

3. *Power to issue rules*

(1) His Majesty's Government may, by means of rules published in the Nepal Gazette, regulate the manufacture, storage, use, operation, sale, import or export or any aircraft or category of aircraft.

(2) Without prejudice to the general powers conferred by Sub-section (1), such rules may specifically provide for the following matters:

(a) Restrictions on the authority exercising the powers conferred by this Act, or on the exercise of such powers.

(b) Regulation of the air transport services and prohibition of the use of aircraft for transport services which do not fulfill the conditions laid down therein.

(c) Particulars to be submitted to the authority prescribed in the rules by any person who has obtained or is desirous of obtaining licenses for the establishment of air transport services.

(d) Permission for airport inspection and regulation of airports conditions when airports may be established, fees levied thereon, and prohibition or regulation of the use of unlicensed airports.

(e) Manufacture, repair and maintenance of aircraft, inspection and control of such operations or of the sites where airplanes are stationed.

(f) Registration and marking of aircraft.

(g) Conditions when aircraft may be used for passenger, goods or mail traffic or when aircraft may be used for industrial purposes, and certificates, licenses or other documents to be maintained for aircraft.

(h) Inspection of aircraft for the purpose of enforcing this Act and the rules issued hereunder, and the facilities to be provided for such inspection.

(i) Licenses for persons employed in the construction, operation, repair or maintenance of aircraft.

(j) Conditions when an aircraft may enter into, or depart from or fly over the kingdom of Nepal, air routes and landing grounds.

(k) Prohibition or flights over areas specified by his Majesty's Government, or permission for flights only in specified times and circumstances.

(l) Supply, supervision and control of signals, airport lights and other lights in and around airports or air routes.

(m) Arrangements for lights and maintenance thereof to be made by any person at his private houses and compounds situated around airports, or in or around air routes, costs of such arrangements or maintenance to be provided by His Majesty's Government, inspection and control thereof, and the power of His Majesty's Government to enter into, or direct entry into such houses and compounds for such purpose.

(n) Signals to be used by, or in aircraft for communication purposes, and the instruments to be used for such signals.

(o) Prohibition and regulation of transportation by aircraft of materials specified by His Majesty's Government.

(p) General provisions for protection of life and property.

(q) Preparation and maintenance of flight logs of aircraft.

(r) Procedure and conditions for issuance or renewal of licenses or certificates under this Act or the rules issued thereunder, tests and examinations to be taken in respect thereto, forms of such licenses, certificates or flight logs of aircraft, and custody presentation, endorsement, cancellation, suspension and return thereof.

(s) Fees to be charged for issuance or renewal of licenses or certificates or for conducting tests and examinations under this Act.

(t) Recognition of licenses and certificates issued in countries other than Nepal pertaining to the qualifications of persons employed in the manufacture, operation, repair or maintenance of aircraft, or in other matters relating to aircraft for the purposes of this Act, and

(u) Any other provision that may be helpful or incidental to the provisions mentioned in this Sub-section.

4. *Power of His Majesty's Government to issue orders in special circumstances*

(1) In case it is deemed necessary for public security and law and order, His Majesty's Government, by means of orders published in the Nepal Gazette, may take the following action:

(a) It may cancel or suspend any or all licenses or certificates issued under this Act, on conditions specified by it in the said order according to necessity or without condition.

(b) It may prohibit the flight of any or all categories of aircraft over the whole or any part of the Kingdom of Nepal, on conditions specified by it in the said order according to necessity or without condition, or regulate such flights in any other manner prescribed in the order.

(c) It may prohibit or regulate the construction, supervision and necessary repair, as well as proper maintenance and use, of airports, aircraft factories, aviation schools or clubs or of other types of places where aircraft are overhauled, repaired or stationed with or without condition.

(d) His Majesty's Government may direct the handing over of any aircraft or any category of aircraft or any airport, airplane factory, aviation school or club or other types of places where aircraft are manufactured, repaired or stationed, along with the plant equipment or other materials used in the manufacture, operation, repair and maintenance of aircraft, immediately or within the date specified in the notification, to such authorities and according to such methods as specified therein, and use the equipment so handed over for public services.

(2) In case any order issued under Part (c) or (d) of Sub-section (1) causes any direct loss or change to any person, compensation determined by the authority appointed by His Majesty's Government for this purpose shall be paid to such person.

(3) His Majesty's Government may take or direct to be taken any step as it deems necessary for enforcing any order issued under Sub-section (1).

(4) In case any person does not abide by, or refuses to abide by any order issued under Sub-section (1), or acts in contravention of such order, he shall be liable to imprisonment for a maximum period of

three years or to a maximum five of Rs. 5000.00, or both, and the court which convicts him may order the confiscation of the whole or part of the aircraft or the materials, if any, connected with the offence, and direct their possession by His Majesty's Government.

5. Power of His Majesty's Government to issue rules pertaining to investigation of accidents

(1) His Majesty's Government may issue rules relating to the investigation of accidents which occur while an aircraft is flying over the kingdom of Nepal or when any aircraft registered in Nepal is in flight outside of Nepal. The rules shall come into force with effect from the date of their publication in the Nepal Gazette.

(2) Without prejudice to the general powers conferred by Sub-section (1), such rules may provide for the following matters:

(a) Information of accidents, form of such information, and the person giving such information,

(b) Application of the provisions of existing Nepal law relating to the investigation of accidents with or without amendments, to the investigation of such accidents.

(c) Prohibition of entry into, or tampering with any aircraft which has met with an accident until investigations are concluded, or vesting powers in any person to enter into such aircraft, examine or remove it, and take necessary action for its maintenance, or deal with it in other ways, and

(d) Cancellation, suspension or endorsement or return of licenses or certificates issued or recognized under this Act, or the issue of orders to this effect, in case such action is necessary in the course of investigations of accidents, or directing the presentation of any such license or certificate for the purpose of such investigation.

6. Power to stop airplanes

(1) The authority empowered by His Majesty's Government may stop any aircraft in the following circumstances:

(a) If, because of the nature of the flight of any aircraft, there is an apprehension of its causing danger to the persons aboard it or to any other person, or to the life and property of any person, or,

(b) If it is deemed necessary to do so to enforce any provisions of this Act or the rules applicable to such aircraft, or to prevent the contravention of any rule issued under Part (j) or

(k) of Sub-section (2) of Section 3.

(2) His Majesty's Government may issue rules to regulate any provisions which may be helpful or incidental in the exercise of the powers conferred by Sub-section (1).

These rules shall come into force with effect from the date of their publication in the Nepal Gazette.

7. Power of his Majesty's Government to issue rules for the protection of public health

His Majesty's Government may issue rules to prevent any threat to public health arising from the spread of epidemic diseases from any aircraft standing in or arriving at any airport, as well as to prevent infection with such diseases through any aircraft departing from any

airport. These rules shall come into force with effect from the date of their publication in the Nepal Gazette.

8. *Special powers for the protection of public health*

(1) In case His Majesty's Government is satisfied that any dangerous epidemic disease has spread or is likely to spread in the kingdom of Nepal or in any part thereof, and that other existing Nepal law is not adequate to prevent the danger that may arise to public health from the spread or infection of such diseases through aircraft, it may take any step or issue orders to that effect, as it deems necessary to prevent such a danger.

(2) Without prejudice to the power conferred by Section 7 under such circumstances, His Majesty's Government may also issue such provisional rules in respect to aircraft and persons or goods to be transported thereon, as well as airports, as it may deem necessary in such circumstances. These rules shall come into force with effect from the date of their publication in the Nepal Gazette.

9. *Fines and punishment for violation of the rules framed under this act*

Any person violating any rule framed under Sections 3, 5, 6, and 8, shall be liable to imprisonment for a period not exceeding three months or a fine not exceeding Rs. 1000.00, or to both these penalties.

10. *Fines and punishment to persons flying aircraft in a dangerous manner*

If any person flies any aircraft deliberately in such a manner as to imperil the life of any person on land or water, or in the air, or the property of any person, or obstruct the army or aircraft of His Majesty's Government, he shall be liable to imprisonment for a period not exceeding six months or fined with an amount not exceeding Rs. 400.00, or to both these penalties.

11. *Fines and punishment for abetting or attempting to commit offences*

If any person abets any other person on committing an offence which is liable to punishment under this Act, or the rules issued thereunder, or attempts to commit any such offence and commits any act liable to constitute an offence, he shall be subject to such fines and suffer punishment as if he had committed the offence.

12. *Power of the court to order confiscation*

If any court convicts any person of committing an offence which is liable to fines and punishment under Part (k) or Part (o) or Sub-section (2) of Section 3, it may order the confiscation of the aircraft or any material involved in the said offence, and direct its possession by His Majesty's Government.

13. *Power to apply Nepal law relating to customs*

His Majesty's Government may, by notification in the Nepal Gazette, apply any or all of the provisions of existing Nepal law relating to the export and import of goods, to the export and import of goods by air including the amended form prescribed in such notification.

14. *Restrictions on filing certain cases and complaints*

If any person flies at a certain altitude over the property of any person, and if he is found to be justified in doing so by reason of

winds, weather or other conditions, no action or complaint against the pilot filed to the effect that he had made an unauthorized intrusion into the rights of other persons, or caused direct or indirect damage to somebody merely because of such flights or of minor accidents resulting from such flights, shall be entertained in any court.

15. Saving in respect to actions taken with bona fide motives

No action or complaint or any other kind of legal action shall be filed against any person for any act performed with bona fide motives and which he thinks has been in compliance with this Act.

16. Non-application of this Act

No provision of this Act, or the rules or orders issued hereunder, shall be applicable to any private aircraft of His Majesty the King or His Majesty's Government, or the Air Force or any person employed in such aircraft or Air Force.

NETHERLANDS

AVIATION ACT¹

CHAPTER I—DEFINITIONS

Article 1.

For the purposes of this Act, and any orders made thereunder, the following terms have the following meanings:—

- a. Air navigation: the use of aircraft;
- b. Aircraft: machines that can derive support in the atmosphere from the reactions of the air, including or excepting machines to be designated by Order in Council;
- c. Aeroplanes: mechanically-propelled heavier-than-air aircraft;
- d. Proprietor of an aerodrome: the person in whom an aerodrome is vested pursuant to this Act;
- e. Dutch aircraft: aircraft which have been registered in a Dutch register of aircraft, or in respect of which the provisions of the second paragraph of Article 4 have been applied with regard to the registration;
- f. Foreign aircraft: aircraft registered in a foreign register of aircraft;
- g. Aerodromes: parts of the Netherlands designated pursuant to this Act for the taking off and landing of aircraft;
- h. Our Minister: insofar as civil aviation and the general safety of air traffic are concerned: Our Minister of Transport and “Waterstaat”; insofar as military aviation is concerned: Our Minister of War and Our Minister of the Navy, each inasmuch as he is concerned.

Article 2.

For the purposes of this Act, and any orders made thereunder, the following terms also have the following meanings:—

- a. Pilot-in-command: a person who operates an aircraft alone;
- b. Operation of an aircraft: the performance of actions on board an aircraft for the use of that aircraft;
- c. Land: areas of water;
- d. Buildings: structures, scaffolding, overhead lines, dykes and quays.

CHAPTER II—GENERAL SAFETY OF TRAFFIC

Article 3.

Insofar as powers with respect to the general safety of air traffic are conferred upon Our Minister of Transport and *Waterstaat* by or in virtue of this Act, he shall not exercise these powers except in agreement with Our Minister of War and Our Minister of the Navy, each inasmuch as he is concerned.

¹ Published in Staatsblad (statute book) No. 47 of Jan. 15, 1958, p. 77-85; effect: Oct. 1, 1959. English text supplied by Netherlands Government.

CHAPTER III—AIR NAVIGATION

*Part 1—Registration, marks and airworthiness of aircraft**Article 4.*

1. It is forbidden to perform air navigation with an aircraft which
 - (a) is not provided with a valid certificate of registration as referred to in Article 5;
 - (b) is not provided with a nationality mark and a registration mark in accordance with the provisions of Article 6;
 - (c) is not provided with a valid certificate of airworthiness or of validation, as referred to in Article 7 and valid for the use that is made of the aircraft;
 - (d) is not airworthy.
2. The provisions of the first paragraph do not apply.
 - (a) in the cases specified by Order in Council;
 - (b) if and insofar as exemption is granted by or on behalf of Our Minister.

Article 5.

1. Dutch registers of aircraft shall be maintained on behalf of Our Minister. Foreign aircraft shall not be registered in these registers of aircraft. The Dutch aircraft registers for civil aircraft are public.
2. The registration of aircraft and the issue of a certificate of registration in a Dutch register of aircraft shall be effected by or on behalf of Our Minister and, so far as civil aircraft are concerned, according to rules laid down by or in virtue of an Order in Council.
3. A certificate of registration of a foreign aircraft must be in conformity with the legislation of the territory in which this aircraft is registered.

Article 6.

1. The nationality mark and the registration mark of Dutch aircraft shall be determined by or on behalf of Our Minister. Insofar as civil aircraft are concerned, the marks shall consist of letters and/or figures and they must be affixed in such place and manner as shall be directed by Our Minister; insofar as these directions relate to civil aircraft, they shall be published in the "State Gazette".
2. With regard to foreign aircraft, the nationality mark and the registration mark must be in conformity with the legislation of the territory in which this aircraft is registered.

Article 7.

1. With regard to Dutch aircraft, the certificates of airworthiness shall be issued, suspended and revoked by or on behalf of Our Minister and, so far as civil aircraft are concerned, according to rules laid down by or in virtue of an Order in Council. In addition, certificates of validation of foreign certificates of airworthiness shall be issued, suspended and revoked by or on behalf of Our Minister in accordance with rules laid down by or in virtue of an Order in Council.
2. With regard to foreign aircraft, a foreign certificate of airworthiness or of validation is required; such certificates must be issued pursuant to international agreement.

*Part 2—Operation of aircraft**Article 8.*

1. It is forbidden to operate an aircraft

(a) without a valid licence or certificate of validation, as referred to in Article 9, to be used in accordance with the privileges and with due observance of the limitations stated on the licence or certificate;

(b) in such a condition as to be unfit to perform the operation properly.

2. The provisions of the first paragraph under (a) do not apply

(a) in the cases specified by Order in Council;

(b) if and insofar as exemption is granted by or on behalf of Our Minister.

Article 9.

1. With regard to the operation of Dutch aircraft, the licences shall be issued, suspended and revoked by or on behalf of Our Minister and, so far as civil aircraft are concerned, according to rules laid down by or in virtue of an Order in Council. In addition, certificates of validation of foreign licences shall be issued, suspended and revoked by or on behalf of Our Minister in accordance with rules laid down by or in virtue of an Order in Council.

2. With regard to the operation of foreign aircraft, a foreign licence or certificate of validation is required; such licence or certificate must be issued pursuant to international agreement.

*Part 3—Other provisions**Article 10.*

1. Our Minister has power to authorize the managements of associations and institutions which are incorporated under Dutch law and have the object of promoting aviation, to issue, suspend and revoke the certificates of airworthiness referred to in the first paragraph of Article 7, the licences referred to in the first paragraph of Article 9, and the certificates of validation referred to in the first paragraph of Article 7 and the first paragraph of Article 9, insofar as they relate to civil aviation.

2. This authorization can at all times be suspended or revoked by Our Minister by duly motivated order.

3. The orders whereby an authorization is granted, suspended or revoked shall be punished in the State Gazette [*Staats Courant*].

Article 11.

1. Insofar as is not otherwise provided by international agreement the performance of civil air navigation above certain parts of the Netherlands can be restricted or prohibited

(a) for reasons of public safety, by Our Minister of Transport and *Waterstaat*;

(b) for reasons of military necessity, by Our Ministers of War and of the Navy, each inasmuch as he is concerned, and after consultation with Our Minister of Transport and *Waterstaat*.

2. Orders providing for a restriction or prohibition as referred to in the first paragraph, or annulment of such a restriction or prohibition, shall be published in the "State Gazette".

3. Our Ministers of Transport and *Waterstaat*, of War and of the Navy can designate authorities to exercise on their behalf their powers as referred to in the first paragraph under (b). This shall be done by a joint order, which shall be published in the state Gazette.

Article 12.

Insofar as is not otherwise provided by international agreement, under exceptional circumstances or in the interest of public safety the performance of civil air navigation above the Netherlands or a part thereof may be temporarily restricted or prohibited by Us.

Article 13.

It is forbidden to perform air navigation

(a) in such a way that public order or safety is disturbed or endangered;

(b) in contravention of orders issued by or on behalf of Our Minister, as referred to in Article 11;

(c) in contravention of orders issued by Us, as referred to in Article 12.

Article 14.

1. Within the Netherlands it is forbidden

(a) to take off with an aircraft or to make an aircraft take off except from an aerodrome;

(b) to land with an aircraft or to make an aircraft land except on an aerodrome;

(c) to equip for the taking off and landing of aircraft an area which has not been designated as an aerodrome.

2. The provisions of the first paragraph do not apply

(a) in the cases specified by Order in Council;

(b) if and insofar as exemption is granted by or on behalf of Our Minister.

Article 15.

1. It is forbidden to provide an aircraft with any mark which is intended to create the impression that it is the mark prescribed under the terms of Article 6.

2. It is forbidden to perform air navigation as pilot-in-command, or, as owner or operator of an aircraft, to have air navigation performed or to let it be performed, with an aircraft provided with a misleading mark as referred to in the first paragraph, if the pilot-in-command or the owner or operator of the aircraft, respectively, knows or can reasonably suppose that the aircraft is provided with such a mark.

Article 16.

Insofar as is not otherwise provided by international agreement, it is forbidden to carry persons or animals or goods in aircraft, and to have persons or animals or goods carried in aircraft, either between two or more places situated in the Netherlands or with a place situated in the Netherlands as starting-point or terminus or intermediate station, as a main or subsidiary business or for remuneration, unless permission to do so has been granted by Us or on Our behalf.

2. In the case of carriage as referred to in the first paragraph, if no permission is necessary then the requirements laid down by Us

or on Our behalf pursuant to international agreement shall be duly observed.

Article 17.

1. It is forbidden to hold air displays or aviation contests without permission granted by or on behalf of Our Minister.

2. Above the Netherlands it is forbidden to take part in a display or contest for which no permission has been granted as referred to in the first paragraph.

CHAPTER IV—AERODROMES

Part 1—Designation of aerodromes

Article 18.

1. Our Minister can designate aerodromes

- (a) by virtue of his office;
- (b) on being petitioned to do so.

2. The documents referred to in the first paragraph of Article 20 must be submitted in duplicate along with a petition.

Article 19.

Our Minister can immediately reject a petition as referred to in Article 18 by duly motivated order, in which case Articles 20–23 do not apply.

Article 20.

1. Before a designation can be effected, the following documents shall be deposited for thirty days for public inspection at the office of the Provincial Executive Council of the province or provinces in which the land is situated:

a. a map on which the size, the location and the boundaries of the land intended for designation are clearly indicated, as well as the premises or parts of premises located within those boundaries, stating the cadastral numbers;

b. a list stating the names and addresses

(I) according to the cadastral registers, of the

(A) owners of the land;

(B) holders of a right in rem over the land;

(C) holders of a right in rem over a right to the land;

(II) of those who have a personal right with respect to the land, insofar as they are known to Our Minister or to the petitioner,

in every case stating the premises or parts of premises involved, as well as the size of each of these premises or parts of premises, insofar as possible according to the cadastral registers;

c. documentary evidence of the right to appropriate the land for an aerodrome.

2. If a petition has been received, this shall also be deposited.

Article 21.

1. The depositing referred to in Article 20 shall be arranged by the Provincial Executive Council not more than fifteen days after receipt of the documents from Our Minister.

2. Prior notice of the depositing shall be given by or on behalf of the Provincial Executive Council

(a) in the State Gazette and in one or more newspapers to be selected by the Provincial Executive Council;

(b) by registered letter addressed to

(I) the persons stated on the list mentioned in Article 20;

(II) the petitioner.

3. The notice shall also state:

a. the place, date and time at which an opportunity will be given to bring oral objections to the designation before a commission consisting of

(I) a member of the Provincial Executive Council, appointed by that Council;

(II) an expert appointed by Our Minister;

(III) the mayor of each municipality within which the land is situated, or a deputy to be appointed by him;

b. the period within which objections can be submitted to the commission in writing.

Article 22.

1. The commission shall draw up a procès-verbal of the objections which it has received orally.

2. The procès-verbal, together with the objections notified to the commission in writing and the recommendations of the commission, shall be sent to Our Minister by the commissions as soon as possible.

Article 23.

1. Copies of all documents sent to Our Minister by the commission shall be deposited by or on behalf of the Provincial Executive Council for public inspection at the office of the Provincial Executive Council for thirty days.

2. Prior notice of the depositing shall be given by or on behalf of the provincial Executive Council.

(a) in the State Gazette and in one or more newspapers to be selected by the Provincial Executive Council;

(b) by registered letter addressed to

(I) the persons stated on the list referred to in Article 20;

(II) the other interested parties who have become known after the depositing referred to in Article 20;

(III) all who have brought objections before the commission orally or in writing;

(IV) the petitioner.

Article 24.

Our Minister shall thereafter decide about the designation by duly motivated order.

Article 25.

1. The designation may be restricted to

(a) certain types of aircraft;

(b) certain forms of air navigation.

2. Conditions may be attached to the designation.

Article 26.

1. Our Minister can refrain from applying Articles 20-23 with regard to land

(a) in respect of which Articles 10-15 of the Compulsory Purchase Act (Statute Book 1851, 125) have been applied in behalf of air navigation;

(b) which is not being designated for aeroplanes.

Article 27.

1. Our Minister can at all times alter or revoke a designation by duly motivated order.

2. If he considers this desirable, Articles 20-23 shall be similarly applied.

Article 28.

1. Our Minister shall revoke a designation on being petitioned to do so by the proprietor of the aerodrome.

2. Within three weeks after receipt of such a petition, notice thereof shall be given by Our Minister

(a) in the State Gazette and in one or more newspapers to be selected by him;

(b) by registered letter addressed to the interested parties, insofar as they are known to Our Minister.

3. The revocation shall take place not less than six weeks after this notification.

4. The revocation shall take place not more than six months after receipt of the petition, unless within this period the aerodrome has been vested in another proprietor or Article 11 and 12 of the Compulsory Purchase Act have been applied in regard to the aerodrome.

Without prejudice to the provisions of the third paragraph, however, Our Minister shall immediately revoke the designation

(a) if a decision as referred to in Article 72a of the Compulsory Purchase Act has not been taken in respect of the aerodrome within a year after Articles 11 and 12 of the Compulsory Purchase Act have been applied;

(b) if proceedings for compulsory purchase have not been instituted within the period specified in the decision referred to under (a).

5. The provisions of the preceding paragraphs shall be similarly applicable if the owner of the aerodrome submits a written request to Our Minister for revocation of the designation in view of the fact that the proprietor of the aerodrome is not or is no longer entitled to have the aerodrome at his disposal.

Article 29.

1. Copies of orders providing for

(a) designation, or alteration or revocation of a designation

(b) rejection of a request for designation, or rejection of a request for alteration or revocation of a designation, shall be sent as soon as possible by registered letter to

(I) the petitioner or the proprietor of the aerodrome, respectively;

- (II) and also, if Articles 20-23 have been applied, to
- (A) the persons stated on the list referred to in Article 20;
 - (B) the other interested parties who have become known after the depositing referred to in Article 20;
 - (C) all who have raised objections orally or in writing.

2. At the same time attention shall be drawn, if necessary, to the provisions of Article 30.

3. The orders referred to in the first paragraph under (a) shall be published in the State Gazette.

Article 30.

1. Interested parties can appeal to Us against the orders referred to in Article 29, with the exception of those whereby a designation is revoked under Article 28, within thirty days after the posting of the letter referred to in Article 29.

2. Without prejudice to the provisions of Article 40 of the Act of December 21, 1861 (Statute Book 129), Our decision shall be inserted in the State Gazette.

Part 2—Use of aerodromes

Article 31.

1. It is forbidden

(a) to have or to construct buildings or other erections, or to have or to grow plants, on an aerodrome;

(b) to have movables or to make excavations on an aerodrome, other than in connection with the routine operation or the routine maintenance of the aerodrome.

2. The provisions of the first paragraph do not apply

(a) in the cases specified by Order in Council;

(b) if and insofar as exemption is granted by or on behalf of Our Minister.

Article 32.

The proprietor of an aerodrome designated exclusively or partly for public civil air traffic is bound to admit this air traffic to the aerodrome, with due observance of the restrictions imposed by or in virtue of this Act.

Article 33.

1. The proprietor of an aerodrome is forbidden to use an aerodrome or to have an aerodrome used or to let an aerodrome be used

(a) in contravention of the restrictions and conditions attached to the designation;

(b) in contravention of the instructions given by or on behalf of Our Minister as referred to in Article 35;

(c) for purposes other than those connected with the operation of the aerodrome.

2. The provisions of the first paragraph do not apply if and insofar as exemption is granted by or on behalf of Our Minister.

Article 34.

1. The pilot-in-command of an aircraft is forbidden to use an aerodrome

(a) in contravention of the restrictions and conditions attached to the designation;

(b) in contravention of the instructions given by or on behalf of Our Minister, as referred to in Article 35.

2. The provisions of the first paragraph do not apply if and insofar as exemption is granted by or on behalf of Our Minister.

Article 35.

1. An aerodrome can be temporarily declared closed by or on behalf of Our Minister on account of the condition of the aerodrome or for other reasons relating to the safety of air navigation.

2. With due observance of the relevant provisions of international agreements, the closure can be restricted to

(a) certain types of aircraft;

(b) certain forms of air navigation.

Article 36.

1. The proprietor of an aerodrome designated exclusively or partly for public civil air traffic is bound to fix charges for the use made by aircraft of this aerodrome and of the erections located thereon.

2. These charges require Our approval.

3. If Our approval is already necessary under the Provinces Act (Statute Book 1850, 39) or the Municipal Corporations Act (Statute Book 1851, 85) with respect to a resolution of the Provincial Executive Council of a province or the Municipal Council of a municipality concerning the fixing of charges as referred to in the first paragraph, Our decision shall be taken on the joint recommendation of Our Minister of Transport and *Waterstaat* and Our Minister of Home Affairs.

Article 37.

It is forbidden to levy charges for the use referred to in Article 36 other than the charges approved by Us pursuant to that article.

Part 3—Prohibition of obstructions on land around aerodromes

1. IMPOSITION OF THE PROHIBITION

Article 38.

1. Our Minister can impose a prohibition with respect to having movables, having or constructing buildings or other erections, or having or growing plants, on land situated within a distance of 500 metres from the boundary of an aerodrome, or on that land above a height to be determined by him.

2. Our Minister can impose a prohibition with respect to having movables, having or constructing buildings or other erections, or having or growing plants, on land situated within a distance of 500–5000 metres from the boundary of an aerodrome above a height to be determined by him, which cannot be less than the minimum height specified in the third paragraph.

3. For land situated at the distance referred to in Column A from the boundary of an aerodrome, the minimum height referred to in the second paragraph is the height stated beside it in Column B.

A	B
500 metres	5. 00 metres
501 metres	5. 01 metres
502 metres	5. 02 metres
and so on to	
1000 metres	10. 00 metres
1003 metres	10. 04 metres
1006 metres	10. 08 metres
1009 metres	10. 12 metres
and so on to	
2125 metres	25. 00 metres
2125-5000 metres	25. 00 metres

4. The heights to be determined by Our Ministers shall be measured:

(a) from a level, designated for that purpose by or on behalf of Our Minister, which must not be lower than the point referred to under (b);

(b) if no designation has taken place pursuant to (a), from the lowest point of the aerodrome.

5. It is forbidden to have movables, to have or to construct buildings or other erections, or to have or to grow plants, in contravention of a prohibition imposed by Our Minister, as referred to in the first and second paragraphs.

Article 39.

A prohibition as referred to in Article 38 does not affect

(a) buildings existing at the time of the notification in the State Gazette as referred to in Article 43;

(b) buildings started prior to that notification and regularly continued in accordance with a specification previously drawn up;

(c) rebuilding and reconstruction, insofar as the rebuilt and reconstructed buildings do not differ considerably from the original, in the opinion of Our Minister, from the viewpoint of prevention of danger to air navigation;

(d) non-woody plants, and implements, insofar as their presence is necessary for the cultivation of those plants, in addition to animals.

Article 40.

1. Our Minister can impose a prohibition as referred to in Article 38.

(a) by virtue of his office;

(b) on being petitioned to do so by the proprietor of the aerodrome.

2. The documents referred to in the first paragraph of Article 42 must be submitted in duplicate along with a petition.

Article 41.

Our Minister can immediately reject a petition as referred to in Article 40 by duly motivated order, in which case Articles 42-45 do not apply.

Article 42.

1. Before a prohibition can be imposed, the following documents shall be deposited for thirty days for public inspection at the office of the Provincial Executive Council of the province or provinces in which the land is situated:

a. a map on which the size, the location and the boundaries of the land intended to be covered by the prohibition are clearly indicated, as well as the premises or parts of premises located within those boundaries, stating cadastral numbers;

b. a list stating the names and addresses

(I) according to the cadastral registers, of the

(A) owners of the land;

(B) holders of a right in rem over the land;

(C) holders of a right in rem over a right to the land;

(II) of those who have a personal right with respect to the land, insofar as they are known to Our Minister or to the proprietor of the aerodrome, in every case stating the premises or parts of premises involved, as well as the size of each of these premises or parts of premises, insofar as possible according to the cadastral registers.

2. If a petition has been received, this shall also be deposited.

Article 43.

1. The depositing referred to in Article 42 shall be arranged by the Provincial Executive Council not more than fifteen days after receipt of the documents from Our Minister.

2. Prior notice of the depositing shall be given by or on behalf of the Provincial Executive Council

(a) in the State Gazette and in one or more newspapers to be selected by the Provincial Executive Council;

(b) by registered letter addressed to

(A) the persons stated on the list mentioned in Article 42;

(B) the proprietor of the aerodrome.

3. The notice shall also state:

a. the place, date and time at which an opportunity will be given to bring oral objections to the prohibition before a commission consisting of

(I) a member of the Provincial Executive Council, appointed by that Council;

(II) an expert appointed by Our Minister;

(III) the mayor of each municipality within which the land is situated, or a deputy to be appointed by him;

b. the period within which objections can be submitted to the commission in writing.

Article 44.

1. The commission shall draw up a procès-verbal of the objections which it has received orally.

2. The procès-verbal, together with the objections notified to the commission in writing and the recommendations of the commission, shall be sent to Our Minister by the commission as soon as possible.

3. The commission shall append a proposal concerning compensation for the loss or damage ensuing from the prohibition.

4. In drawing up this proposal the commission shall be assisted by two experts, to be appointed at the request of the Provincial Executive Council by the President of the District Court or one of the courts within whose jurisdiction the premises are situated.

Article 45.

1. Copies of all documents sent to Our Minister by the commission shall be deposited by or on behalf of the Provincial Executive Council for public inspection at the office of the Provincial Executive Council for thirty days.

