sinking of a ship, or a floating object or burning, crash or loss of an aircraft;

(2) imprisonment of from three to twelve years, if, in the cases provided for in the preceding paragraph, the ship or the aircraft is used for the transportation of persons.

Art. 1122. (Aggravating circumstances for fires, shipwrecks or air disasters.) If a crew member of a national or foreign ship, a floating object or aircraft or a person in any way employed in the services of maritime or air navigation, takes advantage of his position and commits any of the crimes enumerated in Article 425 (par. 3) and Article 428 of the Criminal Code, the punishment therein provided shall be increased by one third.

The penalties shall be increased from one third to one half if such act is committed by the commander of a ship to the damage of the ship, floating object or aircraft under his command.

Art. 1123. (Damage causing shipwreck or air disaster caused by negligence.) Whoever negligently causes damage to a ship, floating object, or aircraft during operation shall be punished by imprisonment of from six months to three years and by a fine of up to 5,000 liras if, from such an act, fire, shipwreck or sinking of the ship, or floating object, or of fire, crash or collision of the aircraft may result.

Whoever, by uniting or cutting ropes and moorings or by other negligent act or omission, causes damage to a ship, or a floating object riding at anchor, or to a stationary aircraft, shall be subject to the same penalty if from such an act results any of the dangers provided for in the preceding paragraph.

The provisions of this Article shall not apply if such an act is deemed a more serious offense in other laws.

Art. 1124. (Crimes committed by negligence.) If any of the acts provided for in Articles 1112 to 1115, are committed by negligence, the penalty shall be reduced by half.

Art. 1125. (Additional punishments.) Conviction for the crimes provided for in Articles 1112 to 1120, 1123, and 1124, shall carry also temporary prohibition to enjoy the privileges of licenses and professions. A conviction for aggravated crimes according to Article 122 shall carry permanent prohibition to hold a license or exercise a profession.

If the crime provided for in Article 449 of the Criminal Code is committed by members of sea or aviation personnel to the damage of their own ship, floating object or aircraft, the sentence shall carry also temporary prohibition to hold licenses and exercise professions.

CHAPTER V. CRIMES AGAINST THE PUBLIC FAITH

SECTION I—FALSIFICATION OF DOCUMENTS

Art. 1126. (Documents assimilated to public documents with regard to punishment.) For the purposes specified in Article 491 of the Criminal Code, bills of lading and other documents representing goods, and airway bills shall be assimilated to public documents (Arts. 457, 458, 466, 956, 1134).

Art. 1127. (False statements in the crew roll, log book and reports.) The commander of a ship who, for the purpose of obtaining benefits for himself or others or causing damage to others, enters any of the false statements specified in Article 479 of the Criminal Code in the crew roll, log book, or in the prescribed reports to the government authorities, shall be punished, by imprisonment for from six months to five years, unless the crime constitutes a more serious offense.

The same penalty shall apply to the commander of an aircraft who commits the act provided for in the preceding paragraph in regard to his flight log.

Art. 1128. (Use of a false document.) Whoever, without having contributed to the falsification, uses any false document specified in Article 1127, shall be subject to the penalty established therein, reduced by one third.

The second paragraph of Article 489 of the Criminal Code shall apply.

SECTION II—OTHER FALSIFICATIONS

Art. 1129. (False declaration of ownership or of nationality.) Whoever falsely declares himself to be the owner of a ship, floating object, or aircraft for the purpose of attributing to them Italian nationality, shall be punished by imprisonment of from three months to one year and by a fine of from 2,000 to 5,000 liras.

A representative of a corporation who falsely declares the existence of the requirements specified in Article 751, letter (c) for the purpose of attributing Italian nationality to an aircraft, shall be subject to the same penalty.

Art. 1130. (Wrongful use of a flag or of a nationality mark.) Whoever hoists or uses upon a foreign ship the Italian flag or uses upon a foreign aircraft Italian nationality markings shall be punished by imprisonment of up to one year or by a fine of from 500 to 5,000 liras.

