

opinion of the Government Mining Engineer, such aerodrome could be used with safety; or

(b) on any ground which in the opinion of the Minister of Mines may be required for purposes of mining or prospecting for minerals, except—

(i) in the case of an aerodrome contemplated in subsection (1) of section *siv*, after consultation with the Minister of Mines; or

(ii) in the case of any other aerodrome, with the approval of the said Minister.

10. Notwithstanding anything contained in Chapter IX of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908, Transvaal), or any other law, the State President may use or permit the use of ground held under mining title, or of open proclaimed land, for the establishment of aerodromes or for landing places for aircraft, provided such use is not, in the opinion of the Government Mining Engineer, likely to interfere with mining operations or purposes incidental thereto.

Permission to use proclaimed land or land held under mining title for aerodromes.

11. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of aircraft over any property at a height, which, having regard to wind, weather and all the circumstances of the case, is reasonable, or the ordinary incidents of such flight, so long as the provisions of this Act and of the Convention and of the Transit Agreement are duly complied with.

Trespass, nuisance and responsibility for damage.

(2) Where material damage or loss is caused by an aircraft in flight, taking off or landing, or by any person in any such aircraft, or by any article falling from any such aircraft, to any person or property on land or water, damages may be recovered from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action as though such damage or loss had been caused by his willful act, neglect or default.

(3) The provisions of sub-section (2) shall not apply where the damage or loss was caused by or contributed to by the negligence or wilful act of the person by whom it was suffered.

(4) Where any damages recovered from or paid by the owner of an aircraft under this section arose from damage or loss caused solely by the wrongful or negligent action or omission of any person other than the owner or some person in his employment, the owner shall, subject to the provisions of paragraph (b) of sub-section (5), be entitled to recover from that person that amount of such damages.

(5) (a) In any proceedings against the owner for the recovery of damages in terms of sub-section (2) such owner may, on making such application to the court and on giving such security as to costs as may be prescribed by rules of court, join any person referred to in sub-section (4) as a defendant.