2. Prior notice of the depositing shall be given by or on behalf of the Provincial Executive Council

(a) in the "State Gazette" and in one or more newspapers to be selected by the Provincial Executive Council;

(b) by registered letter addressed to

(I) the persons stated on the list mentioned in Article 42;

(II) the other interested parties who have become known after the depositing referred to in Article 42;

(III) all who have brought objections before the commission orally or in writing;

(IV) the proprietor of the aerodrome.

Article 46.

Our Minister shall thereafter decide about the designation by duly motivated order.

Article 47.

1. Our Minister can at all times wholly or partly annul a prohibition as referred to in Article 38, by duly motivated order.

2. If he considers this desirable, Articles 42-45 shall be similarly applied.

Article 48.

1. Copies of orders providing for

(a) imposition or annulment of a prohibition as referred to in Article 38.

(b) rejection of a request for imposition or annulment of a prohibition as referred to in Article 38,

shall be sent as soon as possible by registered letter to

(I) the petitioner or the proprietor of the aerodrome, respectively;

(II) and also, if Articles 42-45 have been applied, to

(A) the persons stated on the list referred to in Article 42;

(B) the other interested parties who have become known after the depositing referred to in Article 42;

(C) all who have raised objections orally or in writing.

At the same time attention shall be drawn to the provisions of Article 49.

2. The orders referred to in the first paragraph under (a) shall be published in the State Gazette. Copies of these orders shall be sent to Our Minister of Finance, who will arrange for the orders to be recorded in the cadastral map.

Article 49.

1. Interested parties can appeal to Us against the orders referred to in Article 48 within thirty days after the posting of the letter referred to in that article.

2. Without prejudice to the provisions of Article 40 of the Act of December 21, 1861, Statute Book 129, Our decision shall be inserted in the State Gazette.

2. COMPENSATION

Article 50.

1. The proprietor of the aerodrome shall pay compensation for any loss or damage which may be suffered in consequence of a prohibition as referred to in Article 38, by

- (a) the owners of the land,
- (b) the holders of a right in rem over the land,
- (c) the holders of a right in rem over a right to the land,
- (d) those who have a personal right with respect to the land, on which this prohibition is imposed.

2. The diminution in value—as a direct consequence of the prohibition—of all the ground over which the same person has a right at the time of the coming into operation of the prohibition, also insofar as such ground is not covered by the prohibition, shall be taken into consideration in calculating the compensation. Changes made or planned after the notification in the State Gazette, as referred to in Article 38, shall not be taken into account.

3. Mortgagees do not receive any separate compensation. They have right of recovery from the compensation payable to the persons entitled to the right on which the mortgage was granted, even if the mortgage debt is not due. If the mortgage debt is conditional or of an indefinite amount, the mortgagee can require that the compensation up to an amount not exceeding the value stated in the deed be provisionally recorded in one of the Registers of the National Debt. The compensation must not be paid and a judicial order for payment must not be put into execution, on pain of nullity, until fourteen days after the mortgagees have been notified of the intention to effect payment or to proceed to execution.

Article 51.

1. Within thirty days after the coming into operation of a prohibition, the proprietor of the aerodrome shall make an offer of a certain compensation to the persons entitled to compensation; this shall be done by registered letter. By a similar letter the mortgagees shall be notified of the offer made to the persons entitled to the right on which the mortgage was granted.

2. If the proprietor of the aerodrome, the persons entitled to compensation and the mortgagees fail to reach agreement within six months after the coming into operation of the prohibition, the persons entitled to compensation and the mortgagees can bring an action at law for assessment of the loss or damage.

3. If this action is not brought within a year after the coming into operation of the prohibition, then the offers are binding.

Article 52.

1. Persons entitled to compensation and mortgagees can bring an action at law for assessment of the loss or damage if they have not received an offer or notification within thirty days in accordance with the first paragraph of the preceding article.

2. The action must be brought within a year after the expiration of the period stated in the first paragraph.

Article 53.

1. The action for assessment of the loss or damage shall be brought before the District Court within whose jurisdiction the ground is wholly or mainly situated.

2. In the case of mortgaged rights the summons must also be served on the mortgagees, on pain of nullity; if it originates from mortgagees, it must be served on the persons entitled to the rights on which the mortgages were granted and on the remaining mortgagees.

Article 54.

1. After consultation with the parties this District Court can appoint one or three experts in the case. Articles 27 (second paragraph), 28, 29 (first and second paragraphs), 30-33, 34 (first, second, third, fourth and sixth paragraphs) and 35-37 of the Compulsory Purchase Act shall be similarly applied, on the understanding that wherever they occur in these articles the words "third parties interested" shall be replaced by the words "interested parties."

2. Otherwise the provisions of the Code of Civil Procedure are applicable to the case.

3. The judgment is final.

4. An appeal to the Court of Appeal must be lodged within fourteen days after the judgment. It shall be lodged by filing a declaration with the Clerk of the District Court which passed the judgment.

5. Article 53 of the Compulsory Purchase Act is applicable.

Article 55.

1. If a prohibition as referred to in Article 38 is wholly or partly annulled, the proprietor of the aerodrome can claim from

(a) the owners of the land,

(b) the holders of a right in rem over the land,

(c) the holders of a right in rem over a right to the land,

on which the prohibition was imposed, the increase in the value of these premises for these persons in consequence of the said annulment up to—in the case of complete annulment—an amount not exceeding the amount that was granted as compensation when the prohibition was imposed.

2. The claim must be brought within a year after the coming into operation of the annulment.

3. Articles 50 (second paragraph), 53 (first paragraph) and 54 are similarly applicable.

*Part 4—Military works**Article 56.*

1. When the construction, maintenance or use of a work for the defence of the realm on an aerodrome designated exclusively or jointly for civil air traffic would contravene a provision of this Act or of any order made thereunder, we can grant exemption from this provision on the recommendation of Our Minister of War or Our Minister of the Navy.

2. A recommendation as referred to in the first paragraph shall not be made except in agreement with Our Minister of Transport and *Waterstaat*.

CHAPTER V—MILITARY REQUISITIONS

Article 57.

In case of war, danger of war, state of war or stage of siege, or in case it is declared by Us that exceptional circumstances make this necessary for the maintenance of external or internal security, the provisions of this Act and of any orders made thereunder do not apply with respect to military aircraft and the members of their crew, nor with respect to military aerodromes, except insofar as this is directed by Us by Order in Council.

Article 58.

1. Without prejudice to the powers conferred by other Acts, in the cases stated in Article 57 We can authorize Our Minister of War and Our Minister of the Navy to requisition for the armed forces—in agreement with Our Minister of Transport and *Waterstaat*—aircraft and aerodromes with buildings and installations belonging thereto as well as the movables located in those buildings and installations.

2. During the time that aerodromes and aircraft are placed at the disposal of the armed forces in accordance with the first paragraph, these shall be regarded as military aerodromes and military aircraft.

Article 59.

Without prejudice to the powers conferred by other Acts, in the cases stated in Article 57 Our Minister of War and Our Minister of the Navy have power

(a) to give directions to persons having rights over aerodromes concerning the control and the use of those aerodromes,

(b) to give directions to persons having rights over movables and immovables which are located on aerodromes, with regard to the control and the use thereof,

(c) to have works carried out on aerodromes,

(d) to have repairs made to the movables and immovables located on aerodromes,

(e) to have aerodromes and the buildings and installations belonging thereto, as well as factories, workshops and appurtenances which are serviceable to aviation, entered at all times,

all in agreement with Our Minister of Transport and *Waterstaat*.

Article 60.

The measures taken pursuant to Articles 58 and 59 give a right to compensation in accordance with rules to be laid down by Order in Council.

Article 61.

1. In the cases stated in Article 57 We can authorize Our Minister of War and Our Minister of the Navy to give orders—in agreement with Our Minister of Transport and *Waterstaat*—to persons who are in possession of a license issued pursuant to this Act, as well as to persons belonging to categories of personnel to be designated by Order in Council, such personnel being employed in behalf of air navigation.

2. Rules shall be laid down by Order in Council concerning the nature and the duration of the orders as well as the manner in which and the conditions on which they can be given, and also concerning compensation in respect of the orders issued. The legal status of persons who have received an order shall be regulated by Order in Council to conform as much as possible with that of the Civil Defence worker.

CHAPTER VI—PENALTIES

Article 62

1. Any person who contravenes one of the Articles 8, 14 (first paragraph, c), 16, 17 (first paragraph), 31, 32, 33, 34, 36, 37, 38 (fifth paragraph) or 74 shall be liable to detention for a period not exceeding one year or a fine of not more than three thousand guilders.

2. The pilot-in-command who contravenes one of the Articles 4, 13, 14 (first paragraph, a and b) or 17 (second paragraph) shall be liable to the same penalty.

3. In the case of contravention of a regulation made by or in virtue of an Order in Council under this Act, the main penalty prescribed by that Order in Council shall not be other than or higher than either detention for a period not exceeding four months or a fine of not more than a thousand guilders, or a fine not exceeding a thousand guilders.

4. The owner or operator of an aircraft who has air navigation performed or lets it be performed in contravention of one of the Articles 4, 8 or 16 shall be liable to detention for a period not exceeding one year or a fine of not more than three thousand guilders.

Article 63.

Contravention of one of the Articles 15 or 65 shall be punishable with imprisonment for a period not exceeding three months or a fine of not more than three hundred guilders.

Article 64.

1. On conviction for an offence against

(a) one of the Articles 4, 8, 13 and 17,

(b) a regulation of an Order in Council issued under this Act, in the cases in which this is stipulated in that Order in Council, the offender can be disqualified from operating an aircraft for a period not exceeding three years.

2. On application of the provisions of the first paragraph, a licence or certificate of validation shall cease to be valid for the duration of the disqualification as soon as the judgment of the court has become enforceable so far as this extra penalty is concerned. The appropriate official of the Public Prosecutor's Office shall immediately report this to Our Minister, who shall give notice thereof in the State Gazette.

Article 65.

Any person who knows or can reasonably be expected to know that he has been disqualified from operating an aircraft by court judgment, is forbidden to operate an aircraft during the period of his disqualification.

Article 66.

1. Any person who wilfully fails to comply with a requisition made under the terms of Article 58 shall be liable to imprisonment for a period not exceeding three years.

2. Any person who wilfully contravenes a direction given pursuant to Article 59 shall be liable to imprisonment for a period not exceeding two years.

3. Any person who wilfully fails to carry out an order given pursuant to Article 61 shall be liable to imprisonment for a period not exceeding two years.

Article 67.

1. Any person who fails to comply with a requisition made under the terms of Article 58 shall be liable to detention for a period not exceeding one year.

2. Any person who contravenes a direction given pursuant to Article 59 shall be liable to detention for a period not exceeding six months.

3. Any person who fails to carry out an order given pursuant to Article 61 shall be liable to detention for a period not exceeding six months.

Article 68.

Any person who performs an act with intent to obstruct the exercise of the powers stated in Articles 58, 59 and 61 shall be liable to imprisonment for a period not exceeding two years.

Article 69.

If an act made punishable in Articles 62, 63, 66-68, or in a regulation made by or in virtue of an Order in Council under this Act, is committed by or on behalf of a body corporate, the criminal proceedings can also be instituted against and a penalty also imposed on the person who gave orders for the act or who was in fact responsible for the forbidden action or omission.

Article 70.

The acts made punishable by Articles 63, 66 and 68 are crimes. The acts made punishable by Articles 62 and 67 are offences.

Article 71.

In addition to the persons designated by Article 141 of the Code of Criminal Procedure, the following persons are charged with the detection of acts made punishable by or in virtue of this Act:

- a. all other officers of the State Police and Municipal Police;
- b. the officers of Customs and Excise;
- c. the persons to be designated by Our Minister.

Article 72.

Our Minister can designate officials who are authorized in virtue of a special order in writing from Our Minister, assisted if necessary by

officers of the State Police or Municipal Police and at the expense of the offenders, to remove, to have removed, to prevent, to have prevented, to perform, to have performed, to restore or to have restored to the former state, anything that is or has been made or put up, undertaken or omitted, in contravention of this Act or regulations made in virtue of that Act. In the meantime such action shall not be taken until after the person concerned has been warned in writing and, if he so wishes, allowed to inspect the order.

Article 73.

1. Our Minister of Transport and *Waterstaet* can

(a) designate officials who are authorized to enter aerodromes designated for civil air traffic and the aircraft, buildings and installations located thereon, as well as factories, workshops and appurtenances thereof which may reasonably be supposed to be intended for the manufacture, maintenance or repair of aircraft or parts thereof, in order to satisfy themselves that the relevant statutory provisions are being complied with;

(b) designate persons who are authorized to forbid and to prevent the taking off of aircraft.

2. The power referred to in the first paragraph under (a) can likewise be exercised with respect to military aerodromes which may also be used by civil aircraft under the terms of their designation or an exemption granted in this connection and with respect to sections of military factories, workshops and appurtenances where civil aircraft are located, provided that everything is done in conformity with the directives issued by the military authorities.

3. If the buildings and installations, factories, workshops and appurtenances thereof referred to in the first paragraph under (a) are also dwellings or are only accessible through a dwelling, the officials referred to in the first paragraph under (a) shall not enter them against the will of the occupant except on presentation of a special order in writing from the mayor or magistrate. A procès-verbal of this entry shall be drawn up and a copy of it shall be delivered within forty-eight hours to the person whose dwelling has been entered.

Article 74.

1. The officials referred to in the first paragraph under (a) of Article 73 are pledged to secrecy concerning the knowledge that they have obtained of the activities performed in places which they enter pursuant to the provisions of that article, insofar as such secrecy is not contrary to regulations made in virtue of this Act or contrary to another Act.

2. Any person who wilfully infringes the secrecy imposed by the preceding paragraph shall be liable to imprisonment for a period not exceeding six months or a fine of not more than six hundred guilders, with or without disqualification from holding public office.

3. The person who is to blame for infringement of that secrecy shall be liable to detention for a period not exceeding three months or a fine of not more than three hundred guilders.

4. The acts made punishable by the second and third paragraphs shall be regarded as crimes. No prosecution shall take place except on a complaint lodged by the head or the manager of the business or the undertaking with respect to which the secrecy has been infringed.

Article 75.

On demand of the persons referred to in Article 71 the pilot-in-command and the other members of the crew of an aircraft are bound to hand over properly for inspection the documents required by or in virtue of this Act.

CHAPTER VII—FINAL PROVISIONS

Article 76.

1. Further regulations can be made by or in virtue of an Order in Council

(a) for the implementation of the provisions of the preceding chapters;

(b) for the promotion of the safety and the regularity of air navigation;

(c) concerning the construction, the equipment and the use of aerodromes;

(d) for the safeguarding of military interests;

* (e) concerning the customs procedures with respect to persons and goods, including foreign currency and other property, which enter or leave the Netherlands by means of aircraft, including measures to ensure the payment of taxes due on the import and export of goods;

(f) concerning the use of helicopters, rockets, parachutes and model aircraft;

(g) concerning the training of aeroplane pilots;

(h) concerning the flying of kites;

(i) concerning the catapulting of aeroplanes;

(j) concerning the carriage of animals in aircraft.

2. In addition, the charges for the following can be regulated by or in virtue of an Order in Council:

(a) the use of State-owned aerodromes;

(b) activities performed by the State;

(c) services supplied by the State.

** Article 77.*

1. An offence against a regulation made by or in virtue of an Order in Council pursuant to the first paragraph (e) of Article 76 shall be prosecuted on behalf of Our Minister of Finance before the District Court in the manner referred to in the sixth title of the fourth book of the Code of Criminal Procedure. So long as the accused has not been summoned by or on behalf of Our Minister aforesaid, he can be allowed to effect settlement.

2. Aircraft with which, and goods in respect of which, a regulation as referred to in the first paragraph (e) of Article 76 has been contravened, can be seized for recovery of the penalty by the officials referred to in Article 71 or designated in accordance with Article 71 under c, and can be sold by execution. The things seized shall be handed over to a Collector of Customs or Excise.

Article 78.

Article 4 of the Code of Criminal Procedure shall be amended as follows:

a. the words "or aircraft" shall be inserted each time after the word "vessel";

*Paragraph (e) of Article 76 and the entire Article 77. Were abrogated by Law of Aug. 2, 1962 (*Staatsblad* 1962, p. 324).

b. the words "shipping business" shall be replaced by the word "business."

Article 79.

In Articles 22 (eighth paragraph), 24 (second paragraph), 27 (first paragraph), 37 (first and third paragraphs) and 44 of the Air Accident Act (Statute Book 1936, 522) the words "certificate of competency" shall be replaced each time by the word "licence."

Article 80.

1. The Act of July 30, 1926, Statute Book 249 (Aviation Act), shall be repealed.

2. The certificates of registration, certificates of airworthiness, licences and certificates of validation issued under the terms of that Act, insofar as they have not ceased to be valid in virtue of the provisions of that Act, shall remain valid until further arrangements in that respect have been made by Order in Council.

3. The designation of aerodromes shall remain in force with the old legal consequences for three years after the coming into operation of this Act, unless Our Minister revokes the designation at an earlier date. If the revocation is accompanied by simultaneous designation pursuant to this Act, Our Minister can refrain from applying all or part of Articles 20-23 insofar as the new designation relates to land which had already been designated.

4. The preceding paragraph shall be similarly applied to decisions taken concerning obstructive works and actions, pursuant to the Act referred to in the first paragraph.

Article 81.

This Act shall come into operation on a date to be determined by Us;

We can reserve the right to fix another date on which Article 56 shall come into operation.

Article 82.

This Act may be cited as the Aviation Act.

NEW ZEALAND

PRELIMINARY

The basic air law of New Zealand is the Civil Aviation Act, 1948, No. 12, as amended by the Civil Aviation Amendment Acts, 1955, 1961, No. 77, and 1963, No. 79, by the Shipping and Seamen Act, 1952, and by the Samoa Amendment Act, 1957. Section 7 of the Civil Aviation Act, 1948, was repealed by Section 515(1) of the Shipping and Seamen Act, 1952, and Section 12(4) was repealed by Section 45(1) of the Samoa Amendment Act, 1957.

Administrative matters are regulated by the New Zealand National Airways Act, 1945, No. 12, as amended, which is not reproduced here. The principal Act is found in New Zealand Statutes, 1945, p. 191. The amendments to this Act are as follows: National Airways Amendment Act, 1948, No. 73 (N.Z. Stat. 1948, p. 908); National Airways Amendment Act, 1956, No. 26 (N.Z. Stat. 1956, p. 163), the National Airways Amendment Act, 1957, No. 97 (N.Z. Stat. 1957, p. 942), and the Air Services Licensing Act, 1951, No. 25 (N.Z. Stat. Reprint 1908-1957, vol. 1, p. 177). The National Airways Amendment Act, 1948, No. 73, has been largely repealed or amended by the Air Services Licensing Act, 1951, No. 25. Thus, Sections 2(2), 3 to 12, 15 to 21, and 23, 25, and 26 were repealed by Section 54(1) of the Air Services Licensing Act. Sections 13(2) and 13(3) were amended by that Act. Other sections were repealed or amended by the National Airways Amendment Acts of 1956 and 1957 (Sections 24 (1956 Act), 2, 15(1), (2), 17, 24, 27(1) (1957 Act)).

The Civil Aviation Act, 1948, No. 12, as amended, is found in New Zealand Statutes Reprint, 1908-1957, vol. 2, p. 107.

THE CIVIL AVIATION ACT OF 1948 AS AMENDED 1955,
No. 12*

(Reprint of the statutes of New Zealand 1908-1957,
vol. 2, p. 107)

ANALYSIS

Title

1. Short title
2. Interpretation
3. Power to give effect to Convention and regulate civil aviation
 - 3A. Minister may establish, maintain, and operate air-dromes and facilities in connection with civil aviation
4. Special powers in case of emergency
5. Nuisance, trespass and responsibility for damage
6. Penalty for dangerous operation of aircraft
7. *Repealed*
8. Power to provide for investigation of accidents
9. General provision as to Orders in Council, etc.
10. Special provisions as to Crown
11. Appointment of Director of Civil Aviation
12. Application of Act to Cook Islands, Western Samoa, and other territories
13. Repeals and savings

*For amendments of section 3 see *infra*, Act No. 77 of Dec. 1, 1961, and Act No. 79 of Oct. 23, 1963.

An Act to provide for the regulation of civil aviation and to give effect to a Convention on International Civil Aviation signed on behalf of the Government of New Zealand at Chicago on the seventh day of December, nineteen hundred and forty-four. Title.

[26th August, 1948]

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

1. This Act may be cited as the Civil Aviation Act, 1948

2. In this Act, unless the context otherwise requires,— Interpretation.

“Aerodrome” means any defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, movement, and servicing of aircraft; and includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration;

“Aircraft” means any machine that can derive support in the atmosphere from the reactions of the air;¹

“Air navigation” means the operation of guiding an aircraft from one place to another, and includes the operation of fixing the position of an aircraft when required;

“Air traffic” includes the movement of aircraft on an aerodrome;

“Convention” means the Convention on International Civil Aviation signed on behalf of the Government of New Zealand in Chicago on the seventh day of December, nineteen hundred and forty-four, and includes the international standards and recommended practices and procedures adopted by the International Civil Aviation Organization, in pursuance of Article 37 of the Convention;

“Minister” means the Minister in Charge of Civil Aviation;²

“New Zealand” includes the Cook Islands, Western Samoa, the Tokelau Islands, and any other territory subject to the protection, trusteeship, or authority of the Government of New Zealand.

¹ Definitions of “aerodrome” and “aircraft” were substituted for the original definitions by section 2(1) of the Civil Aviation Amendment Act 1955, No. 40 (October 20, 1955).

² Definition of “Minister” was inserted by section 2(2) of the Civil Aviation Amendment Act 1955.

Power to give
effect to
Convention
and regulate
civil aviation.

3. (1) The Governor-General may from time to time, by Order in Council, make such regulations as appear to him to be necessary or expedient.

(a) For carrying out the Convention, any Annex thereto relating to international standards and recommended practices and procedures (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or

(b) Generally for regulating civil aviation.

(2) Without limiting the general powers hereinbefore conferred, it is hereby declared that regulations may be made under this section making provisions—

(a) For the licensing, inspection, and regulation of aerodromes, for access to, or for prohibiting or controlling access to, aerodromes and places where aircraft have landed, for access to factories for the purpose of inspecting work therein carried on in relation to aircraft, or parts thereof, or aviation equipment, and for prohibiting or regulating the use of unlicensed aerodromes;

(b) For minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air traffic or air navigation, and for prohibiting or regulating the use of any such apparatus;

(c) Regulating the display of signs and lights likely to endanger aircraft;

(d) Generally for securing the safety, efficiency, and regularity of air traffic and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property, and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;

(e) Regulating the use of the civil air ensign and any other ensign authorized for purposes connected with civil aviation;

(f) Prescribing and regulating the charges, fees, or dues to be paid in respect of the use of aerodromes licensed or authorized under the regulations or in respect of the use of any facilities provided or services rendered at those aerodromes or in respect of the use of any facilities established or maintained for the purpose of providing for the safety and efficient operation of aircraft engaged in civil aviation;³

(g) Prescribing the fees to be paid in respect of the issue, validation, renewal, extension, or variation of any certificate, license, or other document or the undergoing of any examination or test required by

³ In subsection (2), par. (f) was substituted for the original par. (f) by section 3 of the Civil Aviation Act 1955 as of April 1, 1955.

the regulations and in respect of any other matters in respect of which it appears to the Governor-General in Council to be expedient for the purposes of the regulations to charge fees;

(h) For obtaining such information as may be required for the purposes of the regulations, and for the forms of applications, certificates, and other documents required under the regulations;

(i) Exempting from the provisions of the regulations or any of them any aircraft or persons or classes of aircraft or persons.

(3) Any regulations made under this section may provide for the imposition of penalties not exceeding a fine of two hundred pounds or imprisonment for a term of six months.

3A. (1) Subject to the provisions of subsection two of section 2 of the Ministry of Works Act 1943, the Minister may for the purposes of civil aviation establish, maintain, and operate aerodromes and services and facilities in connection with the operation of any aerodrome or with the operation of aircraft engaged in civil aviation.

Minister may establish, maintain, and operate aerodromes and facilities in connection with civil aviation.

(2) Without limiting the general powers hereinbefore conferred, it is hereby declared that the Minister may establish, maintain, and operate radio navigational aids, beacons, and lighting systems, air traffic control services, aeronautical communication services, buildings and accommodation, and such other services and facilities as the Minister thinks necessary for the purpose of providing for the safety and efficient operation of aircraft engaged in civil aviation.

(3) All works undertaken under the authority of this section are hereby declared to be public works within the meaning of the Public Works Act 1928.

(4) The powers conferred by this section are in addition to and not in derogation of any powers conferred by any other enactment and nothing in this section shall be construed to limit or affect the powers conferred on any person or authority by any other enactment.⁴

4. (1) In time of war, whether actual or imminent, or of national emergency, the Governor-General may, by Proclamation, regulate or prohibit, either absolutely or subject to such conditions as may be contained in the Proclamation, and notwithstanding the provisions of this Act or of any regulations made thereunder, the flight of all or any descriptions of aircraft over New Zealand or any portion thereof; and without limiting the generality of this provision, any such Proclamation may provide for taking possession of and using for the purposes of Her Majesty's Naval, Military, or Air Forces any aerodrome or any aircraft, machinery, plant, material, or

Special powers in case of emergency.

⁴ This section was inserted by section 4. Civil Aviation Amendment Act 1955. Section 3C. was inserted by the Civil Aviation Amendment Act. 1961. see *infra*.

things found therein or thereon, or any aviation equipment elsewhere, and for regulating or prohibiting the use, erection, building, maintenance, or establishment of any aerodrome, flying school, or any class or description thereof.

(2) Any such Proclamation may provide for the imposition of penalties to secure compliance with the Proclamation, not exceeding those which may be imposed pursuant to subsection three of the last preceding section, and may authorize such steps to be taken in order to secure such compliance as appears to the Governor-General to be necessary.

(3) Any person who suffers direct injury or loss owing to the operation of a Proclamation under this section shall be entitled to receive compensation therefor, the amount of the compensation to be fixed by agreement with the Minister with the concurrence of the Minister of Finance, or in default of agreement to be fixed by the Land Valuation Court:⁵

Provided that no compensation shall be payable by reason of the operation of a general Proclamation under this section prohibiting flying in New Zealand or any part thereof.

(4) A Proclamation under this section may be revoked or varied by a subsequent Proclamation.

5. (1) Any regulations made under section three of this Act may provide for regulating the conditions under which noise and vibration may be caused by aircraft or aircraft engines on aerodromes and may provide that subsection two of this section shall apply to any aerodrome in respect of which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft or aircraft engines on an aerodrome to which this subsection applies by virtue of any regulations made under section three of this Act so long as the provisions of the regulations are duly complied with.

(3) 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 such flight, so long as the provisions of this Act and of any regulations or Proclamations made thereunder are duly complied with; but where material damage or loss is caused by an aircraft in flight, taking off, landing or alighting, or by any person in any such aircraft, or by any article or person falling from any such

Nuisance,
trespass, and
responsibility
for damage.

⁵ In subsection (3) the word "Minister" replaced "Minister of Defense" (Civ. Av. Am. Act 1955, section 3(3)), and the words "Land Valuation Court" replaced "a Compensation Court under Part III of the Public Works Act 1928" (Land Val. Court Act 1948, section 28(2)).

aircraft, to any person or property on land or water, damages shall be recoverable from the owner of the aircraft in respect of the damage or loss, without proof of negligence or intention or other cause of action, as if the damage or loss had been caused by his fault, except where the damage or loss was caused by or contributed to by the fault of the person by whom the same was suffered:

Provided that where material damage is caused as aforesaid in circumstances in which—

(a) Damages are recoverable from the owner in respect of the said damage or loss by virtue only of the preceding provisions of this subsection; and

(b) A legal liability is created in some person other than the owner to pay damages in respect of the said damage or loss,—

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said damage or loss.

(4) Where any aircraft has been demised, let, or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator, or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let, or hired out.

(5) For the purposes of this section the term "fault" means negligence, breach of statutory duty, or other act or omission which gives rise to a liability in tort or would, apart from the Contributory Negligence Act, 1947, give rise to the defence of contributory negligence.

6. (1) Where an aircraft is operated in such a manner as to be the cause of unnecessary danger to any person or property, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the Court that the aircraft was so operated without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding twelve months, or to both such imprisonment and such fine.⁶

Penalty for dangerous operation of aircraft.

(2) For the purposes of this section the expression "owner" in relation to an aircraft includes any person to whom the aircraft is demised, let, or hired out at the time of the offence.

(3) The provisions of this section shall be in addition to and not in derogation of any general safety or other regulations under this Act.

⁶ In subsection (1) the words "five hundred pounds" replaced "two hundred pounds" and "twelve months" replaced "six months" (Civ. Av. Am. Act 1955, section 5).

Wreck and
salvage.

Power to
provide for
investigation
of accidents.

7. Repealed by section 515(1) of the Shipping and Seamen Act of 1952.⁷

8. (1) The Governor-General may, from time to time, by Order in Council, make regulations providing for the investigation of any accident or any unusual or dangerous incident arising out of or in connection with air traffic or air investigation.

(2) Without limiting the generality of the foregoing provisions, regulations under this section may contain provisions—

(a) Requiring notice to be given of any such accident or incident as aforesaid in such manner and by such persons as may be specified in the regulations;

(b) Requiring a report to be made, in such manner and by such persons as may be specified in the regulations, of any mechanical or structural defect discovered during the operation of any aircraft;

(c) Prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorizing any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft;

(d) Conferring on any person holding an investigation under the regulations the rights and powers of a Commission appointed under the Commissions of Inquiry Act, 1908, and applying all or any of the provisions of that Act accordingly;

(e) Authorizing or requiring the cancellation, revocation, suspension, endorsement, or surrender of any licence or certificate granted under this Act or under any Proclamation, Order in Council, or regulations made thereunder, where it appears on an investigation that the licence or certificate ought to be cancelled, revoked, suspended, endorsed, or surrendered, and for the production of any such licence or certificate for the purpose of being so dealt with.

(3) If any person contravenes or fails to comply with any regulations under this section he shall be liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months.

9. (1) Any Proclamation, Order in Council, or regulations under this Act may apply generally throughout New Zealand, or within any specified part or parts thereof, and may apply to all aircraft or to any specified class or classes of aircraft.

General provision as to
Orders in
Council, &c.

⁷ As to wreck and salvage of aircraft: Part IX, Shipping and Seamen Act 1952. Assistance to aircraft: *ibid.* section 510. Removal of wreck, see also Harbours Act 1950, section 208.

(2) In so far as the by-laws of any local authority in force in any locality are inconsistent with or repugnant to the provisions of any Proclamation, Order in Council, or regulations under this Act in force in the same locality, the by-laws shall, in so far as they relate to aircraft and air traffic be deemed to be subject to the Proclamation, Order in Council, or regulations, notwithstanding that any such by-laws may have been made under some other Act.