Art. 1131. (Use of a false mark of registration.) Whoever, for the purpose of obtaining an advantage for himself or others or of causing damage to others, places upon a ship or an aircraft false registration markings shall be punished by imprisonment of up to one year.

The penalty shall be increased to imprisonment of up to two years and a fine of up to 5,000 liras if the offender uses the documents of a ship or an aircraft whose markings he has usurped.

Art. 1132. (Wrongful lending of a name for the construction of a ship or an aircraft.) Whoever, being qualified to construct ships, floating objects, and aircraft or related equipment, lends his name for such construction to unauthorized persons, shall be punished by a fine of from 1,000 to 10,000 liras.

Persons who use the names of other persons shall be subject to the same penalty.

If construction has been started, the punishment shall be increased up to one third.

Art. 1133. (Use of a navigation certificate.) Whoever, for the purpose of obtaining an advantage for himself or others or causing damage to others uses a document of maritime or aeronautical work belonging to another person, shall be punished by imprisonment of up to one year, unless the act constitutes a crime against the public faith.

SECTION III—PROVISIONS COMMON TO THE PRECEDING SECTIONS

Art. 1134. (Additional punishments.) A conviction for the crimes provided for in Articles 1127, 1128 and 1131, or for any of the crimes provided for in Chapter III of Title Four of the IInd Book of the Criminal Code, in relation to any of the documents specified in Article 1126 of this Code, shall carry with it temporary prohibition to use licenses or to practice a profession.

CHAPTER VI. CRIMES AGAINST THE OWNERSHIP OF A VESSEL, OR AIRCRAFT AND ITS CARGO

Art. 1138. (Seizure of a ship or aircraft.) The crew of a ship or an aircraft who seizes the same shall be punished:

(1) by imprisonment of from ten to twenty years if the act was carried out by using threats and violence against the commander or officers of the vessel or aircraft;

(2) by imprisonment of from three to twelve years if the act was committed surreptitiously or by fraud.

For the promoters and leaders, the imprisonment shall be increased by up to one third.

If the act was committed by a person not a member of the crew, the penalties shall be reduced up to one third.

Art. 1139. (Agreement to seize a vessel or an aircraft.) Three or more members of a crew who agree to commit the crime indicated in the preceding Article shall be punished by up to three years of imprisonment if the crime has not been completed.

For the promoters and leaders, the penalty shall be increased up to one third.

Art. 1140. (Off course.) The commander of a ship or aircraft, who, in order to procure for himself or others an unjust profit or to cause damage to others, goes off course, shall be punished by imprisonment of from one to six years, and by a fine of up to 10,000 liras.

If such act results in the danger of fire, shipwreck or sinking of the ship or the danger of fire, crash or loss of the aircraft, the punishment shall be increased by one third.

However, if such act results in fire, shipwreck, or the sinking of the ship or fire, crash or loss of the aircraft, the penalty shall be imprisonment of from two to ten years. When the vessel or the aircraft is used for the transport of passengers, the punishment shall be from three to fifteen years imprisonment.

Art. 1141. (Damage to a vessel or aircraft.) Whoever commits the act specified in Article 635 of the Criminal Code for the purpose of damaging a ship, a floating object or an aircraft, or the supplies on board shall be punished by imprisonment of from one to five years.

If the offense is committed by a crew member to the damage of the vessel, floating object or aircraft on which he serves, the punishment shall be increased up to one third and, if it is committed by its commander, the penalty shall be increased up to one half. In such cases the second and third paragraphs of the preceding article shall apply.

In any case prosecution shall be *ex officio*.

Art. 1142. (Damage to cargo and equipment on board.) The crew member of a vessel, floating object or aircraft who destroys, gets rid of, ruins or renders unserviceable, in part or in whole, the cargo, equipment, machinery, and installation on board shall be punished by imprisonment of from six months to three years and by a fine of up to 3,000 liras.

The second and third paragraphs of Article 1140 shall apply.