(3) All Proclamations, Orders in Council, and regulations made under this Act shall be laid before the House of Representatives within twenty-eight days after the making thereof if Parliament is then in session, and, if not, then within twenty-eight days after the commencement of the next ensuing session.⁸

10. (1) This Act shall bind the Crown:

Special provisions as to Crown.

Provided that, except as provided by any other Act, nothing in this Act or in any Proclamation, Order in Council or regulations made under this Act shall apply to aircraft used for the purposes of any of Her Majesty's Naval, Military, or Air Forces.

(2) Nothing in this Act, or in any Proclamation, Order in Council, or regulations made under this Act shall prejudice or affect the rights, powers, or privileges of the Minister of Marine in respect of lighthouses.

11. (1) For the purposes of this Act there shall be an officer of the Air Department established under the Air Department Act, 1937, to be called the Director of Civil Aviation, who shall have such special duties and functions as may be conferred on him by regulations under this Act. The officer who, on the passing of this Act, holds office as the Director of Civil Aviation shall, without further appointment, be deemed to have been duly appointed as Director of Civil Aviation under this section.

Appointment of Director of Civil Aviation. 1937, No. 7.

(2) Section four of the Air Department Act, 1937, is hereby consequentially amended by repealing subsection two thereof.

12. (1) Except as otherwise provided by this section, this Act shall extend to and be in force in the Cook Islands, Western Samoa, the Tokelau Islands, and any other territory subject to the protection, trusteeship, or authority of the Government of New Zealand.

Application of Act to Cook Islands, Western Samoa, and other territories.

(2) The following provisions of this Act shall have no application in any of the said territories:—

- (a) Section seven;
- (b) Subsections two and three of section nine;
- (c) Subsection two of section ten.

(3) The amount of compensation payable to any person resident in any of the said territories under sub-

⁸In subsection (3) the words "House of Representatives" replaced "both Houses of Parliament" (Legislative Council Abolition Act 1950, section 2(4)).

Repeals and
savings.

section three of section four hereof shall be fixed by agreement with the Minister of Island Territories or, in default of agreement, by arbitration in accordance with the Arbitration Act, 1908.

13. (1) The Air Navigation Act, 1931, and section four of the Statutes Amendment Act, 1939, are hereby repealed.

(2) The Samoa Aviation Regulations 1938 are hereby revoked.

(3) All Proclamations, Orders in Council, regulations, warrants, offices, appointments, registers, books, records, licences, certificates, notices, and generally all acts of authority that originated under any of the said enactments and are subsisting or in force on the passing of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated.

(4) All matters and proceedings commenced under any of the enactments hereby repealed and pending or in progress on the passing of this Act may be continued and completed under this Act.

(5) All references in any unrepealed enactment to the Air Navigation Act, 1931, shall, unless the context otherwise requires, be hereafter read as references to this Act.

ANALYSIS

Title	2. Removing limitation as to borrowing
1. Short Title	by Corporation from Minister of Finance

1956, No. 26

An Act to amend the New Zealand National Airways Act 1945
[25 October 1956]

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

1. Short Title—This Act may be cited as the New Zealand National Airways Amendment Act 1956, and shall be read together with and deemed part of the New Zealand National Airways Act 1945 (hereinafter referred to as the principal Act).

2. Removing limitation as to borrowing by Corporation from Minister of Finance—Section twenty-four of the principal Act is hereby amended by omitting from subsection one the words “not exceeding five hundred thousand pounds”.

ANALYSIS

- Title
1. Short Title
2. Interpretation

3. Loans and advances by Corporation
4. Liability of Corporation as carrier
5. Borrowing powers
6. Reserves

1957, No.

**An Act to amend the New Zealand National Airways Act
1945** [24 October 1957]

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

1. Short Title—This Act may be cited as the New Zealand National Airways Amendment Act 1957, and shall be read together with and deemed part of the New Zealand National Airways Act 1945 (hereinafter referred to as the principal Act).

2. Interpretation—Section two of the principal Act is hereby amended by repealing the definition of the term “Minister”, and substituting the following definition:

“‘Minister’ means the Minister in Charge of Civil Aviation”.

3. Loans and advances by Corporation—(1) Subsection one of section fifteen of the principal Act is hereby amended by adding the following paragraph:

“(c) With the prior approval of the Minister, make loans or advances or give guarantees in respect of loans or advances to any person for or in connection with the establishment, maintenance, or operation within New Zealand of an air service or any service ancillary to an air service.”

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

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

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

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

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

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

“(a) Advance money to the Corporation; and

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

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

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

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

ANALYSIS

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

1960, No. 45

An Act to amend the Civil Aviation Act 1948*[21 October 1960]*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ANALYSIS

Title

| 1. Short Title
| 2. Duration of licences

1960, No. 51

An Act to amend the Air Services Licensing Act 1951

[25 October 1960]

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

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

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

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

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

1961, No. 77

AN ACT TO AMEND THE CIVIL AVIATION ACT 1948¹

1 December 1961

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

1. *Short Title*.—This Act may be cited as the Civil Aviation Amendment Act 1961, and shall be read together with and deemed part of the Civil Aviation Act 1948 (hereinafter referred to as the principal Act).

2. *Inquiries for purposes of civil aviation administration*.—The principal Act is hereby amended by inserting, after section 3B (as inserted by section 4 of the Civil Aviation Amendment Act 1960), the following section:

“3C. (1) The Minister may from time to time make, or appoint any other persons or persons to make, such inquiries as he thinks necessary or expedient for the purpose of securing the improvement, development, and better regulation and administration of civil aviation and all matters incidental thereto.

“(2) For the purposes of this section the provisions of the Commissions of Inquiry Act 1908 shall, as far as they are applicable and with the necessary modifications, apply as if the Minister and every person appointed by him under this section were a Commission of Inquiry appointed under that Act.

“(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1912 or of the Superannuation Act 1956 by reason of his having been appointed to make inquiries under subsection (1) of this section.”

1963, No. 79

AN ACT TO AMEND THE CIVIL AVIATION ACT 1948

[23 October 1963]

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

1. *Short Title*.—This Act may be cited as the Civil Aviation Amendment Act 1963, and shall be read together with and deemed part of the Civil Aviation Act 1948 (hereinafter referred to as the principal Act).

2. *Power to make regulations*.—(1) Subsection (2) of section 3 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) For the licensing of persons performing prescribed functions in relation to the operation, maintenance, or airworthiness of aircraft, requiring that any such persons be the holders of licences, certificates, or ratings of prescribed kinds, and providing for the grant, renewal, cancellation, suspension, or variation of any such licences, certificates, or ratings by a prescribed Authority or officer and for the endorsement thereof, and for appeals against decisions of any such Authority or officer:”.

¹ New Zealand Statutes, vol. 3, 1961.

(2) Subsection (2) of section 3 of the principal Act is hereby further amended by inserting, after paragraph (e), the following paragraph:

(ee) For the registration, marking, classification, certification, and airworthiness of aircraft and aircraft components:".

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

OTHER LEGISLATION IN FORCE

On November 17, 1964, the Civil Aviation Act, 1964, No. 68, was passed, an Act to constitute the Department of Civil Aviation and to consolidate and amend the law relating to civil aviation.

NICARAGUA

CIVIL AVIATION CODE ¹

DECREE 176. CIVIL AVIATION CODE

TITLE I

CHAPTER I. GENERAL PROVISIONS

Article 1. The airspace over the territory of the Republic of Nicaragua is subject to national sovereignty. For the purposes of this Code, the territory comprises all land and water under the sovereignty or jurisdiction of the Republic.

Article 2. Any civil (private) aircraft on national territory or in flight over it, as well as its crew, passengers, and transported effects, shall be subject to the jurisdiction and competence of the authorities for purposes of inspection, supervision and control of civil air navigation.

Article 3. The following shall be governed by national law:

a) Documents executed and acts occurring on board Nicaraguan aircraft during flight, while over Nicaraguan Territory, the high seas, or over territory which does not belong to any State;

b) Documents executed and acts occurring on board Nicaraguan aircraft in flight over the territory of foreign States, except in those cases involving the security or public order of the underlying State; and

c) Documents executed and acts occurring on board foreign aircraft in flight over Nicaraguan territory, or which are parked thereon, when such documents or acts involve the security or public order of Nicaragua, or when they produce or are intended to produce any effects on Nicaraguan territory.

Article 4. All civil or commercial documents and any acts of civil character performed on board a Nicaraguan aircraft shall be considered as performed in Nicaragua, provided national law is applicable.

CHAPTER II. AIRCRAFT

First Section—Classification of Aircraft

Article 5. National aircraft are classified as State aircraft and civil aircraft. State aircraft are intended for the service of the Public Power, such as military, police, and customs. Other aircraft are civil, even when they belong to the State.

Article 6. Civil aircraft are classified as public transportation aircraft and aircraft in private service.

¹ Published in *La Gaceta, Diario Oficial*, November 22, 1956. Legislative Decree 576 of April 5, 1961, amends Articles 66, 106, 114, 115, 214 and 220 of the Civil Aviation Code regarding administration of airports, documents to be submitted and other procedure for take-offs and landing to and from foreign countries, and liability for injuries and damage.

Article 7. Public transportation aircraft are civil aircraft used in transportation of persons, cargo, or mail, by virtue of certificates of operation or authorization granted by the Executive Power in conformity with the provisions of Chapter IX of this Code.

Aircraft used in the development of agriculture in any of its aspects are equivalent to public transportation aircraft.

Aircraft in private service are civil aircraft used in tourist traffic, aviation work, private services of corporations and private affairs of the owners, industrial activities, training and scientific application of aviation, in accordance with the provisions of Article 120 of this Code.

Second Section—Nationality and Registration

Article 8. Civil aircraft have the nationality of the State in whose register they are registered.. No aircraft may be validly registered in more than one State.

Article 9. In order to acquire, modify, or cancel a registration of a civil aircraft, formalities established in this Code and its regulations must be observed.

Article 10. Aircraft registered in another State may acquire Nicaraguan registration after cancelling the former registration.

Article 11. All civil aircraft registered in Nicaragua shall carry distinctive nationality and registration markings in the manner designated in the respective regulation.

Article 12. Registration of an aircraft shall be cancelled:

- a) When the aircraft is registered in a foreign country;
- b) When its owner no longer possesses the necessary requirements to be the owner of the aircraft;
- c) When the aircraft is completely destroyed or has been considered as lost, according to this Code; and
- d) In any other legally determined cases.

Article 13. Aircraft used in public transport services, or aviation work for remuneration, may only be registered in the name and upon application of Nicaraguan natural or corporate persons.

Tourist aircraft and others used in aviation work which are not remunerated may only be registered in the name and upon application of Nicaraguan natural or corporate persons, or foreign natural persons domiciled in Nicaragua.

Article 14. National commercial aircraft must carry the national insignia in the manner provided in the regulations.

Third Section—Airworthiness

Article 15. Any aircraft flying over Nicaraguan territory must be provided with a valid certificate of airworthiness.

Article 16. The Ministry of Aviation shall be the competent authority to make effective grants, revalidations, suspensions or cancellations of certificates of airworthiness to civil aircraft in accordance with the regulatory provisions in force.

Article 17. Certificates of airworthiness granted in foreign countries shall be recognized or validated in Nicaragua in accordance with treaties in force, or in absence thereof, with recognized international rules.

CHAPTER III. AERONAUTICAL REGISTER

Article 18. There shall be a Register of Aeronautical Property and an Administrative Aeronautical Register, which may be kept by a single agency, as provided in the Regulations.

Article 19. In the Aeronautical Property Register shall be recorded:

- a) Certified documents or acts proving ownership of an aircraft and those which alter or extinguish it;
- b) Loss of serviceability or loss of aircraft, or substantial changes made in them;
- c) Real property rights encumbering aircraft and all charter contracts consisting of a notarized instrument;
- d) Insurance policies on aircraft.

Article 20. In the margin of the records of ownership of aircraft, or rights therein, and in the space for provisional warning notices shall be entered: seizures and other attachments which are decreed, or claims which are filed in court against aircraft, or mortgages established thereon.

Article 21. There shall also be recorded in the Aeronautical Property Register in a separate section and in the manner provided for in the regulations; industrial pledge contracts established on the engines of aircraft and other repair parts.

Article 22. In the margin of the respective ownership record shall be noted the nationality and registration marks of aircraft and any changes and cancellations thereof.

Article 23. The registration of an aircraft may be cancelled:

- a) Upon written and certified application of the owner of the aircraft, provided it is not mortgaged; if it is mortgaged the consent of the mortgagee will also be necessary to effect the cancellation.
- b) By order of the competent judicial or administrative authority, duly authorized by law;
- c) By destruction or loss of the aircraft, legally proved; and
- d) By abandonment of the aircraft as declared by the competent authority.

Article 24. On all matters not expressly covered by this Code, the rules of the Civil Code shall govern insofar as concerns the effects of recordation, or lack thereof, of documents, simple or certified acts which, in conformity with this Chapter, should be recorded or entered in the Register of Aeronautical Property.

Article 25. In the Administrative Aeronautical Register shall be recorded:

- a) Certificates of operation, authorizations to operate unscheduled air transport services, and authorizations to operate private air services for remuneration, their cancellations and modifications;
- b) Certificates of airworthiness, licenses of technical aviation personnel, and the renewals, suspensions, or cancellations of the same; and
- c) All other documents of administrative importance whose recordation is required by this Code or its regulations.

Article 26. The respective regulations shall determine the structural organization and operations of the Registers referred to in this Chapter.

Article 27. The Ministry of Aviation, through the Ministry of Foreign Relations, shall communicate monthly to the countries with which Nicaragua has civil aviation treaties, cancellations of registration made in Aeronautical Property Register.

CHAPTER IV. AVIATION PERSONNEL

Article 28. The technical aviation personnel is composed of the specialized members of the flight and ground staffs attached to civil aviation services.

Article 29. The members of the technical aviation staff must hold licenses and competency certificates issued by the Ministry of Aviation.

Article 30. The crew comprises all personnel rendering service on board an aircraft.

Members of the crew are: the commander of the aircraft or pilot in command, the pilots and co-pilots, navigators, mechanics, radio-operators, and flight attendants.

Article 31. The Executive Power, in regulating this matter, shall determine:

- a) The categories of pilots;
- b) Characteristics of aeronautical licenses and competency certificates;
- c) General conditions for granting of licenses to flight and ground personnel;
- d) General requirements as to age, nationality, and conduct in order to obtain aeronautical licenses;
- e) Conditions of qualification, experience, physical fitness, expertise, and necessary examinations to obtain them;
- f) Duration, conditions for renewal, revalidation, ratification, suspension and revocation of said licenses.

Article 32. Only Nicaraguan technical aviation personnel may perform these functions for remuneration in the national aviation of Nicaragua. In the absence of such personnel, the Aviation Ministry may permit foreign pilots or other members of technical staffs to perform these functions, and in such event shall give preference to personnel from any other country on the Central American Isthmus.

In the case of the preceding paragraph, in order for the Ministry of Aviation to permit the exercise of remunerated aeronautical services to be rendered by foreign persons, it shall also be necessary that the interested parties prove that they hold licenses or competency certificates issued in Nicaragua in accordance with the law, and in the absence thereof, that those they hold were lawfully issued by a foreign country in which Nicaraguan technical aeronautical personnel, holding a license or competency certificate issued in Nicaragua, could render remunerated aviation services in that country, and also provided that in such cases the licenses or competency certificates issued to such foreign personnel fulfill the minimum requirements which the regulatory provisions in Nicaragua require for such purpose; and further that the interested persons submit to the tests or

examinations required by the laws of the country for revalidation of such licenses and certificates.

Exceptions from the above provision are made for agricultural air services and private services for remuneration, with respect to which temporary permits may be granted, as provided in Article 121.

CHAPTER V. AIR TRAFFIC

Article 33. Any pilot in command of an aircraft in flight over the national territory must have knowledge of the laws and regulations governing air navigation in the Republic, and particularly as to the location of prohibited or restricted areas.

Article 34. All national or foreign aircraft flying in from a foreign country must land at an airport duly authorized by the Ministry of Aviation, which has immigration, customs, and health services, for the clearance and inspection of the aircraft, its crew, passengers and cargo.

Article 35. All civil aircraft in flight over Nicaraguan territory must be provided with the following valid documents and certificates:

- a) Certificate of registration;
- b) Certificate of airworthiness;
- c) Licenses as may be applicable to the flight crew;
- d) Aircraft logs;
- e) If carrying radio equipment, the corresponding license for the radio transmitter on board;
- f) If carrying passengers, a list of the names and points of departure and destination; and
- g) If carrying cargo, a manifest and detailed declaration thereof.

Article 36. It is prohibited to fly over areas which the Government has declared to be prohibited to air navigation.

Article 37. For purposes of flight safety, the Ministry of Aviation may require foreign aircraft desiring to fly over inaccessible regions which lack proper facilities for air navigation, to follow fixed routes and obtain special permission to carry out such flights.

Article 38. The commander of an aircraft flying over a prohibited area in Nicaragua is under duty to land immediately upon order of the Ministry of Aviation.

Article 39. The commander of an aircraft flying over a prohibited area, as soon as he is cognizant of it, must land at the airport nearest to the prohibited area, and must justify to the airport commander, or in his absence to the nearest military commandant, the reasons for the violation.

Article 40. The commander of any foreign aircraft who, because of an emergency, must make a landing at an airdrome which is not duly authorized, or at any point on the national territory, must immediately notify the aviation authorities and, in absence thereof, any other authority at the place of landing.

Article 41. The crews and passengers of an aircraft are prohibited from taking photographs of military objectives or of prohibited areas. It is necessary to obtain permission from the Ministry of Aviation for use of any photographic equipment installed on national or foreign aircraft.

Article 42. The Ministry of Aviation must inform interested persons, by the usual means, of areas or regions over which flight of aircraft is prohibited or restricted.

Article 43. It is prohibited to perform acrobatic flying or maneuvers of a dangerous nature over cities or population centers.

Article 44. The operations on the part of military aircraft on national air routes, in traffic control zones, or on civil airdromes, are governed by the provisions of air traffic covered in this Code and its regulations.

CHAPTER VI. COMMERCIAL OPERATIONS

Article 45. Aircraft must be operated within the limitations of their certificates of airworthiness and of their flight manuals.

Article 46. Civil aircraft may not be used for any other purpose than that specified in the corresponding certificate of operation or authorization.

Likewise, aircraft of private service without remuneration may not be used for purposes other than those designated in the respective registrations.

Article 47. Air carriers are under a duty to submit their manuals of flight operations to inspection and approval of the Ministry of Aviation.

Article 48. Air carriers must keep the books related to their aircraft operations at the disposal of the Ministry of Aviation for the time prescribed in the regulations.

Article 49. All aircraft must be provided with radio receivers and transmitters approved by the Ministry of Aviation, and with the safety equipment stipulated by the regulations.

Article 50. The transportation by international airlines is prohibited of articles which are not in free trade, according to treaties or conventions in force, or to domestic law.

Article 51. Persons in a state of intoxication or under the influence of narcotics may not be transported in public transport aircraft.

Transportation of cadavers and of sick persons with contagious or mental diseases may be undertaken only with permission of the Ministry of Aviation.

Article 52. It is prohibited to transport on board civil aircraft any arms and munitions of war, explosives and inflammable materials, except with permission granted by the Ministry of Aviation and on special flights when passengers are not transported.

Article 53. It is prohibited to transport cargo in the passenger cabin of an aircraft when, in the judgment of the Ministry of Aviation, there are in such cabins no sufficient provisions made to avoid danger or injuries of any kind to the passengers.

CHAPTER VII. AUXILIARY SERVICES TO AIR NAVIGATION

Article 54. Auxiliary services to air navigation are those which guarantee its safety and regularity, such as air traffic control, aeronautical radiocommunications, meteorological information service, and systems of beacons for day and night.

Article 55. Control of the auxiliary services to air navigation is a function of the Ministry of Aviation. In the exercise of this function,

it shall adopt the measures it deems proper to the greatest safety and efficiency of the flights, for the purpose of protecting human life and property.

Likewise, when it is in the public interest, it may contract directly for the rendering of these services with technically qualified enterprises, or grant permission therefor to companies which do not perform them for profit. In either case, the service must be rendered to the benefit of air navigation generally, and under the supervision of the Ministry of Aviation.

Article 56. The Ministry of Aviation shall enact the measures it deems necessary to establish the network of national air communications and of auxiliary services to air navigation, and shall see that the owners or operators of civil aircraft obey at all times the safety requirements established by this Code and its regulations.

Article 57. The operation of the systems and equipment of air radio-communications which already exist in the country, as well as the installation and operation of any to be established in the future, shall be governed by the provisions of Article 55.

CHAPTER VIII. AIRDROMES

Article 58. All civil airdromes and airports of the country are subject to the control, inspection and supervision of the Ministry of Aviation. The international airports shall operate and be administered in conformity with the internal regulation to be issued for the purpose.

Article 59. Civil airdromes and airports are classified as national, municipal, and private, according to the legal ownership to which they are subject.

The respective regulations shall classify airdromes and shall fix the conditions and technical requirements for each category.

Article 60. All civil airdromes of the country are open to public service in accordance with the specification of each category and at rates approved by the Ministry of Aviation.

Article 61. In order to construct and operate airdromes in the country it is necessary to have the authorization of the Ministry of Aviation.

Article 62. In case of war or national emergency, the Ministry of Aviation may cancel or restrict the operation of any airdrome.

Article 63. The following may be decreed to be of public utility and subject to forced expropriation:

- a) Private airdromes and their auxiliary installations;
- b) Land necessary for the construction or enlargement of an airdrome, or for the establishment of auxiliary installations; and
- c) An vested right in an airdrome already in existence, or in land which is necessary to construct or enlarge it.

The respective declaration shall be made by the Ministry of Aviation which shall communicate its decisions to the competent authority so that the latter may institute expropriation proceedings in conformity with applicable Laws.

Article 64. Civil aircraft may not land at the military airdromes of the country, unless they obtain special permission there from the Ministry of Aviation.

In case of emergency, civil aircraft may land at military airdromes, and the crew shall notify immediately the Commandant of the airdrome and prove the emergency conditions which caused the landing.

Article 65. In order for an airport to be of international category, it must be declared to be such by the Executive Power, through the Ministry of Aviation, and must be equipped for the proper international services for this category of airports, in accordance with established international standards.

Article 66.² At the domestic civil airdromes and airports, the highest authority, insofar as concerns the internal regulation of the airdrome or airport, shall be exercised by the Administrator or Manager, who shall be appointed for this purpose by the Ministry of Aviation.

At international airports, the Administrator or Manager shall coordinate the administrative activities of the Immigration, Customs, Health and Police Authorities, which shall be subordinate to their respective Offices and shall perform independently.

Article 67. The construction of any kind of installation on civil airdromes shall in each case be submitted for approval and authorization by the Ministry of Aviation.

Article 68. Owners of civil and private airdromes are under a duty to permit gratuitous use by State aircraft.

Article 69. Constructions and installations on lands adjacent to or near the airdromes, within the zones of protection and safety, shall be subject to the restrictions stipulated in the respective regulations, or which may be enacted by the Ministry of Aviation for purposes of safety.

TITLE II

CHAPTER I. PUBLIC AIR TRANSPORT SERVICES

First Section—General Provisions

Article 70. Air services are classified as:

- a) Public transportation services; and
- b) Private air services.

Article 71. Public air transportation services are divided into:

- a) Domestic air transportation; and
- b) International air transportation.

Either class of service may be:

- 1) Scheduled: and
- 2) Non-scheduled.

Article 72. Scheduled domestic air transport service is a series of flights fulfilling the following characteristics:

a) It is undertaken on aircraft for carriage of persons, mail or cargo for profit, in such manner that the public has permanent access to it:

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

- 1) Operated on a published schedule; or
- 2) Through flights so regular or frequent as to constitute a series which may be considered systematic.

² Amended by Decree 576 of March 11, 1961 (*La Gaceta*, April 24, 1961).

Article 73. Scheduled international air service is a series of flights which fulfill all of the characteristics of the preceding article, and in addition pass through the airspace of two or more States.

Article 74. Air transport services, whether domestic or international, which do not fulfill all of the characteristics mentioned in Articles 72 and 73 respectively, shall be considered non-scheduled air services, and be subject to a special regulation established for each case by this Code.

Article 75. Only individual or corporate persons of Nicaraguan nationality, under protection of the Nicaraguan flag, shall have the right to operate air services for public transportation, whether these services are scheduled or non-scheduled, domestic or international.

Corporate persons referred to in the preceding paragraph, in order to have the right to operate the services, must in addition possess the following requirements:

a) At least 51 percent of the capital must be owned by Nicaraguans; and

b) Effective control over the enterprise and its administration must also be in the hands of Nicaraguans.

Article 76. Public air transport services between any two points on national territory is reserved to Nicaraguan aircraft.

Article 77. All scheduled domestic or international public air transport service must be operated subject to itineraries, number of flights, schedules, freight charges, and rates approved by the Ministry of Aviation. No airline may charge sums or amounts for their services other than those specified in the official rates.

Article 78. Scheduled domestic or international airlines must print, publish and maintain for public information any data requested by the Ministry of Aviation in addition to their itineraries, number of flights, schedules, and rates.

Article 79. No airline may change or abandon wholly or partially any route unless it has secured the authorization of the Ministry of Aviation, to be granted in accordance with Article 91.

Notwithstanding the provision of the preceding paragraph, the Ministry of Aviation may order or authorize temporary suspensions or changes in air transport services, if public interest so demands.

Article 80. Domestic or international airlines are under a duty to render monthly detailed reports to the Ministry of Aviation, concerning hours of flight, kilometers flown, number of passengers, and freight carried, and any other statistical data required by the respective regulations.

Article 81. In case of war, emergency, or national calamity, the State may seize the aircraft of the lines which have obtained operating certificates, and which are also under a duty to place at the disposal of the State their flight and ground crews as may be necessary to the operation.

Second Section—Operating Certificates

Article 82. In order to operate any domestic or international public air service, an operating certificate issued in the form of an "*Acuerdo*" [administrative resolution] by the Executive Power through the Ministry of Aviation is required, in accordance with this Code and its regulations. The operating certificate is a personal document and non-transferable.

The provisions of this article are not applicable to agricultural aviation, unless, in the discretion of the Ministry of Aviation, the agricultural air companies have reached such a stage of development that it is deemed appropriate to subject them to the rule of certificates of operation.

Article 83. Certificates of operation shall be deemed valid up to an initial period of ten years, computed from the date of issue, renewable for periods not exceeding the original one.

The duration of a certificate of operation shall be determined in accordance with the economic importance of the service, the amount of initial investment, and the later ones which may be made as needed for the development and improvement of the service. Extensions shall be granted in the discretion of the Executive Power, and provided the interested company proves that it has satisfactorily fulfilled all its obligations and made important improvements in the service.

Article 84. The application for a certificate of operation shall stipulate:

- a) Name and nationality of the applicant;
- b) Financial capacity of the applicant, duly proved;
- c) Type of service which it is desired to operate;
- d) Air routes to be used;
- e) Flight equipment and technical aeronautical personnel on which the operation of the service can count;
- f) Airdrome or auxiliary services to be used.

If it is corporate persons, the applicant, after proving legal establishment of the company and its legal personality, must prove that it fulfills the requirements stipulated in Article 75.

Article 85. If it is a foreign corporation which is applying for a certificate of operation, it must show, in addition to the applicable requirements of the preceding article:

- a) That it has the authorization of its Government and of the governments of countries on its air routes to operate the proposed international service;
- b) That its Government grants or is ready to grant reciprocity to Nicaraguan air lines.
- c) That it expressly subjects itself to the provisions of this Code as to the jurisdiction of Nicaraguan authorities in case of injury to passengers, cargo, or persons or property of third persons on the ground.

Article 86. The certificates of operation shall specify:

- a) The terminal points on the route, as well as intermediate points, if any, indicating those which constitute commercial stops and those which are only technical landings;
- b) The category and frequency of the service to be operated;
- c) The terms, conditions, and limitations which duly guarantee the safety of transportation on airports and air routes specified in the certificate;
- d) Express mention by the holder of the certificate that he submits to the provisions of this Code concerning liability for injury to passengers, invoiced cargo, or baggage, or to persons or property of third persons on the ground; and
- e) Conditions and limitations required by public interest.

Article 67. When the certificate of operation has been granted, the respective company may not commence operations until it proves that it can rely upon:

a) Aircraft which has been approved by the Ministry of Aviation for the service and duly authorized technical personnel;

b) The itinerary, rates and schedules approved by the Ministry of Aviation; and

c) Insurance contracts which, in accordance with this Code, will guarantee the reparation of injuries caused to passengers, or to persons or property of third persons on the ground. Or, in lieu of this insurance, that it posts the security referred to in Article 258.

Article 88. In every certificate of operation a reasonable period of time should be set for the company to commence its operations, which time shall not exceed three months from the date of issue of the certificate.

If services are not commenced within the said period, the Executive Power, through the Ministry of Aviation, may revoke the respective certificate, notice of which shall be communicated to the company concerned.

Article 89. No certificate shall confer ownership in or exclusive rights to the use of any airspace, air routes, airports, navigation facilities or services.

Article 90. Airlines are under a duty to supply, in a safe, adequate, and efficient manner, the services which the certificates of operation authorize. No air transport company may give unfair advantage or preference to any persons, entity, place, or airport, or subject these to discriminatory, unfair, or unjust practices.

Article 91. Any authorization to modify routes, or to alter landings on approved routes, as applicable, shall be subject to the same procedures and formalities which are stipulated in this Code and its regulations for the granting of certificates of operation.

Article 92. No certificates of operation shall be issued for air transport services in the following cases:

a) When the applicant fails to prove his technical and financial capacity to render the air service under consideration;

b) When, in the judgment of the Ministry of Aviation, the needs of the traffic are already completely satisfied;

c) When, in the case of Nicaraguan companies, the applicant fails to prove the legal establishment of the company, the nationality of its capital and the effective control over the enterprise, as prescribed in Article 75; and

In the case of a foreign corporation:

i) When the State of the applicant's nationality does not grant reciprocity to Nicaraguan companies;

ii) When the State of the applicant's nationality has not granted the latter the proper authority to perform the said international services; and

iii) When the authorization for the service is contrary to national interest, or to international agreements signed by the Government of Nicaragua.

Article 93. The Ministry of Aviation may, upon request of the interested party or on its own initiative, change, amend, modify or suspend

any certificate of operation, totally or partially, if the public need or convenience so requires.

In any case, the decision shall be made at a hearing with the interested parties.

Article 94. The Ministry of Aviation may cancel a certificate of operation, in whole or in part for any of the following reasons:

a) When the air service has been completely interrupted, or some important part thereof, without authorization in advance;

b) When, in spite of the provisions contained in the second paragraph of Article 82, a transfer was made of the certificate of operation, or of some of the rights granted therein;

c) In the case of Nicaraguan enterprises, when the holder of the certificate of operation changes nationality, or fails to fulfill other requirements established in Article 75, in which case cancellation is compulsory and total; and

d) For non-observance of the obligations imposed by this Code or its regulations, or by one of the clauses, conditions or limitations listed in the certificate of operation.

Article 95. No certificate of operation shall be cancelled without giving the interested parties a period of thirty days, which may be extended at the discretion of the Ministry of Aviation, within which time they must present allegations or evidence deemed proper in behalf of their own interests.

Article 96. When competitive applications are filed for the operation of public service air transport, preference shall be given to the applicant who guarantees the highest degree of safety, efficiency and continuity of service, in accordance with public needs. It is understood that there is competition between applicants when air carrier services are to be established between points on the same route, or within the same zone, and other applications are filed within five days following the first.

Third Section—Non-Scheduled (Irregular) Services

Article 97. For non-scheduled air services, authorization of the Executive is required, channelled through the Ministry of Aviation, which may issue it for a maximum period of five years, renewable for periods not to exceed the original period.

This authorization is a personal or non-transferable document: it may be cancelled by the Ministry of Aviation when the person who has obtained it fails to observe the requirements stipulated in Article 75; when he fails to perform the services in accordance with the provisions of this Code and its regulations; or when so required by public need or convenience. Before carrying into action the cancellation above referred to, the interested party shall be given a period of thirty days, which may be extended within the discretion of the Ministry of Aviation, in which time he must present the allegations and evidence he believes proper to his interests.

Article 98. The interested party upon obtaining authorization to render services of non-scheduled air carriage, shall present an application to the Ministry of Aviation which shall contain the same requirements listed in Article 84, with the exception of Section d).

Article 99. The respective authorization having been granted, the non-scheduled air line may not initiate its operation until it proves

that it has fulfilled the requirements stipulated in Sections a) and c) of Article 87.

Article 100. Independent of the authorization mentioned in Article 97, each time that a non-schedule air line wishes to undertake a flight or a series of flights between points located on national territory or between one on national territory and a point abroad, it must secure written authorization from the Ministry of Aviation.

Article 101. When a non-scheduled air line intends to undertake a flight or a series of flights between points already connected by a scheduled (regular) air line, the authorization referred to shall be granted only in case the established line is not in a position to render this service itself.

Article 102. The schedules and rates for rendering non-scheduled service shall be fixed by mutual agreement between the company and the parties concerned, if these have not been previously fixed by the Ministry of Aviation.

Fourth Section—Special Permits

Article 103. Any air carrier holding a certificate of operation for scheduled aviation services, may undertake special or express flights between points located within their own routes or outside of them, with permission in advance for each case obtained from the Ministry of Aviation.

Article 104. The Ministry of Aviation may grant authorization for the performance of recognizance flights and technical studies over unexplored routes, for the purpose of gathering data and evidence concerning the establishment of air transport services. These authorizations are granted for a maximum duration of thirty days, renewable if its need so requires.

Article 105. When, because of lack of flight equipment, duly proved, a Nicaraguan company is compelled to lease a foreign registered aircraft temporarily, the Ministry of Aviation may authorize the use of said aircraft for public transportation within the country, issuing for this purpose a provisional certificate of operation. This permission shall be granted for a maximum duration of sixty days, extendable within the discretion of the said Ministry.

Article 106.³ The owners and operators of foreign tourist aircraft who wish to visit Nicaragua, shall give notice of their arrival to the Manager of the international airport where they are to land, sufficiently in advance so that the personnel in Immigration, Customs and Health may be at the airport to undertake the proper inspections and procedures.

The notice referred to in the preceding paragraph shall contain the following information:

- a) Registration and nationality of the aircraft;
- b) Markings and type of aircraft;
- c) Name of pilot and of other crew members, if any;
- d) The international airport of entry;
- e) Approximate time of arrival; and
- f) Name and nationality of persons on board the aircraft.

³ Amended by Decree 576 of March 11, 1961 (*La Gaceta*, April 24, 1961).

The owners or operators referred to in this article, by the very fact of visiting Nicaragua or flying over its territory, shall be subject to the provisions of this Code and of other applicable legislation, insofar as liability for damages is concerned, and to the jurisdiction of the Nicaraguan administrative and judicial authorities with respect to all aspects of said liability.

Article 107. A provisional traffic permit, as provided in the respective regulations, shall be issued to the owners of foreign aircraft visiting the country for tourist purposes.

Fifth Section—International Air Transportation

Article 108. The certificates issued by the Executive Power for operation of international air transport services, in addition to being subject to the provisions of this Code, shall be also subject to civil aviation treaties or agreements which have been signed and validly ratified by the Government of Nicaragua.

In the absence of treaties or conventions, the issuance of such certificates shall be governed by the principle of equitable reciprocity.

Article 109. For the purpose of fixing an international air route, it shall suffice to indicate the airports of entry and exit within the Nicaraguan territory, as well as the point or points of the foreign State which the aircraft touches before landing and after leaving the national territory. With respect to the main international airlines, the Ministry of Aviation may require, nevertheless, that the route be described from terminal to terminal with intermediate stops.

Article 110. Any foreign aircraft whose owner or operator desires to fly in transit over Nicaraguan territory, or to land thereon without taking on or letter off any passengers, cargo or mail, shall:

a) Advise the Ministry of Aviation in advance and opportunistically, either directly or through channels of the Nicaraguan diplomatic or consular officials accredited to foreign countries;

b) Observe the safety requirements established by this Code and its regulations, as well as the legal provisions of their own country concerning nationality and registration markings, safety equipment and accessories, and must possess a certificate of airworthiness, licenses for flight personnel and other pertinent documents; and

c) Observe the legal provisions of the Republic on customs, immigration and health.

The owners or operators referred to in this article, by the very fact of visiting Nicaragua or of flying over its territory, insofar as concerns liability for damages, shall be subject to the provisions of this Code and other applicable laws and to the jurisdiction of the administrative and judicial authorities of Nicaragua for all aspects of said liability.

Article 111. The owners of Nicaraguan civil aircraft who wish to take them abroad, either temporarily or for purposes of exportation, must obtain permission from the Ministry of Aviation.

Article 112. The entry and exit of aircraft from the country during international flights must be through airports designated by the Ministry of Aviation.

Article 113. The foreign international air lines operating in Nicaragua must maintain a permanent representative in the country, with general powers.

*Article 114.*³ Immediately upon landing on Nicaraguan territory by an aircraft from abroad, the Commander or his agent in the country shall close the Flight Plan, and present the following documents to the respective authorities:

- a) List of the crew;
- b) List of passengers, and notation as to personal baggage;
- c) Cargo manifest;
- d) Mail records;
- e) Clearance and exit permit issued at last stopping place; and
- f) If the aircraft proceeds from a country or place affected by an epidemic, the corresponding health certificate shall be required.

In such case, the aircraft, its crew and passengers, and the goods carried by it, shall be subject to the health regulations of the Republic and of the Pan American Sanitary Code.

*Article 115.*³ On all aircraft leaving the country, its Commander or pilot, or in their absence, the airline agent in question, must present the following documents to the respective authorities of the airport at least thirty minutes before flight time:

- a) Flight plan;
- b) List of the crew;
- c) List of passengers and notation of personal baggage;
- d) Cargo manifest;
- e) Mail records;
- f) Clearance and authorization for take-off; and
- g) Health permit.

Article 116. If, for reasons of emergency, an aircraft on an international flight finds it necessary to land at an airdrome which is not of international character, it should immediately notify the aviation authorities of the place, or in the absence the nearest authority, for the purpose of having the latter indicate the necessary procedures to avoid having the aircraft unloaded without fulfilling the requirements of law. The extraordinary expenses occasioned for this purpose shall be chargeable to the owner or operator of the aircraft.

CHAPTER II. AGRICULTURAL AVIATION

Article 117. Agricultural aviation shall be that aspect of aeronautics which is organized, equipped and trained to protect and develop agriculture in any of its aspects, through the following related purposes:

- a) The preparation of the land through use of fertilizers and soil improvers;
- b) Sowing operations;
- c) To combat agricultural diseases;
- d) Application of leaf-strippers, fertilizers, insecticides, grass-killer substances and hormones;
- e) Artificial inducement of rain; and
- f) Any other scientific application through aviation for agricultural purposes approved by the Ministry of Agriculture.

³ Articles 114 and 115 were amended by Decree 576 of March 11, 1961 (*La Gaceta*, April 24, 1961).

Article 118. The authorization for aviation services with respect to agricultural aviation, as well as the equipment and flight personnel participating in such services and operations shall be governed by a regulation to be adopted for this purpose by the Executive Power.

Article 119. Any natural or corporate person operating aircraft devoted to agricultural services shall be financially liable for damages caused to the persons or property of third parties on the ground caused by the application of dangerous chemical substances or the fall of a craft, or of objects falling or thrown from them.

CHAPTER III. PRIVATE AIR SERVICES

Article 120. Private air services shall be deemed those which have the following sole and exclusive purpose:

- a) Non-profit Tourism for personal purposes;
- b) Aerial work such as aerial topography or photography, commercial advertising and similar work;
- c) Personal services of an enterprise and private business of the owner of the aircraft, without profit and distinct from public or agricultural transportation;
- d) Industrial activities, with or without profit, distinct from public transportation;
- e) Flight instruction by private aviation schools or individuals, duly authorized, with or without payment, and,
- f) Scientific applications of civil aviation, such as educational flights, tracing the path of hurricanes, flights of locusts and migratory birds, and similar applications.

Article 121. For the performance of private air services for profit, authorization from the Ministry of Aviation and status of a private or corporate person of Nicaraguan nationality shall be required.

Notwithstanding the provision in the preceding paragraph, the Ministry of Aviation, whenever it deems it necessary, may authorize the temporary employment of foreign technical personnel and aircraft for the performance of private air services for profit. Such authorizations shall be granted for a period not exceeding six months, but may be renewed if the necessity continues to exist.

Article 122. Authorizations for private air services for profit payment shall be granted for an initial, but renewable, maximum period of two years.

Article 123. Proprietors and operators of private air service aircraft shall comply with all safety requirements which this Code and the regulations issued thereunder impose on public air carriers.

Article 124. Private service aircraft may in no case render services of public air transportation.

Article 125. Before commencing operations, the natural or legal person, authorized to perform a private air service for profit payment, shall prove to the Ministry of Aviation that he has furnished security for the payment of any liability he may incur for damages caused to third persons on the ground either through an insurance or a bond of the person liable, which is sufficient to pay such damages.

Article 126. The Ministry of Aviation may modify, suspend, revoke or cancel any authorization granted a private air service for non-compliance with the provisions of this Code or the regulations issued there-

under, or with any terms, conditions or limitations of the respective authorization.

However, no authorization may be revoked or cancelled without giving the persons concerned a period of thirty days in which to present allegations or proof they may consider appropriate to their interests.

Article 127. Proprietors and operators of private air service aircraft used for personal purposes and without payment and not included in Article 128, shall not need any authorization to fly. It shall be sufficient for them to obtain the proper registration and to hold valid licenses, airworthiness certificates, and logbooks. They must also comply with all provisions concerning flight safety, contained in this Code and the regulations issued thereunder, and furnish security by insurance or bond of the person liable which are sufficient to cover any liability he may incur for damages to persons or property of third persons on the ground.

CHAPTER IV. AVIATION CLUBS, AVIATION SCHOOLS AND AIRCRAFT MANUFACTURERS

Article 128. Civil air activities dealing with the training of pilots or ground personnel or the advancement of air travel may be undertaken only with prior authorization from the Ministry of Aviation.

For such authorization the following requirements shall be fulfilled:

- a) In the case of a legal person, its incorporation and designation of an agent of the applicant;
- b) In the case of schools or training centers for aeronautical personnel, it must be shown that they have complied with all requirements of the respective regulation, and
- c) In all cases, the applicant must prove his fitness and technical qualification to the satisfaction of the Ministry of Aviation.

Article 129. There shall be deemed to be of public utility:

- a) Aviation Schools and centers of aeronautical research;
- b) Aviation clubs; and
- c) Manufacturing and construction plants of aircraft, engines, equipment and aircraft repair shops.

Article 130. For the establishment of manufacturing and construction plants of aircraft, engines and equipment, or of aircraft repair shops, prior authorization by the Ministry of Aviation shall be required, and the persons engaged therein shall, in every case, conduct their activities in accordance with the regulatory and safety provisions issued by the Executive Power.

Article 131. Schools or centers of instruction and training for civil aviation may be of an official or private character, and in either case they shall be governed and operated in accordance with the provisions of this Code and the regulations issued thereunder.

Article 132. The teaching staff of civil aviation schools must be authorized by the Ministry of Aviation in the form established by the respective regulation.

Article 133. For issuance of authorizations specified in the preceding article the Ministry of Aviation shall accept the results of examinations in duly recognized aviation schools, but reserves the right to re-examine when deemed appropriate.

Article 134. The authorization granted by the Ministry of Aviation to an aviation school may be cancelled at any time when irregularities in the instruction and the issuance of diplomas are proved.

Article 135. Aviation clubs shall be organized as civil associations and their charters and bylaws must be approved by the Ministry of Aviation after which that agency shall obtain recognition of their legal personality from the respective authority. The Ministry of Aviation shall supervise the air and technical activities of the clubs, in accordance with the respective regulation.

Article 136. There shall be no customs duty on the importation of aircraft, engines, equipment, apparatus, materials, repair parts, fuel and lubricants for the use of aviation clubs whose establishment has been recognized by the Executive Power.

Article 137. The Ministry of Aviation may request the respective authority to cancel the Resolution by which the legal personality of an aviation club has been recognized when the latter does not comply with the regulatory provisions.

CHAPTER V. INVESTIGATION OF AIR ACCIDENTS

Article 138. The Ministry of Aviation shall have the duty to investigate accidents which happen to civil aircraft within the national territory.

After conclusion of the investigation which shall be carried out in the form prescribed by the applicable regulation, the above agency shall determine the probable cause of the accident and make appropriate recommendations. If necessary, it shall impose appropriate administrative penalties and, when it is in order to do so, he shall bring the facts to the attention of the judicial authority which has jurisdiction.

Article 139. Aid to, and salvage of aircraft which have suffered an accident or are lost, shall be matters of public interest, and the authorities as well as air carriers and private persons must participate therein to the extent that they are able to do so, in accordance with the provisions of the applicable regulation.

Article 140. Aid and salvage operations shall be directed and supervised by the Ministry of Aviation when the accident involves an aircraft in public transportation. The expenses caused by the rescue of the aircraft and the victims shall be borne by the carrier.

Article 141. Any person who has knowledge of an air accident, must inform the nearest authority which shall have the duty to communicate the facts by the fastest method to the Ministry of Aviation.

In the absence of the aircraft commander and an aeronautical authority, the first official arriving at the place of the accident shall take charge of the aircraft, baggage, the cargo and mail, and shall take the measures necessary for the protection of, and assistance to passengers and crew.

Article 142. The inspectors of the Aeronautics Board or, in their absence, the commander of the nearest airdrome shall have the duty personally to come to inspect the aircraft involved in the accident, and to take the necessary steps and immediately to inform the Ministry of Aviation.

Article 143. The Ministry of Aviation shall establish centers for aid and rescue in such places as it may deem convenient.

Article 144. Proprietors, pilots and operators of civil aircraft shall immediately notify the Ministry of Aviation of accidents which have happened to their aircraft.

Article 145. Air carriers shall have the duty, upon request, to supply the persons concerned with available precise information concerning their aircraft which have had accidents or which have been lost.

Article 146. An aircraft shall be deemed lost in the following cases:

- a) By sworn declaration of the proprietor or operator, subject to verification by the Ministry of Aviation; and
- b) When three months have elapsed from the date when the last official or private news was received from the aircraft and its whereabouts are unknown.

In either case the Ministry of Aviation shall declare the loss and shall order cancellation of the registration in the respective register. The statutes of limitations on the respective civil actions shall begin to run from such declaration.

Article 147. An aircraft shall be deemed abandoned:

- a) When the proprietor or operator so states in writing to the Ministry of Aviation;
- b) When it remains on an airdrome for a period of ninety days without operating and when it is not directly or indirectly under the care of its proprietor or operator; and
- c) When it lacks a registration and the name of the proprietor and the place of origin are unknown.

In case a) the Ministry of Aviation shall issue the declaration of abandonment without any further requirement. In cases b) and c) it cause the publication of a notice in the *Diario Oficial* for three consecutive days, and when eight days have elapsed from publication of the last notice without any rights being claimed, it shall issue the declaration of abandonment and shall hold the aircraft at the disposal of the Ministry of the Treasury for sale at auction for the benefit of the Treasury.

Article 148. In case of air accident, any national or foreign aircraft in Nicaragua may come to the aid of the victims, but it shall have the duty to give prior notice by the fastest method to the Ministry of Aviation. When such aircraft is in foreign territory, a special permit for it shall be required.

Article 149. The civil and military authorities nearest to the place where an air accident has occurred, shall have the duty to send to such place assistance groups to render first aid to the victims and to post military or civilian guards until the time of arrival of the investigators appointed for the purpose by the Ministry of Aviation.

Article 150. When, for unforeseen reasons or because of *force majeure*, an aircraft has to make a forced landing on the national territory, the commander or the pilot of the aircraft and, in their absence, any member of the crew shall ascertain that no merchandise or baggage is unloaded, and that the passengers do not leave the place of landing without permission from the Ministry of Aviation except when it is necessary for salvage operations.

Article 151. Any mail which have been transported on an aircraft which has suffered an accident or which has made a forced landing, must be collected by the aircraft commander, in his absence by another member of the crew, and in the absence of both, by a responsible per-

son. In any of these cases it must be forwarded as promptly as possible to an agent of the postal service.

TITLE III

CHAPTER I. AIR TRANSPORT CONTRACTS

Article 152. An air carrier shall be deemed any natural or legal person who, under an operating certificate or authorization granted by the Executive Power performs services of air transportation of passengers, cargo, or mail, on a scheduled or non-scheduled basis.

Article 153. For the purposes of this Code a carrier shall be deemed any enterprise which fulfills the requirements of the preceding article whether or not it be the proprietor of the aircraft.

An employee shall be deemed any agent or subordinate of the carrier who acts in the name and on the account of the carrier and performs the duties of his employment whether or not they are within the scope of his duties.

Article 154. In all cases where transportation is made by several carriers, the "last carrier" shall be deemed the one who performs the last part of the transportation specified in the respective contract. However, when the transportation terminates at a point before that of destination provided for in the contract, the last carrier shall be deemed the carrier performing that stage.

Article 155. The proprietor of an aircraft shall be deemed the natural or legal person in whose name it is registered in the Register of Aeronautical Property.

Article 156. The carrier undertakes by the transportation contract to carry by air, for a certain price, from one place to another, passengers or goods and to deliver the latter to the consignee.

Article 157. Domestic air transportation shall be subject to the provisions of this Code and the regulations issued thereunder and, in the absence thereof, of the Code of Commerce regarding land and river transportation.

Domestic transportation shall be deemed any transportation in which, by agreement between two parties, both the place of departure and the place of destination are located within the national territory.

Article 158. In the absence of international treaties, conventions, or agreements, international air transportation shall be governed by the principles established in this Code and the regulations issued thereunder. International transportation shall be deemed any transportation in which, by agreement between the parties:

a) The places of departure and of destination are located on the territory of different states;

b) The places of departure and of destination are located on the territory of the same state, but one or more landing on the territory of another state are provided for.

Article 159. Any transportation carried out successively by several carriers by air shall be deemed a single carriage when the parties have contracted for it as a single operation.

Article 160. When the place of departure and the place of destination are located within the national territory, the transportation shall

not lose its domestic character by the fact that the aircraft, because of *force majeure*, has to make an unplanned landing on foreign territory.

Article 161. In the case of international air transportation the carrier may not load passengers who cannot show proper authorization to disembark at the place of destination and at the planned stops when the country where the stop is made requires a transit visa.

Article 162. In the transportation of passengers the carrier has a duty to issue flight tickets which must contain the following information:

- a) The place and date of issuance;
- b) The places of departure and destination;
- c) The intermediate stops;
- d) The cost of the trip; and
- e) The name and address of the carrier and the passengers.

Article 163. The lack, irregularities or loss of the flight ticket shall not affect the existence or validity of the transportation contract which shall continue in accordance with the provisions of this Code.

However, if the carrier accepts a passenger without issuing the proper flight ticket, he shall have no right to rely on the provisions of this Code which exclude or limit his liability.

Article 164. In the transportation of baggage, and with the exception of hand luggage which the traveller keeps in his custody, the carrier has the duty to issue a baggage check which must consist of two parts; one for the traveller and the other for the carrier and which must contain the following:

- a) The place and date of issuance;
- b) The places of departure and destination;
- c) The name and address of the carrier;
- d) The number of the flight ticket;
- e) The number and weight of the articles; and
- f) The total value declared, when there is such a declaration.

Article 165. The lack, irregularities and loss of the baggage check shall not affect the existence or validity of the transportation contract which shall continue in accordance with the provisions of this Code.

However, if the carrier accepts baggage without issuing baggage checks, or if the check does not contain the data specified in subparagraphs c), d), and e) of Article 164, the carrier shall have no right to rely on the provisions of this Law which exclude or limit his liability.

Article 166. Without thereby affecting the provisions of the second paragraph of this Article, any carrier of merchandise shall have the right to request from the shipper the issuance or delivery of a document called "airway bill" which may be issued to bearer, to order, or by name, which may be transferred in the manner and with the effects provided for in the Code of Commerce for instruments of this nature.

However, the lack, irregularities or loss of such document shall not affect the existence or validity of the transportation contract which shall not thereby cease to be subject to the provisions of this Code, subject to the provisions of Article 170.

Article 167. Issuance of the airway bill shall be subject to the following rules:

- a) It shall be issued by the shipper in three original copies and shall accompany the merchandise:

b) The first copy shall bear the notation "for the carrier" and shall be signed by the shipper. The second copy shall bear the notation "for the consignee"; it shall be signed by the shipper and the carrier and shall accompany the merchandise. The third copy shall be signed by the carrier and shall be given by him to the shipper upon acceptance of the merchandise;

c) The signature of the carrier shall be affixed at the time of acceptance of the merchandise;

d) The signature of the carrier may be substituted by a rubber stamp; that of the shipper may either be printed or replaced by a stamp, and

e) If, at the request of the shipper, the carrier issues the airway bill, it shall be deemed to act for the shipper, unless there is proof to the contrary.

Article 168. The carrier shall have the right to request from the shipper the issuance of separate airway bills when there are several parcels.

Article 169. The airway bill shall contain the following information:

a) The place where the document was issued and the date of issuance;

b) The places of departure and destination;

c) The intermediate stops with reservation of the right of the carrier to stipulate that he may change them if necessary;

d) The name and address of the shipper;

e) The name and address of the first carrier;

f) The name and address of the consignee when so required;;

g) The nature of the merchandise;

h) The number of parcels, form of packaging, special marks and numbers on the parcels;

i) The weight, quantity, volume or dimensions of the merchandise;

j) The visible condition of the merchandise and the packaging;

k) The time of transportation if specified; the date and place of payment, and the person liable for payment;

l) If the shipment is C.O.D., the price of the merchandise and, if necessary, the total freight cost.

m) The amount of value declared, when there is such a declaration;

n) The number of copies of the airway bill;

o) The documents transmitted to the carrier to accompany the airway bill, and

p) The time of transportation and a brief description of the routes followed, if specified.

Article 170. If the carrier accepts merchandise without an airway bill having been issued or if it does not contain all the information specified in Article 169, subparagraphs a) to i) inclusive, and p), the carrier shall have no right to rely on the provisions of this Code which exclude or limits his liability.

Article 171. The shipper shall be responsible for the accuracy of the information and declarations concerning the merchandise which he includes in the airway bill.

Therefore, he shall be fully liable for all damages suffered by the carrier, or any other person because of irregular, inaccurate, or incomplete information or declarations.

Article 172. Except when there is proof to the contrary, the airway bill shall constitute prima facie evidence of the contract, receipt of the merchandise and the conditions of transportation.

The statements in the airway bill covering height, dimensions and packaging of the merchandise shall constitute certification thereof, unless there is proof to the contrary; statements concerning quantity, volume, and condition of the merchandise shall not be proof against the carrier except in the case they have been verified by him in the presence of the shipper and he has so stated on the airway bill, or the statements concern the visible state of the merchandise.

Article 173. The lack, irregularity, or loss of the airway bill shall not affect the existence or validity of the transportation contract which shall continue in accordance with the provisions of Article 176.

Article 174. Provided he fulfills all obligations accruing from the transportation contract, the shipper may dispose of the merchandise, whether this means removing it from the airport of departure or destination, or to detain it en route in case of landing, or to deliver it at the place of destination or en route to a person other than the consignee indicated in the airway bill, or to demand its return to the airport of departure, when the exercise of this right causes no prejudice to the carrier or to other shippers and with duty to reimburse the expenses arising therefrom.

Article 175. In case it is impossible to execute the orders of the shipper, the carrier must immediately notify him thereof.

Article 176. When the carrier complies with the orders of the shipper to dispose of the merchandise without requiring presentation of the copy of the airway bill delivered to him, he shall be liable, subject to action against the shipper, for the damage which may have been caused by such act to the lawful holder of the airway bill.

Article 177. The right of the shipper shall cease at the time when that of the consignee begins in accordance with the provisions of the following article. However, if the consignee refuses the airway bill or the merchandise, or if he cannot be located, the shipper shall recover his right to dispose of the merchandise.

Article 178. Except in the cases specified in the preceding articles, up until the delivery of the merchandise at the point of destination, the shipper shall have the right to request the carrier to deliver the airway bill and to return the merchandise upon payment of the freight and compliance with the conditions of transportation specified on the airway bill.

Article 179. Except for a stipulation to the contrary, the carrier shall notify the consignee of the arrival of the merchandise.

Article 180. If the carrier knows that the merchandise has been lost, sent to the wrong place, or if at the end of seven days from the time when the merchandise should have arrived, it has not been received, the consignee shall be entitled to claim against the carrier the rights given him by the transportation contract.

Article 181. The carrier and the consignee may claim the rights granted to them, respectively, by Articles 180, 181, 182, 183, 184, 185 and 186, each on his own behalf, provided they comply with the duties which the contract imposes upon them.

Article 182. Articles 174, 175, 176, 177, 178, 179, 180 and 181 shall in no way prejudice the relations of the shipper and the consignee

with each other, or the relations of third parties whose rights derive from the carrier or the consignee.

Article 183. Any clause in derogation of the provisions of Articles 174, 175, 176, 177, 178, 179, 180 and 181 must be stated on the airway bill.

Article 184. The shipper shall have the duty to supply data and attach to the airway bill any documents which, before delivery of the merchandise to the consignee, are necessary for compliance with formalities of customs, port, police and health. The shipper shall be liable to the carrier for all damages which may result from the lack, insufficiency or irregularity of such data and documents, except when the fault may be imputed to the carrier or his employees.

The carrier is under no obligation to ascertain that these data and documents are accurate or sufficient.

CHAPTER II. LEGAL STATUS OF THE AIRCRAFT COMMANDER

Article 185. Any aircraft used in public transport service shall be under the command of a Commander appointed by the operator from among the pilots who constitute the flight personnel.

Article 186. The commander is responsible for the guidance, care, order and safety of the aircraft, the crew, the passengers and their baggage, the cargo and the mail transported. This liability commences as soon as he takes charge of the aircraft to begin the flight and ends with its termination, when the proper airline representative takes charge of the aircraft, passengers, cargo, baggage and mail.

Article 187. The aircraft commander shall have the power to:

a) Give orders or instructions for the guidance and direction of the aircraft;

b) Maintain order on the aircraft and order restrictive measures for persons who disturb it, commit offenses, or refuse or fail to render their respective services;

c) Arrest persons who commit a crime, record information concerning the act, and deliver the offenders to the competent authority at the nearest place of landing;

d) For sufficient cause suspend a crew member from his duties;

e) Record births, deaths and other acts which may have legal effects, and which occur on board during flight, and entering them in the proper log book;

f) Take necessary measures during the flight to maintain the aircraft in good flight condition with its instruments and supplies; and to take necessary safety measures in case of a landing outside the airdromes on his route;

g) Jettison ballast to save the aircraft from imminent danger, and

h) To change route in case of *force majeure*.

Article 188. In the case specified in subparagraph c) of the preceding article, the aircraft commander shall bring the facts to the attention of the competent authorities of the first place of landing on the national territory or to that of the competent foreign authorities and the nearest Nicaraguan consul when the landing is made outside the country.

Article 189. The aircraft commander shall have the duty to:

a) Ascertain that the aircraft and the crew are provided with the documents and books required by the laws and the regulation;

b) Ascertain that the aircraft and its various pieces of equipment have been carefully inspected and are in perfect working order;

c) Be in possession of the weather reports for his route, and refrain from starting on a trip unless he has a satisfactory report at least to the first place of landing;

d) Supervise proper storage of the cargo on board, and not overload beyond the authorized weight;

e) Reject merchandise in obviously bad condition which constitutes a danger to the aircraft or serious annoyance to the passengers and the crew, as well as prohibited articles;

f) Prevent the boarding of persons in abnormal physical or mental condition which may prejudice the order and safety of the trip.

CHAPTER III. CONTRACTS DEALING WITH AIRCRAFT AND ACQUISITION OF TITLE OF POSSESSION

Article 190. Any contract by which ownership in an aircraft is transferred or which represents a lien on an aircraft, must be by a public document which shall be recorded in the Register of Aeronautical Property.

Article 191. When there is on an aircraft a mortgage or some other lien typical of real property, the judicial sale shall be made as if it were real property; in other cases such sale shall be made in conformity with the rules on personal property.

Article 192. Two or more persons may be joint owners of an aircraft and such joint property shall be governed by the rules of the Civil Code.

Article 193. A charter shall be a contract by which the lessor, for remuneration, transfers to another the use of all or part of the capacity of a particular aircraft, for a trip or a series of trips, for a certain number of kilometers, or for a certain time, and reserves supervision and authority over the crew and the technical direction of such aircraft.

The rights and duties under a charter may not be transferred in whole or in part when the right to do so is not expressly agreed upon.

Article 194. The charterer shall be the Contracting party who has concluded a charter contract with the proprietor of the aircraft or with the person who may lawfully make such a contract.

Article 195. A charter contract must be in writing and must be approved by the Ministry of Aviation, which shall grant such approval only when the charterer is authorized by the provisions of this Code to render the service for which he proposes to use the aircraft.

Article 196. All liabilities contained in this Code in regard to a transportation contract shall be incumbent on the charterer; but there shall be joint liability of the lessor and the charterer in regard to compensation for damages to passengers or third persons on the ground.

Article 197. If the charterer, being authorized to do so, in turn grants a charter on the aircraft, liability in regard to the transportation contract shall rest upon the last charterer; but there shall be joint liability of the charterer and prior charterers for damages to passengers or third persons on the ground.

Article 198. A lease of aircraft may be for one or more trips; for the number of kilometers to be flown; or for a fixed time, and the duty of the lessor shall be limited to delivering the aircraft at the agreed time and place, provided with the documentation necessary for the flight.

In a lease the lessor need not equip the aircraft; but he must maintain her in normal flight condition until the end of the contract but such duty shall cease in the case of negligence of the lessee.* The lessor shall not direct and supervise the crew; the technical supervision of the particular aircraft shall be incumbent on the lessee.