Art. 1143. (Wrongful employment of a vessel or an aircraft.) A commander who wrongfully uses, in part or in whole, a ship, floating object or aircraft for his own advantage or that of others, shall be punished by imprisonment of from six months to five years and by a fine of up to 10,000 liras.

However, a commander who loads small quantities of goods for his own account shall not be punished.

Art. 1144. (Embezzlement of money borrowed by the commander.) The commander of a ship or an aircraft who, in order to obtain for himself or others an unjust profit, embezzles the money borrowed as in the cases specified in Articles 307 and 892, shall be punished by imprisonment of up to five years and by a fine of up to 10,000 liras.

Art. 1145. (Misappropriation of the cargo.) A crew member of a ship or an aircraft who, for the purpose of obtaining for himself or others an unjust profit, misappropriates the cargo in part or entirely, shall be punished by imprisonment of from six months to five years and by a fine of up to 10,000 liras.

Art. 1146. (Misappropriation of ship and air wrecks.) Whoever takes possession of a wreck indicated in Articles 510 and 993, when he has the obligation to report them, shall be punished by imprisonment of up to three years or by a fine of up to 10,000 liras.

For members of maritime or aviation personnel and all persons engaged in whatever capacity in harbor or navigation services or in the exercise of any of the activities specified in Article 68, the penalty shall be increased up to one third.

Art. 1147. (Taking possession of a shipwreck or a lost aircraft.) Whoever takes possession of a ship or an abandoned, shipwrecked, or submerged floating object or of an abandoned, crashed or lost aircraft, shall be punished by imprisonment of from one to five years and by a fine of from 2,000 to 10,000 liras.

For any person specified in the second paragraph of the preceding article, the penalty shall be increased up to one third.

Art. 1148. (Theft committed on board by members of the crew.) For a theft committed on board by members of the crew of a ship or an aircraft, the penalty shall be increased up to one third.

Art. 1149. (Additional punishment.) A conviction for the crimes provided for in Articles 1139, 1140 and paragraph 2 of Article 1141, Articles 1145, 1147, and for grand theft in the sense of Article 1148, shall carry also temporary prohibition to hold licenses and to exercise a profession.

Conviction for the crimes provided for in Articles 1135 to 1138, shall carry permanent prohibition to hold licenses and exercise a profession.

CHAPTER VII. CRIMES AGAINST A PERSON

Art. 1150. (Murder of a superior.) If the crime provided for in Article 575 of the Criminal Code is committed by a crew member of a ship or an aircraft against a superior while in the act of performing, or because of the performance of his duties, the punishment shall be imprisonment of twenty-four to thirty years; if the act is committed during navigation, the penalty shall be penal servitude for life.

Art. 1151. (Premeditated murder, injury to, and bodily harming a superior.) If any of the offenses provided for in Articles 581 to 584 of the Criminal Code is committed by a crew member of a ship or an aircraft against his superior while in the act, or because of the performance of his duties, the punishment established therein shall be increased by one third.

Art. 1154. (Abuse of authority.) The commander or the officer of a ship or the commander of an aircraft, who subjects to severe measures not permissible by the law a subordinate, a passenger or a person arrested or detained, consigned to his custody or transport, or a person entrusted to him by request of a competent authority, shall be punished, by imprisonment of up to thirty months, unless the act constitutes a more serious offense. The same penalty shall apply to anyone to whom such person has been consigned or entrusted.

The imprisonment shall not be less than, for six months when the act was committed for personal motives, or against a sick person or a person under eighteen or over seventy years of age, or against women.

Art. 1155. (Landing and arbitrary abandonment of persons.) The commander of a ship or an aircraft who, outside the national territory, arbitrarily disembarks a crew member or a passenger, or abandons him, and prevents his return on board by moving up the departure of the vessel or aircraft, shall be punished by imprisonment of from six months to three years and by a fine of from 1,000 to 3,000 liras.

Imprisonment shall not be less than for one year if the landed or abandoned person is without the means necessary for subsistence or for return to his own country.