Article 199. A lease of civil aircraft must be incorporated in public document or in a private document signed before the competent authority designed by the regulations. A lease consisting of a public document shall be recorded in the Register of Aeronautical Property.

Article 200. No Nicaraguan aircraft may be sold, given, leased or loaned for delivery abroad without prior authorization from the Ministry of Aviation. Sales by public auction to foreigners shall be exempt from this provision.

The authorization must state the purpose for which the aircraft is to be used and the place from which it will operate.

Article 201. Notwithstanding their being personal property, civil aircraft may be subject to mortgage. Insofar as there is no provision in this law, such contract shall be governed by the applicable provisions of the Code of Commerce and, absent such provisions, by the Civil Code.

Article 202. A mortgage shall have preference over any other credit except the following:

- a) Legal costs and expenses for preservation of an aircraft pending a judgment;
 - b) Compensation for aid and salvage, taking place during the existence of the mortgage;
 - c) Debts to the State for taxes or fees in connection with use of airports or services for air navigation for a period not exceeding sixty days;
 - d) Expenses incurred by an aircraft commander in the exercise of his powers and which were necessary to continue the last trip; and
 - e) Wages owed to subordinates and employees on board the aircraft during the last trip.
- Article 203.* If an aircraft is destroyed or expropriated, a mortgagee may enforce his preferred claim on the insurance and on the compensation owed to the owner.
- Article 204.* Aircraft mortgaged in this country may not be temporarily or permanently transferred abroad without express consent of the mortgagee who must give his authorization by public instrument.
- Article 205.* Without express consent of the mortgagee, no changes may be made in structural characteristics or propulsion machinery of an aircraft.

* In the Spanish original obviously erroneous: Arrendador—lessor. Ed.

Article 206. A mortgage shall be extinguished in the following circumstances:

- a) By the loss or complete destruction of the aircraft, without thereby affecting the provisions of Article 203, and
- b) By a judicial decree to auction, provided the creditor has been summoned in accordance with the general laws.

Article 207. Aircraft, engines, propellers, and spare parts for such aircraft may be subject to pledge as security and such instrument shall remain in the power of the creditor and, in all cases, shall be governed by the provisions of this Code.

Article 208. A pledge contract shall be by public instrument and shall be recorded in the Register of Aeronautical Property in the case of an aircraft, and in the Section of Industrial Liens, in the case of engines or other parts, and while the recordation subsists, no transfer of, or right in the object which constitutes the security, shall affect the contract.

The provisions of Articles 204 and 205 of this Code shall apply to aircraft on which a security lien exists.

Article 209. In addition to the elements required by the applicable laws, mortgage and security contracts shall contain a description of the aircraft on which a mortgage or security lien exists and of the mortgaged parts, and other data which identify them in an unmistakable manner.

Article 210. In cases of attachment or other judicial embargo of aircraft used in public transportation service, the court decreeing the measure shall provide the means necessary to prevent interruption of the service and shall notify the Ministry of Aviation thereof.

Article 211. Insofar as there are no express provisions in this law, contracts concerning aircraft shall be governed by the applicable provisions of the Code of Commerce and in their absence by applicable general laws.

Article 212. Title in aircraft may be acquired by prescription [statute of limitations] and the rules of the Civil Code shall apply which deal with the matter of acquisition of personal property by prescription.

CHAPTER IV

First section—damages to passengers

Article 213. A carrier shall have the duty to pay for damages and detriments caused by the death or injury of any kind suffered by a passenger because of the transportation, when the event which caused such damages takes place during the period from the time when the passenger boards the aircraft to the time when he leaves the aircraft and when such aircraft is parked on any airport or other landing area including the place of a forced landing or a landing due to an accident.

The duty referred to in the preceding paragraph also includes compensation for damages arising from accidents or *force majeure*.

The term "injury" includes all bodily, organic or functional injuries, as well as those which affect the mental faculties.

*Article 214.*³ Compensation due for damages caused by an accident or *force majeure* in commercial airlines and non-scheduled public air carriers, shall be in the following amounts:

- a) For the death of a passenger, five thousand dollars;
- b) For injuries which cause total permanent disability, six thousand dollars;
- c) For injuries which cause partial permanent disability, up to a maximum of four thousand dollars;
- d) For injuries which cause partial temporary disability, up to a maximum of two thousand dollars;
- e) For other injuries, up to a maximum of one thousand dollars.

In the cases specified in subparagraphs c), d), and e), the court may determine, within the limits fixed, the amount to be awarded in view of all the circumstances surrounding the damage.

In cases of regular public air carriers, the compensation listed in the preceding paragraphs shall be increased by 100%.

The above stipulations in this article shall be understood to be without prejudice to the increases which correspond in cases covered by Articles 216 and 217.

Article 215. The damages to which the preceding article refer and which are dealt within this provision, shall be covered by insurance to be contracted for by the carrier with an institution which has been accredited by the Ministry of Aviation, before operations may be begun and which shall be kept in force during the period of validity of the operation certificate or authorization, as the case may be.

Article 216. When the event which gave rise to the damage is wholly due to negligence of the carrier or its employees, the compensation shall be the amount fixed for each case in Article 214, with each amount increased by 50%.

Article 217. When the court which has jurisdiction over the particular case has decided that there was intent on the part of the carrier or its employees, the liability of the carrier shall be unlimited.

In any case, the amount of compensation, when there is intent, may not be less than the compensation due for negligence of the carrier or its employees.

Article 218. In the case of a Nicaraguan or foreign international air carrier with a certificate or authorization issued by the Executive Power, the compensation for damages referred to in Articles 213, 214, 216, and 217, caused to passengers of Nicaraguan nationality or to aliens domiciled in the country, who have bought their tickets in Nicaragua, shall always be subject to the provisions of this law, be this the point of beginning the trip or the point of destination be on Nicaragua territory or abroad and whatever be the place where the damage occurred.

In all cases included in the preceding paragraph, the Nicaraguan authorities shall have jurisdiction to resolve such questions as may arise.

Article 219. Foreign international air carriers which operate in Nicaragua must take out the insurance referred to in Article 215 with insurance carriers lawfully authorized in Nicaragua.

³ Amended by Decree 576 of March 11, 1961 (*La Gaceta*, April 24, 1961).

Article 220. When damages are caused by air operations to members of the crew of an aircraft, the liability of the air carrier, or the holder of the authorization in the case of private air services for profit, or of the proprietor of the aircraft in the case of non-profit private services shall be the following:

- a) For the death of a crew member, ten thousand dollars;
- b) For injuries which cause total permanent disability, twelve thousand dollars;
- c) For injuries which cause partial permanent disability, up to a maximum of eight thousand dollars;
- d) For injuries which cause partial temporary disability, up to a maximum of four thousand dollars;
- e) For other injuries, up to a maximum of two thousand dollars.

In the cases covered by sections c), d) and e), the Court may determine, within the limits fixed, the amount of award, in view of all of the circumstances surrounding the injury.

In the case of regular public air carriers, the compensations fixed in the preceding paragraphs shall be increased by 100%.

All of the above stipulations in this article shall be understood not to prejudice the increases which correspond in the cases of Articles 216 and 217.

Article 221. Any clause which is intended to exclude liability of a carrier or to specify lower amounts than those specified in this law shall be null and void, but the validity of such clause shall not affect the transportation contract which remains subject to the provisions of this Code.

Article 222. The liability referred to in Articles 213, 214, 216, and 217 shall also apply to damages and losses suffered after the end of the period of transportation specified in those articles when such damages were the direct result of an event which occurred during such period.

Article 223. There shall be no liability of the carrier for damages arising from accidents caused intentionally by the victim thereof or which are due to the unlawful act of a third person, or from any accident suffered by a passenger during the ascent or descent of the aircraft because of obvious carelessness of the person suffering the accident or his violation of safety regulations.

Article 224. The Ministry of Aviation shall ascertain that the insurance covering damages suffered in air transportation is kept in force during the time of validity of the operating certificate or authorization, as the case may be.

Article 225. The contract of insurance for damages suffered in air transportation by passengers or crew members shall be exempt from any tax, fee, or other contribution.

Article 226. In cases of death or injuries of a passenger the person or persons who have the right to claim compensation must make such claim within one year from the date on which the event which gave rise to the claim occurred.

Article 227. The carrier have a duty to pay compensation for damages and detriments suffered by a passenger as a consequence of a

³ Amended by Decree 576 of March 11, 1961 (*La Gaceta*, April 24, 1961).

delay in the transportation when such delay occurs during the period elapsed from the time when the flight should have commenced in agreement with the provisions of the contract of transportation until the time when the trip is completed.

Any delay or deviation from the route agreed upon between the parties or the regular route approved by the Ministry of Aviation, which takes place in order to protect human life or for purposes of flight safety shall not be deemed a violation of the transportation contract or impose any liability on the carrier.

Article 228. The liability of a carrier for damages to passengers in case of delay shall be limited to a maximum amount of twice the price of the flight ticket, in accordance with the respective transportation contract.

Article 229. A claim for damages referred to in the preceding article must be made within thirty days from the date when the delay which gave rise to the claim occurred.

Section II—Damages to Checked Baggage and to Cargo

Article 230. The carrier shall have a duty to pay compensation for damages and detriments resulting from the loss, destruction, damage or delay of cargo or baggage checked through, when the event which caused the damages takes place during the period of transportation.

For purposes of the preceding paragraph the period of transportation shall be computed from the time when the carrier receives the cargo or checked baggage to the time of its delivery to the consignee.

Article 231. The carrier shall have a duty to pay compensation for damages and detriments occurring in cases of loss, destruction, damage or delay of hand luggage if the event which caused the damage took place during period between the time when the passenger boards the aircraft and when he disembarks, and when such aircraft is parked on any airport or other landing area, including the place of a forced or emergency landing.

Article 232. The liability provided for in Articles 230 and 231 shall also apply to damages and detriments suffered after completion of the respective periods of transportation specified in said articles if such damages resulted directly from events which occurred during one of such periods.

Article 233. The liability of the carrier in the case of loss, destruction, damage or delay of cargo or checked baggage, for purposes of compensation, shall be limited to a maximum amount representing sixteen dollars per kilogram of gross weight.

The liability of the carrier in the case of loss, destruction, damage or delay of hand luggage, shall be limited to a maximum amount of three hundred dollars total for purposes of compensation to the owner of the hand luggage.

Article 234. Notwithstanding the provisions of Article 230, the carrier shall not be liable when he proves that he and his employees have taken all possible measures to avoid the damages or that it was impossible for either of them to take such measures.

In the case of hand luggage the carrier shall merely be liable under Article 231 when the passenger proves that the damage was due to the negligence of the carrier or his employees.

Article 235. The acceptance of baggage or cargo without any protest on the part of the passenger or consignee, except for proof to the contrary, shall create a presumption that the goods were in good condition and in compliance with the transportation contract. No such presumption shall exist when, at the time of acceptance the passenger or consignee presents to the carrier a reservation in writing to the effect that the baggage or cargo had not been examined.

Article 236. In the case of damage to baggage or cargo the person who has a right to the delivery of the goods shipped, must present his claim to the carrier within three days from the date of receipt in the case of baggage, and within seven days in the case of cargo.

A claim for loss or delay of baggage or cargo must be presented within thirty days from the date on which, under the transportation contract, the goods should have been put at the disposal of the passenger or consignee or the person who has the right to receive the shipment.

Article 237. After the periods referred to in the preceding article have expired, all liability shall cease to exist.

Section III—Damages to Persons or Property of Third Persons on the Ground

Article 238. The operator of any national or foreign civil aircraft which flies over Nicaraguan territory shall be financially liable for damages and detriments caused to persons or property of third persons on the ground.

The person who suffers the damages shall be entitled to ask reparation from the Nicaraguan courts under the conditions established in this law by merely proving that the damages were caused by an aircraft in flight or by a person or article falling therefrom. However, there shall be no right to reparation when damages are not the direct consequence of the event which caused them or when they are due to the mere fact of passage of the aircraft through the airspace in conformity with the air traffic rules.

Article 239. For purposes of the liability provided for in the preceding article, the following shall be deemed the operator in the respective cases:

- a) The airline company;
- b) The carrier;
- c) The natural or legal person who has been granted the authorization in the case of private air services for profit;
- d) The owner of the aircraft in the case of aircraft in private service intended for personal use of the owner and non-profit.

Article 240. For purposes of this Code an aircraft shall be deemed in flight from the time when propulsive force is applied for take-off until termination of landing maneuvers. In the case of aircraft lighter than air, the expression "in flight" shall apply to the period beginning with the time when it is detached from the ground until it is again secured thereto.

Article 241. Any person not entitled to the use of an aircraft who uses it without the consent of the operator, shall be liable for any damage caused. Any operator who has not taken adequate measures to avoid unlawful use of his aircraft, shall be liable jointly with the tortfeasor for any damage.

Article 242. Any person liable under this section for damages to third persons shall have no duty to make reparation for damages which are a direct consequence of armed conflict or civil disturbance or when he has been deprived of the use of the aircraft by an act of the public authorities.

Article 243. The liability for damages to third persons may be excluded or reduced when the person who has suffered them has caused or contributed to cause them.

Article 244. The amounts of compensation for damages and detriments payable by persons liable under Article 238 of this Code, shall not exceed the following amount for each accident:

a) Ten thousand dollars for aircraft whose weight does not exceed one thousand kilograms;

b) Ten thousand dollars plus ten dollars for each kilogram above one thousand for aircraft which weigh more than one thousand but not over six thousand kilograms;

c) Forty thousand dollars plus six dollars for each kilogram above six thousand for aircraft which weigh more than six thousand but not over twenty thousand kilograms;

d) One hundred thousand dollars plus three dollars for each kilogram above twenty thousand kilograms for aircraft which weigh more than twenty thousand but not over fifty thousand kilograms;

e) Two hundred thousand dollars plus two dollars for each kilogram above fifty thousand for aircraft which weigh more than fifty thousand kilograms.

Article 245. For purposes of this Code "weight" shall mean the maximum weight of an aircraft authorized for take-off by the certificate of airworthiness, excluding the effect of lifting gas when it is used.

Article 246. The operator of any civil aircraft which flies over Nicaraguan territory, whether it is a national or a foreign aircraft, must be insured in regard to his liability for damages to third persons on the ground up to the limit corresponding to the weight of the aircraft in conformity with the provisions of Article 244.

Article 247. The insurance shall be deemed satisfactory if it complies with the provisions of this Code and has been contracted for with an insurance company accepted by the Ministry of Aviation, or lawfully authorized by the country of registration of the aircraft in the case of foreign aircraft.

Article 248. In the case of damages to third persons caused by accidents due to a crash or *force majeure*, or negligence, the compensation for death or injuries shall be the same as that established, by Articles 214 and 216, respectively, but if there are several persons such compensation shall be divided proportionately and in accord with each case established. But the total amount may not exceed the limits specified in Article 244.

Article 249. When the person who suffers the damages proves that they were caused by a deliberate act or omission of the operator or his employees, done with intent to cause damage, the liability of the operator shall be unlimited and shall be governed by the provisions of Article 217.

Article 250. When damages are caused simultaneously to persons and property, a third of the amount of the compensation shall be applied to recovery for damages to the property, and the remaining two-thirds to recovery for damages caused to persons.

Section IV—Damages to Third Persons on the Ground in Case of Midair Collision

Article 251. In the case of damages caused to third persons on the ground by a collision of two or more aircraft, the operators thereof shall be jointly liable to the victims up to an amount equal to the total for which all aircraft involved in the collision are liable for accidents, under the terms of the preceding Section.

Article 252. If the collision was caused by negligence of one of the aircraft, the operator of the blameless aircraft shall be entitled to recover from the operator of the other one the amount of compensation he had to pay to the victims on the basis of joint liability.

If there is contributory negligence, the operator of the aircraft who, under his joint liability, has paid a greater amount than that which he owes, shall be entitled to recover the excess from the operator of the other aircraft.

Article 253. If the collision was caused by accident or *force majeure*, each operator of the aircraft shall be liable within the limits and under the conditions specified; the one being entitled to recovery of the excess in case he has paid a greater amount than he owed.

Section V—General Provisions

Article 254. Civil liability for damage to passengers by national or foreign international air carriers shall be governed by Article 218 in the case considered therein and, otherwise, by the international conventions in effect in the Republic. In the absence of such conventions, such liability shall be governed by this Code and other applicable laws, when the accident or the damages and detriments have occurred on the national territory.

Article 255. The right to claim compensation under contractual or non-contractual liability shall cease in all cases for which no special statute of limitations has been established when no action is brought within two years from the date when the event which gave rise to the damages occurred or, if there is none, when the transportation began during which the act mentioned took place.

The general and special statutes of limitations shall cease to run when there is proof of fraud on the part of the carrier.

Article 256. Contractual liabilities provided for in this Code may be fixed at a higher amount of compensation under a special agreement between the enterprise or carrier and the passenger or shipper, as the case may be. But in no case may the limit be set at a lower amount as contractual or non-contractual liability.

Article 257. The guarantees required in conformity with this Code for the payment of damages arising from contractual or non-contractual liabilities, shall be especially and preferentially subject to the payment of compensation which this law provides for.

Article 258. In case of impossibility on the part of insurance firm or companies to underwrite the insurance which this Code requires and such situation is clearly proved to the Minister of Aviation, that official

may agree that such guarantee be replaced by a deposit in cash or by a security furnished by a recognized bank, and if that is not possible, by an ample and effective collateral guarantee.

The Minister who accepts a collateral guarantee shall be personally liable to an injured party when at any time and under normal circumstances such guarantee is insufficient to cover the damages. A Minister who permits air operations on insufficient guarantees shall also personally be liable to the injured party even though the guarantees have not been accepted by him.

Article 259. The Nicaraguan courts shall have jurisdiction over, and decide in conformity with this Code:

a) Claims against Nicaraguan enterprises which perform international public air transport services and there is no timely allegation and proof that they are expressly subject to another jurisdiction;

b) Claims against foreign enterprises which operate international public air transport services, in the following cases:

1) for personal injuries to Nicaraguan or foreign passengers domiciled in this country, or in case of delay in transportation even when the case is other than that provided for in Article 218.

2) For loss, damage, or delay of cargo or checked baggage or hand luggage which belongs to Nicaraguans or foreigners domiciled in this country, when such cargo or baggage is dispatched from Nicaragua or when this country is the ultimate destination; and

3) For damages to the person or property of third persons on the ground on Nicaraguan territory.

c) In any other case not expressly included in subparagraphs a) and b), nor excluded in this last paragraph.

Article 260. Damages caused by aircraft on the ground shall be governed by the general laws.

Article 261. The provisions of the general laws shall be applicable to all matters not regulated in this Code.

TITLE IV

CHAPTER I. VIOLATIONS

Article 262. The Ministry of Aviation shall organize and regulate the inspection service for civil aviation in the whole country in order to assure the proper conditions of flight safety.

Article 263. The Ministry of Aviation shall enforce strict compliance with the laws and regulations on civil aviation and, if necessary, impose proper legal penalties.

Article 264. A fine of from five hundred to five thousand *Córdobas* shall be imposed on the commander or pilot of any civil aircraft who, without a special authorization or not excused by *force majeure*:

a) Pilots an aircraft without marks of nationality and registration;

b) Pilots an aircraft without airworthiness certificate or with one that has not been properly validated;

c) Performs acrobatic flights, buzzing or dangerous maneuvers over cities or centers of population;

d) Flies over cities or centers of population at a lower altitude than that prescribed by the air regulations;

e) Pilots or crews an aircraft without the license and the certificates of qualification required for the category, class or type of aircraft in question, or with such documents which have not been properly validated;

f) For disobeying flight orders or instructions received;

g) For crewing an aircraft after having taken alcoholic beverages in any amount;

h) For flying over prohibited areas;

i) For not immediately informing the competent authority of accidents;

j) For not landing on the civil airdromes designated in the necessary flight permit or authorization, and

k) For using or permitting the use of photographic equipment abroad an aircraft in flight, or making or permitting the making of aerial maps or photographs without proper authorization therefor.

In addition to the fine in all cases provided for in this article, the license of the commander or pilot responsible may be suspended at the discretion of the Ministry of Aviation.

Article 265. A fine of from two hundred to two thousand *Córdobas* shall be imposed on any pilot or commander of any civil aircraft:

a) For crewing the aircraft without himself having the respective license:

b) For permitting any person not a member of the flight personnel to take part in the operation of the aircraft; or when the members of such personnel do not have their license or it is suspended or invalid;

c) For abandoning an aircraft, passengers, cargo or other goods at a place which is not the terminal point without having good and just cause to do so.

d) For permitting a member of the flight personnel to participate in the operation of the aircraft after having drunk alcoholic beverages; in such case the same penalty shall be imposed on the member of the flight personnel.

e) For throwing or permitting the throwing from an aircraft of articles or ballast without necessity; and

f) For making demonstration flights, technical tests or instruction flights without a permit

Article 266. A fine of from two hundred to five thousand *Cordobas* shall be imposed on the owner or operator of civil aircraft in the following cases:

a) For altering or modifying the marks of nationality or registration of an aircraft without authorization from the competent authority; or for permitting a flight without such marks;

b) For registering an aircraft in the register of another State without obtaining the cancellation of the Nicaraguan registration;

c) For ordering the commander or pilot of an aircraft to commit acts which involve a violation of this Code or other regulations;

d) For keeping in this country a foreign aircraft or for taking abroad a national aircraft without complying with the requirements of this Code and the regulations issued thereunder;

e) For not immediately notifying the competent authority of accidents to his aircraft;

f) For permitting his aircraft to disrupt or impede air traffic or traffic on airdromes;

g) For transporting arms, dangerous and inflammable articles, or explosive, or other substances, without proper authorization;

h) For transporting dead bodies, and contagious or mental patients without proper authorization;

i) For permitting an aircraft to fly without airworthiness certificate or without valid registration certificate;

j) For permitting that the crew of an aircraft lack the license therefor; and

k) For using or permitting the use of equipment of aerial photography without the proper permit.

Article 267. A fine of from [500 to 5,000] five hundred to five thousand Cordobas shall be imposed on air carriers which operate under an operating certificate or authorization by the Executive in the following cases:

a) For performing operations in violation of rates, flight routes, flight frequencies and time schedules that have been officially approved;

b) For refusing to transport any person or cargo without lawful reason;

c) For preventing or attempting to prevent any aircraft from using any airdrome or airport which has been declared open to public use by the Ministry of Aviation;

d) For non-compliance with the obligations specified in this Code and the regulations issued thereunder, in the operating certificates or authorization and which, in the judgment of the Ministry of Aviation, does not warrant cancellation of the certificate or authorization;

e) For not performing, in the manner required by the regulations, the preservation and maintenance of its flight equipment, airdromes, engines and equipment, of any other services which relate to the safety and efficiency of transportation, and

f) For not following the air routes or landing on airports in accordance with the provisions of the operating certificate or authorization, as the case may be.

TITLE V

SALE CHAPTER. FINAL PROVISIONS

Article 268. This Code repeals the "Law of Civil Aviation" of August 5, 1944, and any other provision on the subject matter treated in this Code, and shall come into force fifteen days from its publication in "*La Gaceta*"; *Diario Oficial*.

Article 269. The Executive Power, through the Ministry of the Treasury, and with prior consultation with the Ministry of Aviation,

shall grant by Decree, when the general situation requires it, franchises or duty free importation of articles necessary to air navigation.

TITLE VI. TRANSITORY PROVISIONS

Article 270. Enterprises of civil aviation which operate in Nicaragua, whatever the condition or status under which they act, shall have a period of three months from the date on which this Code enters into force to comply with the rules prescribed in this body of law, in order to be allowed to operate in this country.

Article 271. After the term specified in the preceding article, there shall be without validity all authorizations or permits granted prior to the effective date of this Code and, therefore, after that date no enterprise may continue to operate on the basis of such contracts, authorizations, or permits.

Article 272. During the period specified in Article 270 the Executive Power shall have the authority to issue the pertinent regulations and, if necessary, to apply the necessary legal procedures to terminate the lease contract for the international airport of "Las Mercedes" so that the government of Nicaragua may take over effective administration of that airport.

The expenses which are necessary to comply with the provisions of the preceding paragraph shall be payable from the revenues not completely expended or those not used from the actual budget of Revenues and Expenditures of the Republic.

Managua, May 18, 1956.

OTHER LEGISLATION IN FORCE

1. Air Regulation 908 and others deal with requirements for aircraft used for fumigating, using poisonous sprays, and restrictions thereon (*La Gaceta*, August 24 and 27, 1957).

2. Decree 39 of May 20, 1958, issues Regulations to govern two registers, one for property in the field of aeronautics and an administrative aeronautical register (*La Gaceta*, May 30, 1958).

3. Decree 38 of April 22, 1958, issues the Regulation on Air Traffic (*La Gaceta*, June 2, 1958).

4. Decree 12-C of September 7, 1959, regulates the registration of aircraft (*La Gaceta*, October 22, 1959).

NIGER

LAW NO. 62-13, JULY 17, 1962, CODE OF CIVIL AVIATION

BOOK I. AIRCRAFT

Art. 1. In the application of this Code, an aircraft shall be deemed to be any contrivance which can maintain itself, and move in the air.

Art. 2. Aircraft used for such services as military, customs, or police services, are subject only to the rules concerning liability of the owner or operator.

However, the provisions of Article 53 shall apply to aircraft used for military, customs or police services provided they are not incompatible with the purpose of such aircraft.

TITLE I. OWNERSHIP, MORTGAGE, AND ATTACHMENT OF AIRCRAFT

CHAPTER I. REGISTRATION, NATIONALITY, AND OWNERSHIP OF AIRCRAFT

Art. 3. Every civil aircraft must be registered in a register kept by the Ministry in charge of civil aviation, under conditions fixed by decree. The registration identifies the aircraft. It shall be shown by a certificate of registration.

Art. 4. Any aircraft registered in the Nigerian register shall have Nigerian nationality and must bear the nationality and registration marks provided for in the regulations.

Art. 5. In the register defined in Article 3 above shall be registered any aircraft owned by a natural or legal person or persons of Nigerian nationality.

In order that a legal person or persons be deemed of Nigerian nationality, the following must be the case:

In membership associations, all members must have Nigerian nationality.

In corporation with limited liability, the owners of the majority of the capital and the management must have Nigerian nationality.

In stock corporations the president, the director general, and the majority of the board members must have Nigerian nationality.

Art. 6. Except for the provisions of Article 7, any aircraft owned by a foreigner whose legal domicile is in Niger, or by a foreign corporation or association whose main office is in Niger, may be registered in Niger.

The same shall apply to aircraft whose foreign owner performs any activity which is useful for the economic or social development of Niger.

However, registration of an aircraft owned by a foreigner shall be subject to an authorization granted by the Ministry in charge of civil aviation. The decision to authorize the registration shall be

made by a simple ordinance published in the *Journal Officiel* of the Republic of Niger.

Art. 7. An aircraft which is registered abroad may not be registered in the Nigerian register except after showing that the foreign registration has been cancelled.

When any of the conditions specified in Articles 5 and 6 are no longer fulfilled, the owner of the aircraft must notify the official in charge of the register, who shall cancel the registration. In the absence of notification by the owner, which must be made within a period specified by decree, cancellation in the register shall be effected by an ordinance with reasons issued by the Minister in charge of civil aviation and published in the *Journal Officiel* of the Republic of Niger.

Art. 8. Legal relations between persons aboard an aircraft in flight shall be governed by the law of the country of origin of such aircraft.

However, when a crime or misdemeanor is committed aboard a foreign aircraft, the Nigerian courts shall have jurisdiction when the person who commits the crime, or against whom it is committed, has Nigerian nationality, or when the aircraft lands in Niger subsequent to the crime or misdemeanor.

The courts of jurisdiction shall be those at the place of landing or at the place where the arrest is made in the case where the person committing the violation is arrested at a place other than that of the landing.

When an event occurs aboard a Nigerian aircraft, the flight commander may take all measures he deems necessary to ensure good order.

In the application of this article, an aircraft shall be deemed in flight from the time when power is applied for take-off till the time when landing is completed.

In the case of lighter-than-aircraft the term "in flight" shall apply to the period between the time when such aircraft is detached from the ground and that when it is again attached.

Art. 9. Registration in the register shall be proof of title. Such register shall be public and anyone may obtain a certified copy thereof.

Art. 10. Aircraft shall be personal property in regard to application of the rules of the Civil Code. However, transfer of ownership must be in writing and shall be without effect in regard to third persons unless there is a registration in the register.

Any change in ownership by reason of death and any judgment transferring, establishing, or declaratory of ownership must be recorded in the register at the request of the new owner.

CHAPTER II. MORTGAGE AND ATTACHMENT OF AIRCRAFT

Art. 11. Aircraft as defined in Article 1 of this Code may be mortgaged only by agreement between the parties.

Insofar as they belong to the owner of the aircraft, a mortgage shall affect the fuselage, the engines, propellers, board instruments and all parts permanently installed on the aircraft, whether they are fixed thereon or are temporarily detached.

Art. 12. A mortgage may, by a single document, be imposed on all or part of an airfleet belonging to the same person provided that the various elements of the fleet are specified in such document.

Art. 13. A mortgage may be extended to cover also spare parts suitable for the type of aircraft mortgaged, provided such pieces are specified.

Such parts shall be kept in one or more places of which notice shall be given as provided for in Article 14. When they are used on aircraft to which they belong, they must be immediately replaced. The creditor must be notified of such use.

Art. 14. The spare parts mentioned in the preceding article include all parts constituting aircraft, engines, propellers, radio equipment, instruments, other equipment, furnishings, parts of various component parts and, in general, all objects whatever which are kept for the replacement of parts constituting the aircraft, provided they are specified.

Appropriate notice, given at the place by way of posting, must duly notify third persons of the kind and extent of the mortgage on such parts and must mention the register where the mortgage is recorded, and the name and address of the mortgagee.

An inventory showing the kind and number of such parts shall be attached to the document recorded.

Art. 15. A mortgage is void unless it is in writing. The act establishing it may be public or under private seal. It must specify all elements affected by the mortgage. It may be on order: in that case, endorsement shall transfer title to the mortgagee.

Any mention in the sales contract for an aircraft that all or part of the price remains to be paid to the seller, shall, without a contrary stipulation, constitute a lien for him as guarantee for the amount stated as remaining to be paid provided the seller requests recordation of such lien in the form provided for by decree.

An aircraft under construction may be mortgaged only when prior notice has been given to the agency in charge of the register. Such notice shall include the principal characteristics of the aircraft under construction: a receipt therefor shall be issued.

Art. 16. In the case of loss or crash of an aircraft, unless there is a contrary stipulation, the mortgagee may be subrogated for the amount due him for the insured as to the right to compensation payable by the insurer.

Prior to making any payment the insurer must request an official statement of the recorded mortgages. No payment shall discharge him if it is made in disregard of the rights of creditors listed on such statement.

Art. 17. All mortgages must be recorded in the register. They shall be without effect in regard to third persons until they are recorded.

Cancellation, and any modification of a mortgage by agreement between the parties or by a judgment, shall also be recorded in such register.