The punishment shall be imprisonment of from one to six years if from such an act results in personal injury; and from three to eight years if it results in death.

Art. 1156. (Abandonment of a sick or injured crew member.) A ship or an aircraft commander who, after having landed a sick or injured crew member under the conditions permitted by the law, fails to provide him with the means necessary for treatment and return to his country, shall be punished by a fine of from 3,000 to 10,000 liras.

The punishment shall be imprisonment of up to six months if the act is committed abroad.

The penalty shall be imprisonment of from one to six years if it results in a personal injury, and for from three to eight years if it results in death.

Art. 1158. (Failure to assist ships or persons in danger.) The commander of a national or foreign ship, floating object or aircraft, who fails to lend assistance or to attempt rescue in cases in which such action is obligatory according to the provisions of this Code, shall be punished by imprisonment of up to two years.

The penalty shall be imprisonment from one to six years if his failure results in a personal injury, and from three to eight years if death ensues.

If criminal negligence is involved, the penalty shall be imprisonment of up to six months; for the cases specified in the preceding paragraph, the penalties shall be reduced by one half.

Art. 1160. (Additional penalties.) A conviction for the crime provided for in Article 1150 shall carry permanent prohibition to hold licenses and exercise a profession.

Conviction for the crimes provided for in Articles 1152 and 1153 shall carry, for a commander, permanent prohibition to hold licenses and, for the crew members, temporary prohibition to hold licenses or exercise their profession.

With regard to the other crimes provided for in this Chapter, conviction shall carry temporary prohibition to hold licenses or exercise a profession.

TITLE THREE—SPECIAL VIOLATIONS

CHAPTER I. VIOLATIONS OF ORDERS REGARDING PUBLIC PROPERTY INTENDED FOR NAVIGATION

Art. 1161. (Wrongful occupancy of state property and failure to observe the limits of private property.) If the offense does not constitute a more serious offense, the following shall be punished by imprisonment of up to six months or by a fine of up to 5,000 liras:

(1) whoever arbitrarily occupies an area of the maritime or aeronautical domain or of harbor zones of inland navigation, impedes public use, or makes unauthorized changes;

(2) whoever fails to observe the provisions of Articles 55, 714 and 716.

Art. 1164. (Failure to observe the regulations concerning public property.) Whoever does not observe the rules and regulations or other legal dispositions imposed by the competent authority with regard to the use of the maritime or aeronautical domain or harbor zones of inland navigation, shall be detained for not more than three months or subjected to a fine of up to 3,000 liras unless the offense constitutes a more serious offense.

CHAPTER II. VIOLATIONS OF PORT REGULATIONS AND RULES OF THE HARBOR AND AIRFIELD POLICE

Art. 1165. (Wrongful deposit of goods or failure to remove deposited objects.) The following shall be punished by a fine of up to 5,000 liras:

(1) whoever deposits goods or other materials in the places in-

licated in Articles 50, 57, and in the first paragraph of Article 723, without the permission of the competent authority or without paying the established fee;

(2) whoever fails to carry out an order to remove the things deposited.

Art. 1166. (Throwing away of materials and filling up of depressions.) Whoever fails to observe the provisions of Articles 71 and 76, shall be punished by a fine of up to 1,000 liras.

Art. 1167. (Failure to observe orders concerning embankments and wrongful opening of mines.) A fine of from 200 to 2,000 liras shall be imposed on any person who:

(1) does not obey the regulations of the competent authorities concerning construction and maintenance along the banks of canals or other water courses flowing into a harbor, or other works indicated in Article 77;

(2) whoever, without having the prescribed authorization, opens quarries or makes other types of excavation along the banks of canals or other water courses flowing into a harbor.

Art. 1169. (Use of firearms and lighting of fires.) Whoever does not observe the provisions of Article 80, shall be punished by confinement of up to three years or by a fine of from 200 to 2,000 liras.

Art. 1173. (Nonobservance of tariffs.) Whoever demands and obtains prices higher than those established in the tariffs approved by the competent authorities shall be fined up to 2,000 liras.

Art. 1174. (Failure to obey police regulations.) Whoever disobeys a legal provision or regulation or a provision legally issued by the competent authority in regard to police matters in harbors or on airfields shall be subject to confinement of up to three months or a fine of up to 2,000 liras.

Art. 1175. (Additional penalties.) Conviction for the violations provided for in Articles 1170, 1173 and 1174, shall include the temporary suspension of licenses or professions.

CHAPTER III. VIOLATIONS OF THE PROVISIONS CONCERNING HIRING PERSONNEL FOR SEA AND INLAND NAVIGATION AND FLIGHT PERSONNEL

Art. 1176. (Failure to comply with the brokerage prohibition.) Whoever asks or receives for himself or others, in money or other values, a reward for hiring a person for the crew of a ship, a floating object or a national aircraft shall be punished by confinement of up to six months or by a fine of up to 5,000 liras unless the act constitutes a more serious offense.

Art. 1177. (Aggravating circumstances.) The penalty shall be confinement of from six months to one year and a fine of from 1,000 to 5,000 liras:

(1) if the act provided for in the preceding article refers to the hiring of several persons;

(2) if the guilty person carries out the placement of sea and flight personnel for lucrative purposes, or unlawfully carries out an activity, even indirectly intended to procure or facilitate the employment of sea or flight personnel;

(3) if the act takes place in a place where there is a placement office for sea and air personnel;

(4) if the offender holds a professional maritime or aeronautical license. In such cases, the punishment shall carry the suspension of licenses for one year.

Art. 1180. (Illegal hiring of foreigners.) Except for those cases permitted in Articles 294, 319, 886 and 898, any shipowner, manager or commander who takes on a foreigner as a crew member of a ship or an aircraft shall be fined from 100 to 1,000 liras.

The same penalty shall apply to a shipowner, manager or commander who does not discharge a foreigner regularly hired on the terms established in the above dispositions.

Art. 1181. (Disembarking abroad of a crew member subject to the draft.) Except for the cases provided for in Articles 196 and 813 any commander of a ship or an aircraft who allows the landing on foreign territory of a crew member subject to the draft or who has been recalled to arms, shall be punished with a fine of up to 5,000 liras unless the act constitutes a more serious offense.

CHAPTER IV. VIOLATIONS OF THE PROVISIONS ON CONSTRUCTION AND OWNERSHIP OF A VESSEL OR AIRCRAFT

Art. 1182. (Failure to observe the regulations relating to the construction and repairing of a vessel or an aircraft or to the launching of a vessel.) Whenever the violation does not constitute a more serious offense, a fine of from 500 to 5,000 liras shall be imposed upon:

(1) any person who commissions the construction or repair of a ship, or an aircraft, or an aircraft engine by a person who does not have the prescribed patent, authorization or professional qualification;

(2) whoever, without the necessary patent, authorization, or professional qualification, starts the construction or the repair indicated in (1);

(3) whoever undertakes the construction of a ship or a floating object without the declaration prescribed in Article 233, or the construction of an aircraft without the declaration and statement prescribed in Articles 848 and 849;

(4) whoever launches a ship without the communication prescribed in Article 243;

(5) any ship or aircraft builder who fails to observe the order of suspension of construction according to Articles 236 and 851.

Art. 1183. (Failure to observe regulations on the dismantling of ships or aircraft.) The owner of a vessel or a floating object who, without a valid reason, does not carry out, within the terms established by Article 161, the order of the maritime authority or of those directing inland navigation, to repair, to assign to other use, or to dismantle a vessel or a floating object, shall be fined from 300 to 5,000 liras.

Whoever dismantles a national ship, floating object, or aircraft without due authorization as prescribed in Articles 160 and 760, shall be fined from 500 to 5,000 liras.

Art. 1184. (Failure to observe regulations relating to the transfer of the flag and loss of nationality of aircraft.) Whoever transfers a ship or aircraft without the authorization prescribed in Articles 156 and 758, shall be punished by confinement of up to six months or by a fine