Art. 18. When there are two or more mortgages on the same aircraft, their precedence shall be determined by the order of their recordation dates.

Mortgages recorded on the same day shall be of equal rank regardless of the hour of their recordation.

Art. 19. Recordation shall keep a mortgage valid for ten years from the date of its recordation. It shall cease to be effective when the recordation is not renewed before the expiration of such period.

Art. 20. Recordation of a mortgage shall guarantee, in the same precedence as the mortgage itself, interest for three years in addition to the current year.

Art. 21. Recordation of mortgages shall be cancelled when there is a legal act stating the agreement of the parties or a final judgment on the matter.

Art. 22. Except in the case of judicial sale in accordance with the provisions specified in a decree, registration of an aircraft may not be stricken from the register when recorded rights have not been cancelled prior thereto.

Art. 23. Creditors whose mortgage on an aircraft has been recorded, shall follow their security in whatever hands it may pass, for the purpose of collection and payment in the order of their respective recordation and after privileged creditors, subject to the provisions of Articles 24 and 27 below.

Art. 24. Only the following debts shall have preference to mortgages and be privileged:

- 1) Court costs incurred in the sale of an aircraft and in the distribution of the price received in the common interest of the creditors;
- 2) Payments due for salvage of an aircraft;
- 3) Necessary expenses for the preservation thereof;
- 4) Debts resulting from the employment contract of flight crew members and other flight personnel, but as regards any salaries, only for a maximum of six months;
- 5) Fees for use of devices and aids to navigation and landing fees.

Art. 25. The privileges specified in the preceding article shall affect the aircraft or the insurance mentioned in Article 16. They shall follow the aircraft in whatever hands it may pass.

They shall be extinguished three months after the event which gave rise to them unless the creditor makes prior recordation of the debt in the register of the aircraft, after having given friendly notice of the amount, or in the absence thereof, after having commenced a legal action therefor.

They shall further be extinguished, independently of the normal methods of extinction of privileges:

- 1) By judicial sale of the aircraft executed in the form provided for by decree;
- 2) In case of voluntary transfer properly recorded in the register, at the latest, one month after publication of the transfer in a journal of legal notices at the domicile of the vendor, unless, prior to expiration of such period, the creditor has given notice of such debt to the vendee at the domicile stated by him in the pertinent publications.

Art. 26. Debts specified in Article 24 shall be privileged in the order in which they appear in that article.

Debts of the same order of precedence shall be of equal rank and shall be paid at the same rate in case of insufficient funds.

However, debts mentioned in Article 24, 2) and 3) shall be paid in inverse order as regards the events which gave rise to them.

Art. 27. Privileges other than those enumerated in Article 24 shall rank after mortgages whose recordation precedes the arising of such

privileges. However, in the case of sale in Niger of an aircraft mortgaged in a State, party to the international convention for the recognition of rights in aircraft, signed at Geneva on June 19, 1948, the rights provided for in Article 1 of that convention which exist on the aircraft may be exercised only in recognition of the rights of the persons who suffered damages on the ground as provided for in Article 7 of that convention.

Art. 28. Except in the case of judicial sale in the manner provided for by decree, the registration of a aircraft may not be transferred to another State except by prior extinction of recorded rights or with the consent of the persons entitled thereto.

Until this condition has been fulfilled, the official in charge of the register must refuse any cancellation.

Art. 29. When there is attachment of an aircraft registered in a State party to the convention for the recognition of rights in aircraft, signed at Geneva on June 19, 1948, no judicial sale may be had when the rights that have preference over those of the attaching creditor cannot be satisfied by the sale price or when they are not assumed by the vendee.

However, when a mortgaged aircraft causes damages to third persons on the ground within Niger, the provisions of the preceding paragraph may not be invoked against such persons or their representatives in attaching the aircraft which caused the damages or another aircraft of the same owner.

Art. 30. Without thereby affecting more serious penalties, if they are in order, any act of destruction or removal, or attempt of destruction or removal, of aircraft or spare parts on which a mortgage has been properly recorded, shall be punished by the penalties provided for in Article 338 of the Criminal Code.

Any fraudulent act intended to deprive a creditor of his security shall be subject to the same penalties.

Art. 31. Nigerian aircraft, and when there is reciprocity foreign aircraft, shall be exempt from attachment under the conditions specified in the convention for the unification of certain rules on attachment of aircraft, signed in Rome on May 29, 1933, or in any convention amending it which is applicable in Niger.

Art. 32. In the case of attachment for infringement of a patent, design or model, the owner of a foreign aircraft or his representative may have the attachment lifted by deposit of a bond the amount of which, in the absence of a friendly agreement, shall be set within the shortest possible time by the president of the trial court at the place of the attachment.

There shall be exempt from attachment the aircraft of public airlines and spare parts and accessories indispensable in their operation provided that, in the case of foreign aircraft, they lawfully entered Nigerian territory and that there is reciprocity.

Art. 33. When the owner of an aircraft is not domiciled in Niger, or when the aircraft has foreign nationality, any creditor shall have the right to attach the aircraft with the permission of the president of the trial court at the place where the aircraft has landed.

The respective judge shall lift the attachment when the owner offers to deposit a bond equal to the amount of the debt claimed and

he may order such lifting by setting the amount of the bond to be furnished in cases where the extent of the debt is contested.

Art. 34. In the case of damages caused on the ground by the crash of a foreign aircraft or an aircraft whose owner is domiciled abroad, and in the case of a violation of this Code by a foreigner, all officials empowered by Article 83 to enforce Articles 1 to 86, and 115 to 126 of this Code, and particularly the chief of the landing service may ask the public authorities to detain the aircraft for forty-eight hours in order to permit the judge to go to the place in question and to determine the amount of damage caused, but also, in the case of a violation, the amount of fines and costs.

Art. 35. The persons specified in Articles 83 and 84 shall have the right to attach any Nigerian or foreign aircraft which does not comply with the conditions for air navigation provided for in this Book or whose pilot has committed a violation.

TITLE II. FLIGHT OF AIRCRAFT

CHAPTER I. THE RIGHT OF FLIGHT

Art. 36. Aircraft may fly freely above Nigerian territory provided they observe the rules concerning air navigation and flight. However, aircraft of foreign nationality may fly above Nigerian territory only when they have been granted such right by an international or diplomatic agreement or when they have been granted an authorization which must be special and temporary.

Art. 37. Use of aircraft on maneuvering areas of airdromes and in flight, must be in compliance with the flight rules.

Flight rules, and powers and the role of the civil aviation services, shall be established by decree.

Flight rules shall be applicable in the airspace under the control of the agency or agencies of the civil aviation services in the territory of the Republic of Niger.

Outside the airspace as defined above they shall apply to aircraft which bear Nigerian nationality marks to the extent that this is compatible with the rules of the State, or of the international organization which has authority over the airspace or where the aircraft is flying.

Art. 38. The right of an aircraft to fly over private property may not be exercised in such a manner as to infringe the right of the owner thereof.

Art. 39. Flight over certain areas or, in exceptional circumstances, the entire Nigerian territory may be prohibited by decree for reasons of a military nature or of public safety. The location and extent of prohibited areas must be specifically indicated in the decree.

Any aircraft committing a violation must land at the first request under the conditions specified in the decree.

Art. 40. Aircraft may not be flown in a negligent or careless manner which may endanger the safety of persons or property on the ground.

Aerial dives and acrobatics by civil aircraft must be executed in compliance with the rules issued in this regard.

Art. 41. Maneuvers of aircraft in public shows may take place only with authorization from the chief of the respective department on notification from the competent aeronautical authority.

When a test consists of a flight including successive landings, authorization shall be granted by the Ministry of the Interior on notification from the Minister in charge of civil aviation.

CHAPTER II. LANDING

Art. 42. Except in case of *force majeure* or the cases provided for in the following paragraph, aircraft may only land on, and take off from properly established airdromes.

A decree, issued on the report of the Minister in charge of civil aviation and of the Minister of the Interior, shall define the conditions under which certain types of aircraft may land or take off at place other than airdromes, with the agreement of the person who is entitled to the land or water area used.

However, such agreement shall not be required in the case of aid and salvage operations in which aircraft are used.

Art. 43. In case of landing or setting down on water on private property, the person entitled to the land or water area may not prevent departure or removal of the aircraft when no attachment has issued except as provided in Article 34.

Art. 44. Aircraft which make an international flight must land on customs airports.

They may have to follow a specific air route to cross the border.

However, because of the nature of their operation, certain categories of aircraft may be exempted by administrative authorization issued on request by the Minister in charge of civil aviation, from landing on customs airports; in such case, the authorization shall designate the airdrome of arrival and departure and, if required, the air route to be followed and the signals to be given at crossing the border.

CHAPTER III. REGULATION OF FLIGHT OF AIRCRAFT

Art. 45. Any person who belongs to the flight personnel of an aircraft must have one or more valid aptitude licenses, corresponding to his duties and issued under conditions specified by decree.

Art. 46. An aircraft may make a flight only when it has an airworthiness certificate issued after inspection of the aircraft under conditions determined by decree, or when it has a flight permit by way of exception.

Decrees shall further determine the marks which must be affixed to an aircraft and the operational rules, particularly the documents which must be carried aboard and the technical operating conditions of aircraft.

Decrees shall also determine the operational rules applicable to foreign aircraft.

The costs for inspection required by the regulations for the issuance or renewal of the airworthiness certificate of aircraft shall be borne by the owners of the aircraft inspected under conditions specified by a decree issued on the report of the Minister in charge of civil aviation and of the Minister of Finance.

This decree shall specify, in particular, the rates of the costs to be reimbursed to the Treasury, when the inspection is made by officials of the State.

Art. 47. Without a special authorization, it shall be prohibited to transport on aircraft any explosives, weapons, and ammunition, carrier pigeons, or mail included in the postal monopoly.

Transportation and use of photographic equipment may be prohibited by decree.

The conditions for transportation of dangerous substances, cultures of microbes, and small infected or dangerous animals shall be determined by decree.

Art. 48. No equipment for radio telegraph or radio telephone intended for the mobile aeronautical communications service may be installed or used aboard an aircraft without special authorization; the same shall apply to equipment for radio navigation or electromagnetic detection.

Aircraft for public passenger transport must be equipped with radio communication apparatus necessary for flight safety under conditions determined by regulation.

In all cases, the crew members who use radio telegraph or radio telephone equipment must have a radio operator's license or a qualification for radio telephone; the use of such equipment must be in accordance with the regulations.

Art. 49. Any aircraft landing on an airdrome or on private property shall be subject to the control and supervision of the administrative authorities.

Art. 50. Any aircraft in flight anywhere must submit to the orders of the police and customs stations and aircraft, in whatever form such order may be given.

Art. 51. Aircraft flying exclusively over airdromes and areas approved by the administrative authorities as training areas, shall not be subject to the provisions of Articles 45 to 52, provided such flights do not constitute a public show. However, they may not transport passengers unless they have a certificate of airworthiness.

Art. 52. Airworthiness certificates, aptitude patents and licenses issued or validated by the State whose nationality the aircraft has; shall be recognized as valid for flight above Nigerian territory when reciprocity exists under an international convention or a decree.

TITLE III. DAMAGES, LIABILITY AND LOSS OF AIRCRAFT

Art. 53. During flight pilots must comply with the rules provided for in Title II of this Book and must take all precautions necessary to avoid damages.

Art. 54. In the case of damages caused by an aircraft in flight to another aircraft in flight, the liability of the pilot and of the operator of the aircraft shall be regulated by the provisions of the Civil Code.

Art. 55. The operator of an aircraft shall be fully liable for damage caused to third persons on the ground by the flight of aircraft, or by persons or articles falling therefrom.

Such liability may be reduced or avoided only by proof of the negligence of the injured person.

Art. 56. Except with a special authorization, it shall be prohibited, other than in cases of *force majeure*, to throw from an aircraft in flight any goods or articles whatever, with the exception of regulation ballast.

In case of jettisoning by reason of *force majeure*, or jettisoning of regulation ballast or of specially authorized jettisoning which causes damages to persons and property on the ground, the liability shall be determined in accordance with the provisions of the preceding article.

Art. 57. In the case of charter of an aircraft, the owner and the operator shall be jointly liable to third persons for any damages.

However, when the charter has been recorded in the register, the owner shall only be liable when the third person proves negligence on his part.

Art. 58. An action for liability shall be brought in the court of the place where the damage was caused or in the court at the domicile of the defendant, at the choice of the plaintiff.

In the case of damage caused to an aircraft in flight, the court at the place where the damaged aircraft had to land after the injury shall have jurisdiction.

Art. 59. Any person who finds a wrecked aircraft must notify the nearest administrative authority within forty-eight hours after the discovery.

Art. 60. In the case of disappearance of an aircraft without news, the aircraft shall be presumed lost three months after the date when the last news was sent.

Art. 61. After expiration of the period provided for in Article 60 above, the death of the persons aboard the aircraft may be declared by judgment in accordance with the provisions of the Civil Code.

If necessary, the Minister in charge of civil aviation may declare that there is a presumption of disappearance and he may send to the court of jurisdiction the requests necessary for a judicial declaration of the death of the persons who have disappeared.

Interested persons may also proceed, in accordance with the provisions of the Civil Code, to obtain a judicial declaration of death. In that case, such request shall be transmitted by the Public Ministry to the Minister in charge of civil aviation.

Art. 62. The manner of application of the preceding articles shall be determined by decree.

TITLE IV. ACCIDENTS

Art. 63. The flight commander shall submit a detailed report within forty-eight hours after any accident or other event which may have serious consequences, whether it occurs on the ground, or in flight, or concerning any violation of flight rules.

Art. 64. The Minister in charge of civil aviation shall institute all investigations and inquiries in order to determine and state the causes of accidents or other events.

He may appoint a commission of investigation whose membership, functioning, and jurisdiction shall be determined by regulation.

Art. 65. When the commission of investigation provided for in the preceding article finds negligence in performance of a professional duty, a copy of the file shall be sent directly to the disciplinary board of the Civil Aviation Board provided for in Article 147 below.

TITLE V. CRIMINAL PROVISIONS

Art. 66. Any person shall be punished by a fine of from 60,000 to 1,200,000 frs. and by imprisonment of from six days to one month, or by only one of these penalties, who:

1) puts, or retains in service any aircraft which does not have a registration certificate, an airworthiness certificate, or a flight permit by way of exception;

2) puts, or retains in service any aircraft without the identification marks provided for in Article 4;

3) causes or permits to fly, any aircraft whose airworthiness certificate of flight permit by way of exception has ceased to be valid;

4) causes or permits to fly any aircraft under conditions other than those specified in the airworthiness certificate and related documents or the the flight permit by way of exception;

5) causes or permits to fly any aircraft under conditions that are contrary to the provisions of Articles 36 and 48 of this Code.

Art. 67. Any person shall be punished by a fine of from 60,000 to 1,200,000 Frs. and by imprisonment of from six days to six months, or by only one of these penalties, who:

1) flies, or participates in flying an aircraft without valid documents required by the regulations;

2) destroys or removes a flight log or any other flight document required by air regulations, or makes in such log or any other document inaccurate notations.

3) flies or participates in flying an aircraft under the conditions specified in Article 66;

4) violates Article 42.

Art. 68. The penalties provided for in Article 66 shall be doubled when the violations specified in paragraphs 1), 3) and 4) of Article 66, and paragraph 1) of Article 67 have been committed after denial or withdrawal of the registration certificate, the airworthiness certificate, or the flight permit by way of exception, or the licenses required for crew members under the regulations.

Art. 69. There shall be punished by a fine of from 12,000 to 200,000 Frs. and by imprisonment of from six days to one month, or by only one of these penalties:

1) any person who is found aboard an aircraft in flight without being able to justify his presence by a proper ticket or by permission of the operator or the flight commander;

2) any person who does not comply with, or refuses to comply with the instructions of the flight commander in view of the safety of the aircraft or that of the persons carried.

Art. 70. A pilot who does not comply with the provisions of Article 39 shall be punished by a fine of from 60,000 to 1,200,000 Frs. and by imprisonment of from 15 days to 3 months.

Art. 71. Any person who affixes, or causes to be affixed to an aircraft, registration marks not in conformity with those on the registration certificate, or who removes or causes to be removed, or renders or causes to be rendered illegible properly affixed marks, shall be punished by a fine of from 120,000 to 2,400,000 Frs. and by imprisonment of from 6 months to 3 years.

Art. 72. The violation of the provisions of Article 47 by any person shall be punished by the penalties provided for in Article 66.

There shall be punished by the penalties provided for in Article 69:

1) any person who uses on an aircraft any article or apparatus the transport of which is prohibited:

2) any person who, without special authorization, uses photographic or motion picture equipment above prohibited areas.

Art. 73. Any person who has been sentenced for a violation of any of the preceding articles and who commits a further violation of a provision of this Code, or the same violation within a period of five years from the end of the imprisonment or from payment of the fine, or from prescription of these two penalties, shall be sentenced to the maximum imprisonment and fine and these penalties may be doubled.

Art. 74. There shall be punished by a fine of from 12,000 to 60,000 Frs. and, according to the circumstances, also by imprisonment of from 6 days to one month:

1) any flight commander who does not keep or cause to be kept any of the flight documents required by Article 46 (second paragraph) and any crew member specially ordered to keep them;

2) any owner or charterer recorded in the register who omits to preserve any of the flight documents for 3 years from the last entry;

3) any person who violates Article 40:

4) any person who violates the regulations concerning technical operating conditions of aircraft issued in application of Article 46.

In case of repetition, there shall always be imprisonment. There shall be deemed repetition when, during the preceding year, a judgment has been rendered against the violator for one of these violations.

Art. 75. Any person who violates Article 41, or decrees issued in application thereof, shall be punished by a fine of from 30,000 to 200,000 Frs. and, according to the circumstances, also [by imprisonment*].

Art. 76. A prohibition to fly, or to participate in flying an aircraft may be imposed by judgment or ordinance for a period of from 3 months to 3 years, against a crew member sentenced under Articles 68, 70, and 71.

When a crew member is sentenced for the second time for the same violation within the period provided for in Article 73, the prohibition to fly, or to participate in flying an aircraft shall be imposed and the duration thereof shall be for the maximum period and may be doubled. The patents, licenses, and certificates held by the violators shall be deposited for the whole duration of the prohibition with the clerk of the court which imposed the prohibition.

The persons sentenced must deposit such patents, licenses, and certificates either with the above clerk or the clerk at their domicile, within 5 days after the date on which the sentence has become final, under penalty of from 6 days to 1 month imprisonment and a fine of from 6,000 to 120,000 Frs., without thereby affecting the penalties under Article 67 in the case that they fly or participate in flying an aircraft during the period of prohibition and such penalties cannot be intermingled.

Art. 77. In accordance with Article 56 of this Code any unauthorized jettisoning of articles from an aircraft in flight shall be punished by a fine of from 60,000 to 360,000 Frs. and by imprisonment

*Missing in original French.

of from 6 days to 2 months, or by only one of these penalties, even if such jettisoning causes no damage, and without thereby affecting more severe penalties, which may be imposed in case of other violations.

Art. 78. Any flight commander of an aircraft who, in the knowledge that the aircraft has caused or occasioned an accident on the ground, does not immediately notify the authorities of the nearest airport with which he can communicate, and thus attempts to avoid any criminal and civil liability he may have incurred, shall be punished by the penalties provided for by the law in cases of the offense of leaving the scene of an accident.

Art. 79. The provisions of the Criminal Code pertaining to mitigation and aggravation of penalties shall be applicable to all violations specified in this law.

Art. 80. All provisions of laws relating to the prevention of violations of customs regulations shall be applicable to goods imported or exported by aircraft under any customs rule.

All unauthorized unloading and dropping of goods other than those necessary for the welfare of the aircraft shall be punished by the penalties provided for in the customs law in respect to contraband.

In case of a violation, the aircraft may only be used as surety for payment of the fine incurred, or may be subject to attachment which, however, shall be lifted when a bond is furnished or a deposit is paid to the extent of the fine.

Art. 81. In regard to goods exported in discharge of temporary admittance or bonding permits or subject to internal taxes, the shippers shall justify their shipment abroad by producing, within the periods specified, a valid customs certificate of destination under penalty of payment of four times the value of the goods.

Art. 82. Article 79 shall not be applicable to violations specified by the customs laws.

Art. 83. Violation of the provisions of this Book and of the regulations issued for its application shall be prosecuted independently by the officers of the judicial police, by the officials of the technical bureau of the Civil Aviation Board, by military personnel and by agents of the civil or military authorities appointed for such purpose, and by the gendarmes and customs agents.

Art. 84. The State attorney, the investigating courts, the justices of the peace, the police officers at the office of the State attorney designated by the Code of Criminal Investigation, the officials of the technical bureau of the Civil Aviation Board, military officers, and agents of the civil or military authorities appointed for such purpose, and the gendarmes and customs agents shall have the right to seize explosives, weapons and ammunition, carrier pigeons, photographic equipment, photographic negatives and mail, as well as all radio telegraph and telephone equipment which may be on board without the special authorization provided for in Articles 47 and 48.

These authorities may seize carrier pigeons, photographic equipment and negatives which may be aboard any aircraft authorized to transport such articles in case such aircraft flies over prohibited areas.

Confiscation of articles and equipment lawfully seized shall be decreed by the court.

Art. 85. Any aircraft whose airworthiness certificate and registration certificate cannot be produced or whose registration marks do not

agree with those on the registration certificate may be detained at the expense of the owner or, in the case of a charter recorded in the register, at the expense of the charterer recorded by the authorities in charge of enforcement of this Code until the identity of the owner can be established.

Art. 86. The file stating the violations of this Code and the decrees provided for therein, shall be transmitted without delay to the State attorney.

BOOK II. AIRDROMES

TITLE I. AIRDROME REGULATION

CHAPTER I. ESTABLISHMENT AND OPERATION

Art. 87. An airdrome shall be deemed any land or water area specially equipped for the landing, take-off, and maneuvering of aircraft, including the related installations which may be present for the needs of traffic and service of aircraft.

Art. 88. An airdrome shall be called "open to public air traffic" when all aircraft which have the appropriate technical characteristics are authorized to use it, subject to the provisions of Article 91.

Art. 89. A decree shall state the conditions of establishment and use of airdromes whether or not they are open to public air traffic.

Art. 90. The opening of an airdrome to public air traffic shall be pronounced by ordinance of the Minister in charge of civil aviation after a technical investigation.

Closing of an airdrome to public air traffic shall occur in the same manner.

Art. 91. The use of an airdrome open to public air traffic may at any time be made subject to certain restrictions or it may be temporarily closed if flight conditions on the airdrome or in the adjoining airspace or reasons of public order justify such action. Such decisions shall be the subject of notices to air navigators.

Art. 92. Airdromes for public air traffic may be established by the State, by public organizations and public establishments, or by private natural or legal persons who fulfill the conditions specified by decree.

Art. 93. All airdromes may be made subject to the technical and administrative control of the State.

Art. 94. Contracts granted by the State for the construction, maintenance, and operation of airdromes owned by it, shall be subject to the following conditions:

The cost accounts¹ of the contracts shall be approved by decree issued on the report of the Minister in charge of civil aviation and of the Minister of Finance. Contracts which do not involve a cost account shall be awarded by interministerial ordinance.

Art. 95. The establishment of an airdrome for public air traffic that does not belong to the State shall be made subject to the conclusion of an agreement between the Minister in charge of civil aviation and the public or private natural or legal person who establishes the airport; such agreement must be approved by the Minister who supervises the public organization or establishment concerned. It shall also be subject to approval by the Minister of Finance if it involves financial obligations to the State.

¹ For this term see Art. 86 of the French Code of Civil and Commercial Aviation.

Art. 96. For reasons of national defense a decree may prescribe that the State temporarily or permanently replaces the operator of an airdrome.

CHAPTER II. CLASSIFICATION

Art. 97. Airdromes for public air traffic shall be subject to a classification established by taking account of the character and the importance of the traffic thereon.

Such classification may be extended to airdromes not for public air traffic when the conditions of use of such airdromes justify it.

Art. 98. The technical and administrative conditions of the classification provided for in the preceding article, the categories into which airdromes are divided, the procedure preceding the classification and the effects of the classification shall be determined by decree issued on the report of the Minister in charge of civil aviation, on the advice of the Minister of Justice, of the Minister of Finance, of the Minister of the Interior, and of the Minister of National Defense.

Art. 99. The classification of airdromes shall be declared by decree issued on the report of the Minister in charge of civil aviation, on the advice of the Minister of Finance, of the Minister of the Interior, and of other Ministers concerned.

CHAPTER III. FEES

Art. 100. On all airdromes open to public air traffic, the services rendered to users and to the public shall give rise to a remuneration in the form of fees levied for the benefit of the person rendering the service, and particularly for the following operations:

- Landing of aircraft;

- Use of devices of aid to aerial navigation;

- Use of aeronautical telecommunications facilities;

- Parking and hangar space for aircraft;

- Use of installations equipped for the reception of passengers and goods;

- Occupation of land and buildings;

- Use of various installations and workshops.

Art. 101. The fees and method of levy of such fees shall be determined by special regulation.

Art. 102. The fees shall become due on use of the facilities, installations, buildings, and workshops, for which they constitute the payment, and they must be commensurate with the services rendered.

In case of non-payment of fees due from the operator of an aircraft, the operator of the airdrome shall be entitled to request the authority responsible for air traffic on the airport that the aircraft be held until deposit has been made of the amount in dispute.

TITLE II. AERONAUTICAL RESTRICTIONS

Art. 103. In order to ensure the safety of navigation of aircraft, special restrictions called "aeronautical restrictions" are imposed.

Such restrictions include:

1. Aeronautical restrictions for the purpose of clearance including the prohibition to create, or the obligation to remove, any obstacles that may constitute a danger to air traffic or impair

the functioning of safety devices established in the interest of air traffic;

2. Aeronautical restrictions of marking carrying an obligation to provide visual or radio-electric devices on certain obstacles and locations in order to notify their presence to air navigators, or to permit their identification, or to support the installation of such devices.

Art. 104. The provision of this Title shall be applicable:

a) To airdromes intended for public air traffic or established by the State;

b) to airdromes not intended for public air traffic and established by a national or legal person other than the State;

c) to installations of aid to air navigation, or aeronautical telecommunications, but the provisions concerning restrictions established in the interest of radio-electric transmission and reception shall apply;

d) to certain locations which constitute preferred reference points for air navigation.

Art. 105. The restrictions provided for in Article 103 shall ensure to air navigation conditions of safety at least equivalent to those resulting from the standards and recommendations of the International Civil Aviation Organization, in accordance with annex 14 of the Convention on International Civil Aviation of December 7, 1944.

Art. 106. The Minister in charge of civil aviation or, for airdromes or air routes concerning him, the Minister of National Defense, may prescribe day and night markings or markings for day or for night time for all obstacles which he considers dangerous to air navigation.

He may further order the installation of visual or radio-electric devices of aid to air navigation.

He may also order the removal or modification of any visual device which is such as to create confusion with visual aids to air navigation.

Art. 107. In order to install the markings mentioned in Article 106, the administration shall have the right to build supports, to pass, to cut or trim trees, and well as the right to install devices on outside walls and roofs.

These rights may be exercised by private persons who may be in charge of the markings.

Art. 108. Outside of the areas subject to clearance restrictions in application of this Title, the establishment of certain installations which, due to their height, may constitute obstacles to air navigation, shall be subject to special authorization by the Minister in charge of civil aviation or, insofar as it concerns him, the Minister of National Defense. Ministerial ordinances shall determine the installations subject to authorization.

Art. 109. When, for reasons of the requirements of air traffic, the competent authority decides on the expansion or establishment of airdromes or installations intended to ensure the safety of air navigation, the necessary land, if not already reserved for that purpose in a building plan under consideration or approved, may be declared reserved by regulations after a public investigation in the form prescribed by the provisions applicable to expropriation.

Art. 110. Regulations shall prescribe the methods of application of this Title.

TITLE III. CRIMINAL PROVISIONS

Art. 111. Any person who remains or enters on any land prohibited by the general regulations and ordinances or airdromes affected with a public service, or who permits cattle, or carriage, pack, or riding animals to remain thereon, shall be subject to the penalties provided for this matter in the Criminal Code and, in addition, may be deprived of any right to damages in the case of accident.

The provisions of Articles 83 and 86 shall be applicable to this article.

Art. 112. Violations of the provisions concerning aeronautical clearance and marking restrictions established in the interest of air navigation shall be punished by a fine of from 50,000 to 1,500,000 frs.

In the case of repetition, violations shall be punished by a fine of from 100,000 to 3,000,000 frs and by imprisonment of from ten days to three months, or by only one of these penalties.

Art. 113. On request of the Public Ministry, acting on the request of the Ministry concerned, the court that has cognizance of the case shall, under penalty of from 1,000 to 10,000 francs for each day of delay, impose on the persons who violate these provisions a time limit to remove or modify the structures subject to restrictions or to provide markings thereon.

When such time period is not observed, the penalty imposed shall be due from the expiration of said time limit until the day when the situation has been effectively remedied.

When the matter has not been remedied within one year from the expiration of the time limit, the court may, on request of the Public Ministry acting under the same conditions, collect one or several times the amount of the penalty, even exceeding the maximum provided above.

The court may decree return of part of the penalties when the matter has been remedied and the person liable shows that he had been prevented by circumstances beyond his control to observe the time limit imposed. In addition, when at the expiration of the time limit set in the judgment the matter has not been remedied, the administration may do the work at the expense and risk of the persons liable therefor.

The penalties shall be collected by the revenue agents of the Treasury.

BOOK III. AIR TRANSPORTATION

Article 114. Air transportation means the transportation by aircraft of passengers, mail and goods from one point to another.

TITLE I. TRANSPORTATION CONTRACT

CHAPTER I. TRANSPORTATION OF GOODS

Art. 115. The rules of the Commercial Code concerning transportation on the ground and by water shall apply to transportation by air, except as provided in the following articles.

Art. 116. Contracts for air transportation of goods shall be governed by the provisions of the Warsaw Convention of October 12,

1929, or any convention or protocol modifying it and applicable in Niger, even if the transportation is not international in the sense of that convention.

Art. 117. Liability of a carrier of goods or baggage shall be governed, in the case of transportation by air, by the provisions of the Warsaw Convention of October 12, 1929, under the conditions provided for in Article 116 above.

Art. 118. The fraud provided for in Article 26, paragraph 4, of said convention, is one by which the carrier hides or tries to hide the loss, shortage or delay, or by any other means prevents or tries to prevent the addressee from presenting his claims within the required time. The injured person shall also be relieved from the running of the statute of limitations as provided for in this law if he has been prevented from presenting his claim by *force majeure*.

Art. 119. An action for liability may be brought, at the choice of the plaintiff, either before the court of the domicile of the carrier, at his principal place of operation or at the place where he has an office by which the contract was concluded, or before the court of the place of destination.

An action for liability must be brought, under penalty of losing the right, within two years from the day when the aircraft has arrived or should have arrived at the place of destination.

Art. 120. The carrier shall make out a manifest containing the type and nature of the goods carried under the conditions specified by the regulations.

Art. 121. Jettisoning of goods necessary for the welfare of the aircraft shall not create liability on the part of the carrier to the shipper and the addressee on account of such loss of the goods.

CHAPTER II. TRANSPORTATION OF PERSONS

Art. 122. Contracts for transportation of passengers must be made by delivery of a ticket.

The carrier must submit to the competent authorities a traffic form or, in the absence thereof, a passenger manifest.

However, this provision shall not be applicable to round trip transportation to the airdrome of departure without intermediate stop.

Art. 123. For international transportation, the operators shall take the precautions necessary to ensure that the passengers possess all documents required by the States for purposes of control.

Art. 124. Liability of a carrier of persons shall be governed by the provisions of the Convention of Warsaw of October 12, 1929, as provided for in Articles 117, 118 and 119 above. However, unless there are contrary provisions in the convention, a carrier who undertakes gratuitous transportation, shall not be liable, within the limits provided for in said convention, except where it is established that the damage has been caused by a fault attributable to the carrier or his employees.

Liability of an air carrier may not be imposed except under the conditions and within the limits provided for above, whoever the persons bringing the action, and whatever the right they pretend to claim, may be.

CHAPTER III. CHARTER AND RENTAL

Art. 125. In case of charter of an aircraft for a predetermined time, the crew members as defined by the regulations shall remain the agents of the aircraft owner, unless there is an agreement to the contrary.

Art. 126. The owner of an aircraft chartered to a third person shall remain liable for the legal obligations and shall be jointly liable with the charterer for any breach thereof.

However, when the charter contract is recorded in the register and when the charterer fulfills the conditions required for ownership in a Nigerian aircraft, such charterer shall be solely liable as operator for all legal obligations and shall be solely liable for any breach thereof.

TITLE II. CARRIERS

CHAPTER I. NIGERIAN CARRIERS

Art. 127. No one shall engage in any air transportation on a commercial basis and for payment unless he has been authorized by the Minister in charge of civil aviation.

Art. 128. Carriers authorized under Article 127 above, must submit for prior approval of the Minister in charge of civil aviation:

- 1) Their general plans for the purchase and rental of flight equipment;

- 2) Their plans of operation containing in particular an indication of the types of equipment normally used on each of the passenger services listed in such plans.

The rates shall be submitted for approval to the Minister in charge of civil aviation.

Transportation of a maximum of six passengers by aircraft whose weight is less than a maximum fixed by the Minister in charge of civil aviation shall not be subject to the obligations specified in this article.

Art. 129. Coordination between air transportation and transportation on the ground shall be assured by the Ministers concerned after consultation of the competent organizations.

Art. 130. Air carriers shall be subject to the technical control exercised by the Minister in charge of civil aviation in order to insure air safety.

Expenses incurred by such control shall be borne by the carriers.

Art. 131. Control of air carriers by the State shall be exercised by the Minister in charge of civil aviation as regards technical operation and working conditions for the personnel, commercial operation, and administrative regulation.

Art. 132. The Minister in charge of civil aviation may delegate certain functions of control to a technical organization set up for this purpose.

Art. 133. Authorized carriers must, on request by the officials in charge of control, open to them for inspection all documents which are necessary for the exercise of their functions.

Art. 134. The conditions of application of Articles 128 and 130, shall be fixed by regulations.

CHAPTER II. THE COMPANY "AIR AFRIQUE"

Art. 135. The company "Air Afrique" established by the treaty of Yaoundé signed on March 28, 1961, shall be deemed to have Nigerian nationality.

CHAPTER III. FOREIGN CARRIERS

Art. 136. The establishment and operation of foreign scheduled air carriers coming from, or going to Niger, shall be subject to prior authorization by the Government.

Art. 137. The plans, timetables, rates and technical facilities for operation of foreign air carriers providing services from or to Niger must be submitted to the competent aviation authorities under the conditions fixed by the latter.

Art. 138. Commercial transportation of passengers and goods between two points in Niger shall be reserved to Nigerian carriers except for special and temporary exceptions.

CHAPTER IV. PENALTIES

Art. 139. When an air carrier violates the provision of Articles 128, 130, 137, and 138, the Minister in charge of civil aviation may decree, for all or some of the activities undertaken, the suspension or withdrawal of the permits or authorizations granted.

Art. 140. Any Nigerian or foreign air carrier who, without authorization or in violation of the conditions prescribed in the authorizations issued to him, undertakes in Niger any air transportation, shall be punishable by a fine.

Such fine shall be imposed by any agent empowered to pursue violations in air traffic matters, particularly by airdrome commanders, and shall be paid in cash to the qualified agents, particularly to collectors of fees attached to airdromes.

Such fine shall be in proportion to the weight of the aircraft and shall be established on the basis of 25,000 frs per ton, for each transport.

The weight considered shall be the maximum take-off weight under the airworthiness certificate.

Any fraction of a ton shall count as a ton.

If payment of the fine is refused, or in case of repetition, the aircraft may be sequestered on the request of the competent aviation authorities.

BOOK IV. FLIGHT PERSONNEL

TITLE I. PATENTS, LICENSES, AND QUALIFICATIONS

Art. 141. The titles designated "patents" denote general overall theoretical and practical knowledge. They are issued after an examination and are permanently acquired by the titleholders.

The title designated "licenses" denote an aptitude and the right, for titleholders of patents, to execute the corresponding functions subject to the qualifications provided for in the following article. Licenses are valid only for a limited time; they may be renewed after periodic examination for the various aptitudes required.

The list of patents and licenses, the conditions required to obtain them, the rules, plans, and regulations for pertinent examinations and the rules for exemption of candidates who possess certain Nigerian or foreign titles denoting knowledge at least equal to that required for such examinations, shall be fixed by regulations.

In no case shall the beneficiaries of the exemptions mentioned above be exempt from the practical examination.

Art. 142. The performance of functions corresponding to the different licenses is subject to the titleholder's possession of special professional qualifications in view of the aircraft, the equipment, and the conditions of the flights contemplated.

The definition of the special professional qualifications, the conditions to obtain and renew them, the plans and regulations for the respective examinations shall be fixed by regulations.

TITLE II. THE AIRCRAFT COMMANDER AND THE CREW

Art. 143. The crew shall consist of all the persons present aboard for the service of the aircraft in flight. They shall be subject to the orders of the aircraft commander.

The members of the crew shall be appointed by the operator and carried on a list as required by the regulations.

Art. 144. The functions of aircraft commander shall be exercised by a pilot.

The aircraft commander shall be named first on the crew list.

In the case of death or disability of the aircraft commander, the command of the aircraft to the place of landing shall be exercised as a matter of law in the order set by such list.

Art. 145. The aircraft commander shall be responsible for the execution of the mission and shall have authority over all persons aboard. He shall have the right to remove from the aircraft any person among the crew or the passengers or all [or] part of the cargo that may present a danger for the safety, the welfare or good order aboard the aircraft. If he considers it necessary, he may, during the flight, discharge all or part of the cargo of merchandise or fuel, provided he renders an account thereof to the operator. If any choice is possible, he must jettison goods of low value.

Art. 146. The aircraft commander shall be consignee of the aircraft and shall be responsible for the loading. In the case of difficulties in the execution of his task, he must request instructions from the operator.

If it is impossible for him to receive precise instructions, he shall have the right without special orders:

- a) to incur expenses necessary for the accomplishment of the mission undertaken;
- b) to have repairs made that are necessary to permit the aircraft to continue its mission within a reasonable time;
- c) to take all measures and incur all expenses to assure the safety of the persons aboard and the safekeeping of the cargo;
- d) to hire additional personnel for the completion of the mission and to discharge them:

TITLE III. DISCIPLINE

Art. 147. A disciplinary board of the flight personnel of the Civil Aviation Board shall propose to the competent Minister the application of the penalties provided for in Article 149 in regard to members of the flight personnel of the civil aviation found guilty of violations of this law, amendments thereto, and of regulations issued thereunder.

Art. 148. The disciplinary board of the Civil Aviation Board shall be divided into two sections:

Professional flight personnel;

Private flight personnel.

It shall be presided over by the Minister in charge of civil aviation.

Membership, functioning, and jurisdiction of the disciplinary board shall be fixed by decree.

Art. 149. Disciplinary punishment under the jurisdiction of the disciplinary board are:

Temporary withdrawal, with or without return of one or more licenses;

Permanent withdrawal of one or more licenses.

Art. 150. In case there is serious reason to presume that there is liability of the aircraft commander or a crew member, and while awaiting the conclusions of the disciplinary board, the competent Minister may suspend the person concerned from his duties for a period not to exceed two months.

If the person concerned is a member of the professional flight personnel, he shall receive his guaranteed minimum salary during the time of suspension.

Art. 151. The person concerned may challenge the board members in the manner provided for in the Code of Civil Procedure in the case of judges.

TITLE IV. CRIMINAL PROVISIONS

Art. 152. Any person who performs any of the duties requiring a patent, license and qualifications of the professional flight personnel of civil aviation in violation of the provisions of this Title, shall be punished by a fine of from 40,000 to 240,000 frs., and by imprisonment of from ten days to one month, or by only one of these penalties.

Any employee of any carrier who entrusts such duties to a person who does not fulfill the conditions required by this Title, shall be subject to the same penalty.

NIGERIA

CHAPTER 33¹

CIVIL AVIATION

(BIRTHS, DEATHS AND MISSING PERSONS)

(*Federation*)

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Returns relating to births and deaths by owners of aircraft.
4. Records to be kept in the Department of Civil Aviation.
5. Transmission of copies of entries to Principal Registrar.
6. Saving for father of illegitimate child.
7. Rectification of entries of births, deaths and missing persons.

An Ordinance to provide for the registration of births and deaths in civil aircraft registered in Nigeria. 12 of 1950.

[27th April, 1959]

1. This Ordinance may be cited as the Civil Aviation (Births, Deaths and Missing Persons) Ordinance. Short title.

2. In this Ordinance:

Interpretation.

“aircraft” includes all balloons, whether captive or free, gliders, airships and flying machines;

“journey” is deemed to commence when a traveller enters an aircraft registered in Nigeria for the purpose of the journey and to continue until that traveller alights therefrom on completion of the journey, notwithstanding any intermediate stop or break in the journey;

“missing persons” means persons with respect to whom there are reasonable grounds for believing that they have died in consequence of an accident occurring in or over Nigeria to an aircraft registered in Nigeria;

“a person in command of an aircraft” means, in a case where a person other than the pilot is in command of the aircraft, that person, and in any other case, the pilot;

“traveller” in relation to an aircraft includes a member of the crew;

“Director” means the Director of Civil Aviation;

“principal Registrar” means the Principal Regis-

¹ Laws of the Federation of Nigeria and Lagos, 1958, Vol. I.

Cap. 23.

Returns
relating to
births and
deaths by
owners of
aircraft.

trar of Births and Deaths appointed by the Governor-General in exercise of the powers conferred on him by section 4 of the Births, Deaths and Burials Ordinance.

3. (1) The owner of an aircraft registered in Nigeria shall as soon as practicable but not later than six months after the occurrence in or over Nigeria of a birth or death in the aircraft, transmit to the Director a return of such birth or death in the form, in accordance with the instructions, and containing the particulars prescribed in Appendix A to this Ordinance (in the case of a birth) or

Appendix B to this Ordinance (in the case of a death): Provided that if such particulars are not known to the owner of the aircraft, he shall transmit as aforesaid so many of such particulars as he is reasonably able to ascertain having regard to the circumstances of the birth or death.

(2) To facilitate the rendering of returns in accordance with this Ordinance the person in command of an aircraft registered in Nigeria shall forthwith on the occurrence in or over Nigeria of a birth or death in the aircraft, record in the journey log book, or other appropriate document relating to that aircraft, the particulars of the birth or death mentioned in subsection (1) of this section and shall make such record available to the owner as soon as practicable: Provided that, if all such particulars are not known to the person in command of an aircraft and cannot readily be ascertained by him, he shall record and make available as aforesaid so many of such particulars as are readily ascertainable.

(3) Where any aircraft has been *bona fide* demised, let or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander navigator or operative member of the crew of the aircraft is in the employment of the owner, the provisions of this section shall have effect as though for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let, or hired out.

4. The Director shall keep in his Department:

(1) a separate record of births in the form in Appendix C to this Ordinance in which shall be recorded the particulars transmitted to him of births occurring in or over Nigeria in aircraft registered in Nigeria;

2. a separate record of deaths in the form in Appendix D to this Ordinance in which shall be recorded the particulars transmitted to him of death occurring in or over Nigeria in aircraft registered in Nigeria; and

3. a separate record in the form in Appendix E to this Ordinance of persons reported to him as missing persons.

Records to
be kept in
the Depart-
ment of
Civil
Aviation.

5. The Director shall within seven days of the completion of an entry in any record kept in his Department pursuant to the provisions of this Ordinance cause a certified copy of such entry to be transmitted to the Principal Registrar.

Transmission of copies of entries to Principal Registrar.

6. In the case of the birth of an illegitimate child, the name of any person as father of such child shall not be entered in any return or record of particulars of the birth of such child unless the mother of the child and the person acknowledging himself to be the father of the child shall have signed a completion form of return as informants.

Saving for father of illegitimate child.

7. (1) If the Director is satisfied that there is an error or omission in any entry made in the record of births, deaths or missing persons kept in his Department, he may, in accordance with evidence of the true facts relating to the entry, rectify it in such manner as may appear to him appropriate.

Rectification of entries of births, deaths and missing persons.

(2) Within seven days after the correction of any entry in his records in accordance with this section, the Director shall cause a certified copy of such corrected entry to be transmitted to the Principal Registrar.

APPENDIX A

s. 3(1).

Return of birth for the purposes of section 3 of the Civil Aviation (Birth, Deaths and Missing Persons) Ordinance.

1. Registration marking of aircraft-----
2. Date of birth (a)-----
3. Place of birth (b)-----
4. Sex (c)-----
5. Name (d)-----
6. Name, surname and nationality or country of father (e)-----
7. Maiden name and nationality or country of mother-----
8. Date and place of marriage of parents-----
9. Rank or occupation and address of father (or, in default, of mother) (e)-----
10. Name, description and address of informant (if any) (f)-----
11. Signature of informant(s)-----
Signature and rank of persons completing the return-----
Date-----

NOTES.—

- (a) Day and month in words, year in figures.
- (b) Approximate position, e.g. "40 miles west of Kaduna".
- (c) "Boy" or "girl" as the case may be.
- (d) Full christian names of child.
- (e) Christian names in full and followed by surname: surname to be written in block letters. If child is illegitimate (see (8) above) the particulars relating to the father must not be recorded in the return unless at the joint request of the mother and of the person acknowledging himself to be the father of the child, in which case such person shall, as well as the mother, sign a completed form of return as informant.
- (f) The informant's full names, relationship (if any) to the child, and full postal address should be stated.

Except in the circumstances mentioned at (e) above only one person (usually the mother or father) should act as informant.

s. 3(2).

APPENDIX B

Return of death for the purposes of section 3 of the Civil Aviation (Births, Deaths and Missing Persons) Ordinance.

1. Registration marking of aircraft-----
2. Date of death (*a*)-----
3. Place of death (*b*)-----
4. Name and surname (*c*)-----
5. Sex (*d*)-----
6. Age (*e*)-----
7. Rank or occupation (*f*)-----
8. Nationality or country-----
9. Address or abode (*g*)-----
10. Cause of death-----
11. Name of certifying Medical Practitioner (if any)-----
-
12. Duration of illness-----
13. Place of burial-----
14. Signature, description and address of informant (*h*)-----
-
15. Date of registration-----
16. Signature and rank of person completing the form-----
-
- Date-----

NOTES.—

- (*a*) Day and month in words, year in figures.
- (*b*) Actual position, if known. Otherwise approximate position, *e.g.* "40 miles west of Kaduna".
- (*c*) Christian names in full, followed by surname. Surname to be written in block letters.
- (*d*) "Male" or "female".
- (*e*) To be recorded in complete years, or in months or days.
- (*f*) Women and children.
In the case of a married woman or a widow, the words "wife of" or "widow of" shall be entered, followed by the name, rank or occupation, and nationality of the husband.
- In the case of an unmarried woman, there shall be inserted (*i*) the word "spinster", followed by her rank or occupation (if any), rank or title (if any), and her nationality, and (*ii*), the words "daughter of" followed by the name, profession, etc., of her father.
- In the case of children under the age of sixteen years the words "son of" or "daughter of" shall be followed by the name, profession, etc., of the father.
- (*g*) The full postal address should be stated.
- (*h*) The informant's full names, relationship (if any) to deceased, and full postal address should be stated.

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APPENDIX E.—*Persons missing and believed to have died in consequence of accidents to aircraft registered in Nigeria*

No.	(1) Registration marking of aircraft	(2) Full name of missing person	(3) Sex	(4) Age	(5) Rank or occupation	(6) Nationality or country	(7) Address	(8) Date and place of accident and grounds for presumption of death	(9) Name, description and ad- dress of informant	(10) Date of registration	(11) Signature of director

CHAPTER 8²

AIR NAVIGATION (SAFETY OF NAVIGATION)

(*Federation*)

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.

PART I.—RESTRICTIONS ON LAND IN THE VICINITY OF AERODROMES

3. Declaration imposing restrictions on user of land.
4. Particulars required to be set out in the declaration.
5. Notice of declaration.
6. Entry on land.
7. Payment for damage.
8. No action to lie against Government.
9. Compensation.
10. Notice of claim.
11. Disputes as to compensation.
12. Decision in absence of parties.
13. Reports of damage.
14. Power to enter and do work.

PART II.—GENERAL

15. Penalty.
16. General penalty.
17. Power to make rules.

65 of 1941
16 of 1950,
s. 241 and
6th Sch.
14 of 1953,
s. 6 and
2nd Sch.
23 of 1954,
s. 5 and
2nd Sch.
L.N. 131 of
1954
47 of 1955.
Short title

An Ordinance to ensure the safety of aircraft in flight by
by imposing restrictions upon the use and enjoyment
of land and upon the erection of buildings in the
vicinity of aerodromes.

[23rd October, 1941]

Interpretation.

L.N. 108 of
1955.

1. This Ordinance may be cited as the Air Navigation
(Safety of Navigation) Ordinance.

2. Definitions:—

“aerodrome” means any area of ground or water
licensed under the provisions of the Colonial Air
Navigation Order, 1955, or under the control of
Government or of Her Majesty’s Air Force for the
landing and departure of aircraft;

“aircraft” means any type of air-supported vehicle,

² Ibid.

whether mechanically propelled or not, and includes all types of aerodynes and aerostats;

"Director" means the Director of Civil Aviation.

PART I. RESTRICTIONS ON LAND IN THE VICINITY OF AERODROMES

3. (1) Whenever it appears to the Governor-General that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any aerodrome, or of any site intended to be used for or to be acquired for use as an aerodrome, in order that such land may be cleared or kept clear of buildings or other obstructions likely to endanger aircraft, a declaration shall be made to that effect under the signature of the Director.

Declaration imposing restrictions on user of land.

(2) Such a declaration shall be conclusive evidence that it is necessary to impose restrictions upon the use of the land.

4. (1) Such declaration shall be published in the Gazette and shall describe the land affected and shall state the boundaries within which restrictions are to be imposed and shall—

Particulars required to be set out in the declaration.

a) specify any existing building or buildings, timber, vegetation, or other obstructions which are to be removed either wholly or in part or to be altered;

b) delineate those areas within which no building or other obstruction may be erected, added to or altered, or within which no tree or other high-growing vegetation may be planted except with the written approval of the Director and subject to such conditions as he may impose;

(c) delineate those areas within which no building, tree or other obstruction shall be permitted to exceed a specified maximum height;

(d) specify any other condition, not inconsistent with the provisions of this Ordinance, which shall be observed within the area or any part thereof.

(2) Such declaration shall refer to a large scale plan deposited at some convenient place for the information of any person interested in any land affected thereby.

5. (1) Notice of the substance of such declaration shall be given in the district in which the land is situated in such manner as is customary for the promulgation of orders made by the native authority or local government council of that district under the provisions of the Native Authority Ordinance or the Eastern Region Local Government Ordinance, 1950, or the Western Region Local Government Law, 1952, or the Native Authority Law, 1954, of the Northern Region.

Notice of declaration.
16 of 1950,
s. 241 and
6th Sch. 14 of
1953, s. 6 and
2nd Sch. 23
of 1954, s. 5
and 2nd Sch.
Cap. 140 of the
1948 Edition.
16 of 1950
W.R. 1 of 1953
N.R. 4 of 1954.

(2) A copy of the declaration shall be served upon the occupier, or occupiers, if any, of the land in question and on all persons known or believed to be interested therein.

Entry on land.

6. (1) As soon as the declaration under section 3 has been published in the Gazette and a copy thereof served as provided in subsection (2) of section 5 any officer either generally or specially authorized by the Governor-General in his behalf, and his servants and workmen may—

(a) enter upon and survey and take levels of the land in question; and

(b) do all other acts necessary for the completion of such survey and for the purpose of marking out the boundaries of such land or any parts thereof.

(2) No such officer or his servants shall enter into any building or upon any enclosed compound or garden attached to a dwelling-house, unless with the consent of the occupier thereof, without previously giving such occupier at least three days' notice of his intention to do so.

Payment for damage.

7. As soon as conveniently may be after any entry made under the last preceding section the officer authorised as aforesaid shall pay for all damage done in the course of his duties under the said section, and in case of dispute as to the amount to be paid for such damage, he shall at once refer the dispute to a court of competent jurisdiction.

No action to lie against Government.

8. Except as provided in this Ordinance no person shall be entitled to claim, and no action or proceeding shall be brought, against the Government to recover any compensation in respect of any lands or any interest therein which have been injuriously affected by the imposition of any restrictions and any other conditions specified in any declaration under section 3.

Compensation.

9. There shall be a right of compensation in respect of the removal of or alteration or damage to any building, or any crops, timber, or other property, or of any part thereof, and in respect of any land or interest therein which has been injuriously affected by any restrictions imposed under this Ordinance if it can be shown that any such restrictions will result in pecuniary loss.

Notice of claim.

10. (1) Subject to the provisions of this section no person shall be entitled to any compensation under this Ordinance unless he has given notice of his claim within two months from the date of the receipt of notice under section 5.

(2) Such claims shall be submitted to the Minister, giving particulars of the damage claimed to be caused, or likely to be caused, and showing as the case may require whether the claim is made in respect of a partial interference with, or the entire loss of any right or rights.

(3) The period of two months prescribed by subsection (1) may be extended at the discretion of the Governor-General if it can be shown that the claimant could not have known from the inspection of the plan referred to in the declaration that the injurious effects complained of would be likely to occur.

11. If the person who may have lodged any claim in accordance with section 10 hereof and the Governor-General are unable to agree as to the amount of compensation to be paid for the damage caused or likely to be caused, or if such person has not given satisfactory evidence in support of his claim or if separate and conflicting claims are made in respect of damage caused or likely to be caused to the same land, buildings, crops or other property the amount of compensation due, if any, and every such case of disputed interest or title shall be settled by the High Court within whose area of jurisdiction the aerodrome in question is situate and such court shall have jurisdiction to hear and determine in all cases mentioned in this section upon a summons taken out on behalf of the Governor-General or by any person holding or claiming any estate or interest in the property alleged to have been or likely to be damaged.

Disputes as to compensation.
L.N. 47 of 1955.

12. Where any person upon whom a summons has been served shall not appear at the time appointed, a decision may be given *ex parte* upon hearing the evidence adduced: and such decision shall be as effectual as if given after hearing in the presence of such person.

Decision in absence of parties.

13. (1) The written report of any officer of the Public Works, Mines, Land, Survey, Agriculture or Forestry Departments of the Government of the Federation or of a Region or of the Southern Cameroons as to the amount of damage caused or likely to be caused to any lands, buildings, crops or other property as the result of restrictions imposed under this Ordinance shall be evidence thereof without further proof.

Reports of damage.
L.N. 131 of 1954.

(2) Such officer may on giving three days' notice in writing to the occupier enter upon any such lands or into any buildings thereon for the purpose of ascertaining the value of such lands and the buildings, trees and crops thereon.

14. When restrictions as prescribed by this Ordinance have been duly published, any officer either generally or specifically authorised by the Governor-General in this behalf and his servants and workmen may enter upon the land and do all such acts as may be necessary to enforce the said restrictions: Provided that this power shall not be exercised until after the owner or occupier of the land has been given a reasonable opportunity of complying with the restrictions and has omitted to do so unless the Governor-General certifies that its immediate exercise is necessary.

Power to enter and do work.

PART II. GENERAL

15. Any person who wilfully obstructs any person in doing any of the acts authorised or who refuses to comply with the terms of any notice or order duly served or made under this Ordinance shall be liable to a fine of one hundred pounds or to imprisonment for a term of six months or to both such fine and imprisonment.

Penalty.

General
penalty.

16. Any person who contravenes or fails to comply with any provision of this Ordinance for which no other penalty is provided shall be guilty of an offence and shall be liable to a fine of fifty pounds.

Power to
make rules.

17. The Governor-General may make rules for the purposes of this Ordinance.

*Criminal Code*³

Obstructing
aircraft 5 of
1954.

459A. Any person who, by any unlawful act, obstructs, causes an alteration to be made in the course of or in any way whatsoever hinders or impedes the movement of any aircraft, which is in motion on or in flight over any aerodrome, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Trespass on
aerodrome,
5 of 1954.

459B. Any person who commits any nuisance or trespasses in or upon any aerodrome or in or upon any building or premises situated on any aerodrome is guilty of a simple offence and is liable to imprisonment for three months or to a fine of twenty pounds.

*Immigration*⁴

Declaration of
recognized
aerodromes,
airports or
air lines.

5. For the purposes of this Ordinance the Governor-General may be order declare any aerodrome, airport or air line to be a recognized aerodrome, airport or air line.

*Income Tax*⁵

Business or
trade only
partially car-
ried on in
Nigeria.
16 of 1947.

8. (1) Where a non-resident persons carries on a trade or business of which only part of the operations are carried on in Nigeria, the gains or profits of the trade or business shall be deemed to be derived from Nigeria, to the extent to which such gains or profits are not attributable to that part of the operations carried on outside Nigeria.

Profits of
shipping and
air transport.

(2) Subject to the provisions of paragraph (r) of subsection (1) of section 9, where a non-resident person carries on either—

(a) the business of shipowner or charterer, or

(b) the business of air transport,

and any ship or aircraft owned or chartered by him calls at a port, aerodrome or airport in Nigeria, his full profits arising from the carriage of passengers, mails, livestock or goods shipped or loaded into an aircraft in Nigeria shall be deemed to accrue in Nigeria: Provided that this subsection shall not apply to passengers, mails, livestock or goods which are brought to Nigeria solely for transshipment or for transfer from one aircraft to another or in either direction between an aircraft and a ship.

25 of 1950.

Profits of cable
or wireless
undertakings.

(3) Where a non-resident person carries on the business of transmitting messages by cable or by any form of wireless apparatus his full profits arising from the trans-

³ Laws of the Federation of Nigeria and Lagos, 1958, Vol. II.

⁴ Laws of the Federation of Nigeria and Lagos, 1958, Vol. III.

⁵ Ibid.

mission of any such messages to places outside Nigeria shall be deemed to accrue in Nigeria.

(4) The gains or profits from any employment exercised in Nigeria shall be deemed to be derived from Nigeria whether the gains or profits from such employment are received in Nigeria or not.

Gains or profits
of employ-
ments.

*Income Tax*⁶

14. Where a non-resident person carries on the business of air transport or the business of the transmission of messages by cable or by any form of wireless apparatus he shall be assessable to tax as if he were a non-resident shipowner and the provisions of the preceding section shall apply, *mutatis mutandis*, to the computation of the gains or profits of such business.

Profits of non-
resident's air
transport and
cable under-
takings.

*Labour Code*⁷

PART III.—AIRCRAFT AND MOTOR TRANSPORT

192. The Commissioner of Labor may, with the approval of the Governor-General, make regulations generally with regard to the conveyance and departure by air or overland of natives leaving Nigeria to serve as workers outside Nigeria and the arrival of native foreigners for the same purpose and in particular and without prejudice to the generality of the foregoing for all or any of the following purposes:—

Regulations.

(a) the duties and liabilities of the owners, agents and persons in charge of aircraft or motor or other vehicles;

(b) the appointment of officers for the purposes of carrying out the provisions of these regulations and their powers and duties;

(c) the checking and examination of natives arriving or departing in and from Nigeria for the purpose of serving as workers outside Nigeria;

(d) the production of certificates or permits issued under the provisions of section 100 or 61 of this Ordinance or by Ghana or by any British Colony or Protectorate in West Africa; and

(e) the recovery of any expenses incurred by the Government in repatriating any native.

PART IV.—MISCELLANEOUS

193. In this Part the term "owner" in respect of a ship includes every person acting as agent for the owner or to receive freight or other charges in respect of the ship.

Definition.

⁶ Ibid.

⁷ Ibid.

L.N. 71 of 1959

CUSTOMS AND EXCISE MANAGEMENT ORDINANCE, 1958

(No. 55 of 1958)

Importation and Exportation by Air Regulation, 1959^s

Commencement: 1st April, 1959

In exercise of the powers conferred by subsection (4) of section 24, subsection (1) of section 34 and subsection (1) of section 53 of the Customs and Excise Management Ordinance, 1958, the Governor-General, after consultation with the Council of Ministers, has made the following regulations—

Citation and
commence-
ment.

1. These regulations may be cited as the importation and Exportation by Air Regulations, 1959 and shall come into operation on 1st April, 1959.

PART I. ARRIVAL IN NIGERIA

Procedure
on arrival.

2. (1) Upon the arrival in Nigeria of an aircraft, the commander thereof shall—

(a) immediately take the aircraft or cause it to be taken to the examination station at the customs airport at which the aircraft has arrived;

(b) forthwith deliver to the proper officer—

(i) the documents constituting the clearance outwards of the aircraft from the airport which it last left and, if required by the officer, the journey log book or document in lieu thereof belonging to the aircraft;

(ii) a report in duplicate in such form as the Board may direct;

(iii) a manifest in duplicate in such form as the Board may direct of the goods on board the aircraft;

(iv) a passenger manifest in such form as the Board may direct containing the names of all passengers carried in the aircraft and their places of embarkation and destination; and

(v) a list in duplicate in such form as the Board may direct of the stores on board the aircraft;

(c) cause all passengers carried in the aircraft to leave the aircraft with their baggage for examination, and produce to the proper officer and, subject to the provisions of regulation 3 of these regulations, unload all goods in the aircraft, except such passengers and goods as are to be carried on to another customs airport or to a destination outside Nigeria and are permitted by such officer to be so carried on without compliance with the requirements aforesaid;

^s Laws of Nigeria 1959—Legislation.

Provided that if the commander through circumstances over which he has no control is prevented from taking or causing the aircraft to be taken to the examination station, he shall—

(i) deliver forthwith to the proper officer the documents required by sub-paragraph (b) of this paragraph and

(ii) remove all goods in the aircraft to the examination station in the presence of the proper officer.

(2) Every passenger in an aircraft shall comply with any directions given to him by the commander thereof for the purposes of paragraph (1) (c) of this regulation.

(3) Any act required to be performed by the commander of an aircraft by virtue of sub-paragraph (b) or (c) the proviso to paragraph (1) of this regulation may, subject to such conditions as the Board sees fit, be carried out on his behalf by a responsible person authorised for the purpose by the owner of the aircraft.

(4) In this regulation the expression "arrival in Nigeria" means arrival of an aircraft in Nigeria from outside it and includes arrival at any customs airport to which passengers or goods from abroad have been permitted by the proper officer to be carried on in accordance with paragraph (1) (c) of this regulation.

3. The importer of any goods imported by air shall not—

Goods
imported by
air.

(a) unload or permit the unloading of any such goods from the importing aircraft except during such hours as the Board may appoint for the purpose or without the authority of the proper officer or, except in accordance with the proviso to paragraph (1) of regulation 2 of these regulations, at any place other than an examination station;

(b) remove or permit the removal of any such goods from an examination station without the authority of the proper officer, except in accordance with any special permission granted by the Board and in compliance with any conditions attached to any such permission.

4. (1) No person shall remove any imported goods, other than baggage, from any examination station (except to a customs area) or from a customs area until due entry of the goods has been made.

Removal of
imported
goods.

(2) No person shall remove any goods from a customs area without the authority of the proper officer.

PART II—DEPARTURE BY AIR

5. (1) No goods shall be loaded on an aircraft about to depart from a customs airport on a flight to an eventual destination outside Nigeria except at the examination station and with the authority of the proper officer.

Goods and
passengers
leaving
Nigeria.

(2) No passenger shall embark on any aircraft about to depart as aforesaid nor shall the commander or any

other person permit any passenger so to embark except at the examination station.

MADE at Lagos this 26th day of March, 1959.

EXPLANATORY NOTE

These regulations replace in part the Third Schedule to the Colonial Air Navigation Order, 1955, as amended by the Colonial Air Navigation (Amendment) Order, 1956, and are dependent upon the revocation of that Schedule so far as it applies to Nigeria. Certain basic provisions of that Schedule are re-enacted in the body of the Ordinance, but matters of detail are left to be controlled by directions which the Board is empowered by the Ordinance to give.

The regulations require that on arrival in Nigeria an aircraft shall be taken to the examination station at the customs airport for report and the unloading of the passengers and goods carried thereon. If the aircraft is prevented from proceeding to the examination station a slightly different procedure is laid down. The consent of the customs officer is required before goods may be loaded on to an aircraft about to depart from a customs airport and such loading must be done at the examination station. The embarkation of passengers is also required to take place at the examination station.

The regulations do not entail any change of law or practice.

The Colonial Air Navigation (Amendment) (No. 2) Order, 1958^a

Her Majesty, in pursuance of the powers conferred upon Her by the Civil Aviation Act, 1949 (a), and the Colonial Civil Aviation (Application of Act) Order, 1952 (b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Colonial Air Navigation (Amendment) (No. 2) Order, 1958, and shall be construed as one with the Colonial Air Navigation Orders, 1955 to 1957 (c) and the Colonial Air Navigation (Amendment) Order, 1958 (d).

(2) Article 1 of the Colonial Air Navigation (Amendment) Order, 1958, is hereby amended by the deletion of paragraph (2).

(3) The Colonial Air Navigation Orders, 1955 to 1957, the Colonial Air Navigation (Amendment) Order, 1958, and this Order may be cited together as the Colonial Air Navigation Orders, 1955 to 1958.

(4) This Order shall come into operation on the first day of March, 1959.

Citation,
construction
and com-
mencement.

^a (Supplement to Official Gazette No. 24, Vol. 46, 16th April, 1959, Part B).

Amendment of
the Colonial
Air Navigation
Order, 1955.

2. Schedule III to the Colonial Air Navigation Order, 1955(e), is hereby amended as follows.

(a) for sub-paragraph (1)(b) of paragraph 3 there is substituted the following:—

“(b) make report by delivering to the proper officer:—

(i) the documents constituting the clearance outwards of the aircraft from the airport which it last left and, if so required by the officer, any document relating to the aircraft or to goods or passengers carried therein,

(ii) a general declaration in duplicate in an approved form,

(iii) a manifest in duplicate in an approved form of the goods on board the aircraft,

(iv) if required by the officer, a passenger manifest in an approved form containing the names of all passengers carried in the aircraft and their places of embarkation and destination, and

(v) a list in duplicate in an approved form of the stores on board the aircraft;”

(b) for sub-paragraph (2) of paragraph 5 there is substituted the following subparagraph:—

(a) 12, 13 & 14 Geo. 6, p. 67. (b) S 1, 1952/868 (1951 1, p. 565). (c) S 1, 1955/711, 1956 (615, 1957/99, 1957/1741 (1955 1, p. 351; 1956 1 1957 1, p. 386). (d) S.l. 1958/88. (e) S.l. 1955/711 (1955 1.

“(2) Before any aircraft shall depart for a place abroad from a Customs airport the Commander shall take the aircraft to the examination station at that airport, or cause it to be so taken, and shall deliver to the proper officer the following documents—

(a) a general declaration in duplicate in an approved form,

(b) a manifest in duplicate in an approved form of the goods on board the aircraft,

(c) if required by the officer, a passenger manifest in an approved form containing the names of all passengers carried in the aircraft and their places of embarkation and destination, and

(d) a list in duplicate in an approved form of the stores laden and of stores remaining on board the aircraft,

and the said documents, when signed by the said officer, shall, for the purposes of the enactments relating to Customs, be the clearance and authority for the aircraft to proceed from that airport.”

(c) for sub-paragraph (4) of paragraph 5 there is substituted the following subparagraph:—

(4) If an aircraft in the course of a flight to a place abroad lands at a Customs airport, the Com-

mander shall, before the aircraft leaves that airport, deliver to the proper officer—

(a) the clearance and authority for the aircraft to proceed from the Customs airport which it last left,

(b) a manifest in duplicate in an approved form declaring what goods have been laden on board the aircraft at the airport at which it has so landed,

(c) if required by the officer, a passenger manifest in an approved form containing the names of all passengers embarking in the aircraft at that airport and their places of destination, and

(d) a list in duplicate in an approved form of the stores laden on board the aircraft at the airport at which it has so landed,

and the said manifest and list of stores when signed by the said officer, together with the said clearance and authority when countersigned by him, shall, for the purposes of the enactments relating to Customs, be the clearance and authority for the aircraft to proceed from the airport at which it has so landed."

(d) for sub-paragraph (1)(a)(i) of paragraph 7 there is substituted the following:—

"(i) shall immediately report the landing to an officer, or to an officer of police, and if so required, produce to him any document relating to the aircraft or to goods or passengers carried therein,"

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes a number of small amendments to Schedule III to the Colonial Air Navigation Order, 1955, relating to the production of documents to Colonial Customs officers at airports, and also enables those officers, in their discretion, to dispense with the existing requirement for the production of certain documents in the process of customs control. The Order it amends was published in Nigeria as Legal Notice No. 34 of 1958.

NORWAY

ROYAL DECREE OF DECEMBER 8, 1961¹

Pursuant to Article 233 of the Law on Aviation of December 16, 1960 be it resolved that the Law shall be effective from January 1, 1962 with the exception of Chapters IX and XV and Article 234, number 5.²

Norway

According to the Resolution of the King of July 5, 1963, *Norsk Lovtidend*, No. 25, 1963, Chapter IX of the Law of Aviation of December 16, 1960, has been effective from August 1, 1963.

LAW ON AVIATION OF DECEMBER 16, 1960, No. 1³

INTRODUCTORY PROVISIONS

Art. 1. Within the Realm aviation may take place only in accordance with this law and the regulations enacted on the basis of this law.

Art. 2. This law shall apply to aviation by Norwegian aircraft outside Norwegian territory, unless other wise provided for by this law, and provided the provisions of this law are compatible with the foreign law which applies pursuant to an agreement with the foreign country or with general principles of law.

The provisions of Chapter IX shall apply to flights by foreign aircraft outside Norwegian territory to the extent required by an agreement with the foreign country or by general principles of law.

In the application of criminal provisions for crimes committed outside the Norwegian Realm, the provisions of Chapter 1 of the Criminal Code shall apply; see Article 211, paragraph 2, of the present law.

PART I. CIVIL AVIATION

CHAPTER 1. GENERAL PROVISIONS

Art. 3. The terms "aviation" and "aircraft" in Part I of this law shall refer to civil aviation and civil aircraft.

Art. 4. Aviation within Norwegian territory may only be undertaken by aircraft—

a) of Norwegian nationality; or

¹ Published in *Norsk Lovtidend* (Law Gazette) of December 28, 1961, No. 39, page 980. For preliminary note see Denmark, *supra*.

² To the resolution are attached other provisions on application of the Aviation Law. According to these, the register of Norwegian Aircraft shall be kept by the Chief of the Legal Division of the Aviation Directorate of the Communications Department. His decisions may be appealed before the Department of Justice and Police. As the "aviation authority" operate the Aviation Directorate of the Communication Department. The Communications Department is the highest authority in cases of civil aviation and is also authorized to issue regulations in the name of the King, as provided for in the law.

³ Published in *Norsk Lovtidend* of December 31, 1960, No. 38.

- b) of foreign nationality, if a treaty has been concluded between the foreign country and Norway granting such rights; or
- c) which have a special license from the aviation authority.

The license mentioned under (c) above may be granted under such conditions as in each particular case may be considered necessary for flight safety or for other reasons of public interest. This license may be revoked at any time.

Art. 5. The King may restrict or prohibit aviation in certain areas for military considerations or for reasons of public safety.

If it is required for reasons of public safety or other extraordinary circumstances, the King may temporarily restrict or prohibit aviation through the Realm.

CHAPTER II. REGISTRATION, NATIONALITY, MARKINGS AND RIGHTS IN AIRCRAFT

A. Registration of Aircraft

Art. 6. The register of Norwegian aircraft shall be kept by an official appointed by the King. The register must contain special parts for aircraft which shall be registered in accordance with Articles 16 and 17.

Appeals from the decisions of the registrar shall be treated in accordance with the provisions on appeals from decisions of judges of record in matters of real property.

Art. 7. Aircraft may be registered only if they are of Norwegian ownership. Norwegian owners shall be:

- a. The Norwegian State and institutions which are managed by the State;
- b. Norwegian municipalities;
- c. Norwegian nationals;
- d. Foundations which are entirely under Norwegian management with the main office in Norway;
- e. Associations or similar organizations which are entirely under Norwegian management with the main office in Norway, provided at least two thirds of the members are Norwegian nationals or persons considered equal to them in accordance with this article;
- f. Joint stock companies which are entirely under Norwegian management with the main office in Norway provided the stockholders of Norwegian nationality or those considered equal to them in accordance with this Article own stock of at least two thirds of the share capital, and, at the general meeting of the corporation, have at least two thirds of the entire number of votes.
- g. Other organizations all the members of which are Norwegian nationals or persons considered equal to Norwegian nationals in accordance with this article.

When there are special reasons, the King may permit registration of an aircraft even if the owner does not fulfil the conditions provided for in the first paragraph.

Art. 8. An aircraft which is registered in a foreign country may not be registered in this country prior to cancellation of the foreign registration. An aircraft on which rights are registered which, according to an agreement with a foreign country are recognized in this

country, may not be registered in this country unless the holders of the rights have been compensated or agree with the registration; or the rights are extinguished by a judicial sale.

An aircraft registered in the register of military aviation (Articles 216-217) may not be registered under the provisions of the present chapter unless the registration in the military register is cancelled.

Art. 9. No aircraft shall be registered unless it has a certificate of airworthiness granted or approved by the aviation authority.

Art. 10. The registration shall be made upon written application by the owner. The application shall contain all data necessary for the registration and proof that the applicant is the owner and that the conditions laid down in Articles 7-9 are fulfilled must be attached to the application. If the right of ownership of the applicant is subject to conditions or restrictions which might result in the transfer of the right of ownership to another, this fact must be stated in the application.

If the applicant offers evidence that he is the owner but is not able to submit adequate proof of the acquisition of the aircraft, the registrar, upon his application, may notify all possible owners to reveal their identity within a fixed period, which be not less than two months. If nobody, so reports, the registrar may recognize the applicant as the owner.

Art. 11. If the registrar approves the application, he shall register the aircraft and supply it with a registration marking. In the register there shall be entered:

- a. the nationality and registration marking of the aircraft;
- b. data necessary for identification of the aircraft;
- c. data concerning the owner and the acquisition of the aircraft by him, and any conditions or restrictions mentioned in Article 10, paragraph 1, number 3;
- d. a notice concerning the airworthiness certificate;
- e. the date of registration;
- f. other data in accordance with the regulations issued by the

King.

Art. 12. If there occur, after the registration, changes in the ownership of the aircraft or in the nationality of the owner, or if the aircraft has undergone changes of significance for its identification, the owner shall report to the registrar without delay, submitting all necessary data and pieces of evidence. In relation to changes in ownership the same duty shall be incumbent on the former owner.

If the registrar approves the report he shall enter the changes in the register, or strike the entry or make a notation in accordance with the provisions of Articles 13 and 14.

Art. 13. An aircraft shall be stricken from the register:

- a. on request of the person entered in the register as owner;
- b. when the conditions provided for in Article 7 are no longer applicable and the King refuses to permit that the aircraft may, nevertheless, remain on the register;
- c. when the aircraft is dismantled or completely destroyed;
- d. when the aircraft is lost.

An aircraft shall be considered lost when three months have passed after launching on its last flight and no information is available that the aircraft is still intact.

The owner must inform the registrar concerning events mentioned in b to d, if this has not been done in accordance with Article 12.

If the aircraft has not had a valid airworthiness certificate during a period of three years, it may be stricken from the register if the owner fails to submit a certificate within the time limit fixed by the aviation authority.

Art. 14. If the aircraft is subject to a mortgage and the mortgage is entered in the register, the aircraft may not be stricken from the register without the consent of the mortgagee. In this case a notation shall be made in the register concerning the circumstances which could result in cancellation of the registration. This notation shall not affect the mortgage but, in other respects, shall have the same effect as a cancellation.

Art. 15. If the aircraft is sold on instalments with a reservation of property rights, the registrar must be informed of the contract without delay. The seller and the purchaser shall be equally responsible to submit appropriate information.

Art. 16. If a person who fulfills the conditions of Article 7 owns an aircraft in a foreign country and applies for registration of such aircraft in Norway, the aircraft may be temporarily entered in a special part of the register in accordance with the regulations issued by the King. The provisions of Article 8, paragraph 1, shall apply accordingly.

Art. 17. Upon the application of the owner, an aircraft which is under construction in this country may be temporarily entered in a special part of the register, if the construction has progressed to the extent that the aircraft may be identified and the owner fulfills the conditions of Article 7.

Art. 18. If an aircraft is temporarily entered in the register according to Articles 16 or 17, the provisions of Articles 12 to 15 and 24 to 34, insofar as pertinent, shall apply. If the aircraft is later permanently registered it shall be stricken from the special part, and any obligations entered therein shall be transferred to the register.

B. Nationality of Aircraft

Art. 19. If an aircraft is registered in accordance with Article 11, it shall have Norwegian nationality.

The registrar shall grant nationality and registration certificates for aircraft.

Art. 20. If an aircraft is stricken from the register or if a notation has been made in the register according to Article 14, the owner, or if the aircraft is transferred to an owner in a foreign country, the former owner shall return the nationality and registration certificate to the registrar without delay. If changes are made in the register on factors entered in the certificate, the owner shall return the certificate to the registrar without delay for entry of the changes in the certificate or for replacement by a new one.

Art. 21. When an aircraft is registered temporarily in accordance with the provisions of Article 16, it shall be granted temporary nationality and registration certificates as provided for by the regulations issued by the King.

An aircraft shall have Norwegian nationality as long as there is a valid certificate. The provisions of Article 20 shall apply accordingly.

Art. 22. A Norwegian aircraft operated in accordance with this law shall have Norwegian nationality and registration certificates according to the provisions of this chapter.

For flights within Norwegian territory foreign aircraft shall have nationality and registration certificates or corresponding documents granted by a foreign country which has a treaty with Norway establishing a right to make such flights.

The regulations issued by the King shall apply to aircraft licensed in accordance with Article 4(c).

C. Markings of Aircraft

Art. 23. An aircraft entered in the Norwegian register, in accordance with Articles 11 or 16, must bear Norwegian nationality and registrations markings. The aircraft shall bear these markings as long as it is registered therein.

Aircraft, whose home port is in a foreign country which has a treaty with Norway granting a right to make flights within Norwegian territory, must on such flights bear markings in accordance with the law of the home country of the aircraft.

An aircraft provided with a special license in accordance with Article 4, (c), shall bear markings in accordance with the regulations issued by the King.

D. Rights in Aircraft

1. Recording of Rights

Art. 24. The transfer of property rights in registered aircraft, and the establishment or transfer of other rights in aircraft shall be subject to the recordation of the document on which the rights are based to the same extent as is provided for public recordation of real property.

Art. 25. Unless otherwise provided in this law, the provisions on procedure of the Law on Public Recordation of June 7, 1935, Chapter 2, insofar as they concern real property, shall apply accordingly to such recordation.

Art. 26. Unless otherwise provided for by law, only documents on acquisition, change, transfer, mortgage, acknowledgment or extinction of rights on registered aircraft may be noted in the register.

Art. 27. The provisions of Articles 13, 14, 16 to 32 a) and 35 to 37 of the law on public recordation shall apply accordingly unless otherwise provided for in the present law.

The period of limitation mentioned in Article 28, paragraph 1, and Article 32 a), paragraph 2, of the Law on Public Recordation shall be 10 years for a mortgage on a registered aircraft.

Art. 28. A person who, according to the register, has property rights in an aircraft shall have the same rights to the engines, propellers, radio equipment, instruments and other equipment which is part of the aircraft unless the register shows that another person has property rights thereto.

Art. 29. A property right which includes an aircraft with engines and other equipment mentioned in Article 28 shall not lapse if such equipment is temporarily removed from the aircraft.

Art. 30. The provisions on public records in the Law on Bankruptcy of June 6, 1883, Articles 46 and 47, shall apply accordingly to a registration under this law.

Art. 31. If, at the time of registration, the aircraft is subject to a mortgage or other obligations contracted in this country which, according to their substance, must be entered in the register under Article 24, such obligations shall have priority if the document is submitted to the registrar within a period of three months after the registration of the aircraft. If the aircraft is temporarily registered in accordance with Articles 16 or 17, the time limitation shall be determined from the date of such registration.

If the obligation is entered in the public record, the recording judge may cancel the entry when the document is registered or the time limitation, according to paragraph 1, has expired.

Art. 32. The mortgage on a registered aircraft may also embrace spare parts which are stored at the time in question in fixed places in this country, which belong to the owner of the aircraft and if the type and approximate number of each are mentioned in the mortgage document. The same shall apply to storage in a foreign country if the foreign country has adhered to the Convention on the International Recognition of Rights in Aircraft. Each storage shall have a poster with information regarding the mortgage and the name and address of the mortgagee.

As spare parts shall be considered parts of an aircraft, including engines, propellers, radio equipment and other items which are in storage for replacement of parts of the aircraft or accessories which must be renewed.

The holding in trust of such spare parts will not lapse if the spare parts are removed from storage and the person acquiring them knew or should have known that the removal was unlawful as to the mortgagee.

The provisions of this article shall be applied accordingly to the reservation of property rights of the seller of the registered aircraft with spare parts.

Art. 33. If an aircraft is transferred to the Norwegian register from a foreign register, the registered obligations shall be transferred to the Norwegian register if these obligations are recognized in Norway by a treaty with the foreign country.

Other foreign obligations may be registered with the agreement of the owner and with such priority rights as accorded by Articles 20 *et seq.* of the Law on Public Recordation.

Any rights which may not be legally established according to Norwegian law may not be entered in the register.

Art. 34. If it has been made evident that the property right to a registered aircraft is transferred to a person other than that entered in the register, and the new owner is unable to submit adequate proof as provided in Articles 13 and 14 of the Law on Public Recordation, then the provisions of Article 10, paragraph 2, of this law shall apply accordingly.

2. Recognition of Rights in Foreign Aircraft According to the Convention of June 19, 1948

Art. 35. The provisions of this section shall apply to foreign aircraft which are entered in the national register of a State which has ratified, or adhered to the Convention of June 19, 1948 on the International Recognition of Rights in Aircraft. The provisions of Article 40 shall also apply to Norwegian aircraft.

Each territory for which the Contracting State has ratified or adhere to the Convention shall be considered equal to a Contracting State insofar as the territory keeps a special national register of aircraft within the territory.

The home country of an aircraft shall be the State or territory where it is entered in a national register.

Art. 36. The following rights in aircraft shall be recognized in this country insofar as they are legally established in accordance with the law of the contracting State where the aircraft was registered at the time of establishment of such rights and have been entered in a public record in the home country :

1. property rights,
2. rights of the possessor to acquire aircraft by purchase,
3. right to use the aircraft under lease for at least six months,
4. mortgages and other rights which are contractually created and secure the payment of a pecuniary claim of, or not exceeding, a fixed amount.

Rights other than legally established mortgages for claims according to Article 40 of this law may not be recognized or established in this country with a priority over such rights as mentioned in 1 to 4.

Engines and other accessories of aircraft mentioned in Article 28 shall also be included even if they are temporarily separated from the aircraft.

Art. 37. Mutual priority of rights and their effect as to third parties shall be determined in accordance with the law of the contracting State where the rights are recorded.

If a right is later transferred to the register of another contracting State, the validity of the registration shall be determined in accordance with the law of the home country of the aircraft at the time of the recording.

Art. 38. The priority of mortgages and other rights mentioned in Article 36, number 4, shall extend to all the amounts for security of which the right is established.

A priority for interest shall not be recognized if three years have passed from the date when the right of enforcement arose.

Art. 39. If a recorded right recognized according to Article 36 secures the payment of a pecuniary claim, and in accordance with the law of the home country of the aircraft also includes the spare parts of the aircraft, the right in spare parts stored in Norway at the time of the establishment shall be recognized, insofar as the establishing document stipulates the storage place, and shows the type and approximate number of spare parts either in its text or on an attached list. Each storage place must have a notice with information regarding the rights recorded and the name and address of the title holder.

The provisions of Article 32, paragraphs 2 and 3 shall apply accordingly.

Art. 40. If a claim for salvage money, or compensation for extraordinary expenses necessary for the preservation of an aircraft which was wrecked or in an emergency is secured by a mortgage on the aircraft in accordance with the law of a contracting State where the work was accomplished, the mortgage and right of priority over other rights in the aircraft shall be recognized in the Realm. If there are many such claims recorded, those claims which are based on the last event shall have priority over those based on earlier events.

A mortgage shall not be recognized if, after the expiration of three months, it was not recorded on the register of rights on aircraft or the amount was not approved or a claim under the mortgage has not been initiated. The law of the State where the cause of action arose shall determine the question whether the time limit has expired.

Art. 41. In case of attachment or sale under an execution, of an aircraft or of any right therein, and if the defendant with knowledge of these proceedings transfers or establishes a right under Article 36, the transfer and established right will not be recognized to the damage of the plaintiff or purchaser.

Art. 42. The provisions of this section shall not prevent the performance of seizure, detention or of other procedures which are being or will be enacted to ensure the observance of laws on import and export, immigration, or on aviation.

CHAPTER III. AIRWORTHINESS

Art. 43. Aircraft used pursuant to this law must be airworthy.

An aircraft may not be considered airworthy unless it is so designed, equipped, and maintained, and has flying qualities consistent with the standards of safety.

Art. 44. The aviation authority shall carry out the inspection of aircraft and ensure that aircraft pursuant to this law are airworthy.

The aviation authority may perform the inspection and supervision through Norwegian or foreign experts appointed by it, or through foreign agencies.

Art. 45. If, by inspection or otherwise, the airworthiness of an aircraft is established, a certificate of airworthiness shall be granted by the aviation authority. The certificate may be granted for a specified period and may be limited for flights of a certain nature or in certain areas. The King may determine that the certificate or a special document which must accompany the certificate, must contain specific instructions on the use of the aircraft which instructions must be observed in order to have the aircraft considered airworthy.

The certificate may be renewed upon the application of the owner if the aircraft is considered airworthy at the time of renewal. The aviation authority may delegate the renewal of the certificate to experts or agencies as stated in Article 44, second paragraph.

Art. 46. A Norwegian aircraft used pursuant to this law must be provided with an airworthiness certificate granted or approved by the aviation authority.

For flights in Norway a foreign aircraft must be provided with the certificate specified in paragraph 1, or an airworthiness certificate granted or approved by a foreign State which has an agreement with Norway for such certificates to be recognized in Norway.

The provisions of paragraphs 1 and 2 shall not prevent the aviation authority from granting an aircraft a special license. This license may be revoked at any time.

Art. 47. If not provided otherwise by the aviation authority the Norwegian airworthiness certificate shall not be effective in the following cases:

- a) if the aircraft has not been inspected according to regulations;

b) if the aircraft or its equipment has been altered, and the alteration may affect its airworthiness,

c) if the aircraft or its equipment has sustained damage which evidently affects its airworthiness.

The aviation authority may declare the certificate invalid if such facts have occurred which by the judgment of the authority affect the airworthiness of the aircraft.

In the cases mentioned in (c) the invalidity shall last until the damages are repaired in observance of the regulations issued by the King. In general the invalidity shall last until the aircraft is considered airworthy.

If a certificate is declared invalid, the aviation authority may require its return.

Art. 48. The provisions of Articles 45 and 47 on the granting, renewal and invalidating of certificates shall apply accordingly to the approval of foreign certificates by the aviation authority.

Art. 49. The owner or user of an aircraft which is used for aviation pursuant to this law shall be responsible for its airworthiness and the availability of a valid certificate of airworthiness.

Pursuant to the regulations issued by the King, the owner or user must notify the aviation authority as soon as possible of all circumstances which might affect airworthiness. The owner or user must submit to the aviation authority information necessary in the performance of an inspection for airworthiness.

Art. 50. The aviation authority may require access to each aircraft which is used pursuant to this law, and has the right to investigate the aircraft and its equipment insofar as it is necessary in the performance of its responsibility for inspection and supervision of aviation. In this respect the aviation authority may require that the owner or user and the crew give the necessary cooperation. Upon the request of the authority the aircraft must be prepared for inspection, the cargo unloaded, and tests in flight and such other tests as required will be made. The inspection etc. according to this article shall be carried out without causing disadvantages to traffic or creating other inconveniences.

The provisions of the first paragraph with respect to the aviation authority shall apply accordingly to Norwegian and foreign experts and foreign agencies who perform the inspection and supervision of aircraft pursuant to the provisions of Article 44, paragraph 2.

Art. 51. In order to test the qualities of an aircraft, or for other special reasons, the aviation authority may, in observing the regulations issued by the King, make exceptions from the provisions of this chapter.

Art. 52. The King may stipulate that the construction of an aircraft and the manufacture of accessories and spare parts, as well as maintenance, repair, and the alteration of aircraft, accessories and spare parts, may be performed only by persons approved for such employment or by approved enterprises.

CHAPTER IV. THE CREW

Art. 53. Any aircraft used for aviation pursuant to this law must be adequately manned.

The King will issue detailed regulations on crews.

The owner or user of an aircraft shall be responsible for the adequate manning of an aircraft.

Art. 54. The aviation authority shall supervise the observance of the regulations on manning. The authority may authorize Norwegian or foreign experts appointed by it or a foreign agency to perform this supervision.

Art. 55. A person who performs service on an aircraft must meet the requirements issued by the King regarding nationality, age, physical and mental standards, including those of morals, sobriety, training, practice, etc.

Art. 56. A certificate for service on an aircraft as aircraft commander or in any other capacity determined by the King shall be granted by the aviation authority to persons who fulfill the requirements as established for the type of service.

The certificate may be limited to specified types of aircraft, to a specified type of flights, or to flights in specified areas.

The certificate shall be granted for a specified period. On the request of the holder it may be renewed for another period provided the holder of the certificate at the time of the renewal satisfies the conditions required for the performance of the type of service mentioned in the certificate.

Art. 57. A person serving on an aircraft in a position mentioned in Article 56 must have a certificate granted or approved by the aviation authority or granted or approved by a foreign country which has an agreement with Norway by which such certificate is recognized in Norway.

A person serving on a Norwegian aircraft in international aviation must be provided with a certificate granted or approved by the aviation authority.

The aviation authority may refuse to approve a certificate granted to a Norwegian citizen by a foreign country for flights within Norwegian territory.

The aviation authority may grant a special license for the performance of service on an aircraft regardless of the provisions contained in the first paragraph. This license may be revoked at any time.

Art. 58. The aviation authority may revoke a Norwegian certificate for a definite period, or until further notice, or for the remainder of a period of validity, if the holder in or outside of the service is guilty of major offenses against the rules of the respective service, or if he otherwise fails to meet the requirements of performance in the service for which the certificate was granted.

The certificate shall be revoked for a period of at least one year if the holder is convicted of operating an aircraft while under the influence of alcohol or narcotics. The same shall apply to the violation of the provisions of the second paragraph of Article 71. If there has been a previous conviction on the same grounds within the past five years the certificate shall be permanently revoked.

If the aviation authority finds that there are facts which are grounds for the revocation of a certificate, it may suspend the certificate until the case has been decided. If a police investigation is instituted against the holder, the police may suspend the certificate temporarily

without any action by the aviation authority, but not for a period longer than three weeks.

If a decision on the revocation of a certificate is appealed, the prosecution authority may shorten or extend the period of revocation. If a certificate is revoked in accordance with the provisions of paragraph 2, and there are extenuating circumstances which deem the period of revocation unreasonable, the prosecuting authority may reduce the period of revocation.

If the certificate is revoked or suspended, it shall be returned to the aviation authority.

Art. 59. The provisions of Articles 56 and 58 on the granting, renewal or revocation of a certificate, shall apply accordingly to the approval of a foreign certificate by the aviation authority.

Art. 60. A person who has a certificate granted or approved by the aviation authority shall inform the authority as soon as possible on circumstances which might be essential to the question whether the holder of the certificate still fulfills the requirements for service. If a physician determines that the person's health makes it unwarrantable for him to continue the service on an aircraft, the physician shall warn him and advise the proper authority as a matter of law in accordance with the regulations issued by the King.

The holder of a certificate is at any time subject to such investigation and examination as the aviation authority deems necessary.

Art. 61. The aviation authority may permit an aircraft to be used for training purposes, or if there are other special reasons, even if it is not manned pursuant to the provisions of this Chapter.

CHAPTER V. AIRCRAFT COMMANDER AND FLIGHT PERSONNEL

Art. 62. There shall be an aircraft commander on Norwegian aircraft used pursuant to this law.

The commander shall be the highest authority aboard the aircraft.

Art. 63. The commander shall see that the aircraft is airworthy and adequately equipped, manned and loaded and that a flight is prepared and carried out in accordance with the regulations in effect.

The provisions of Article 49, paragraph 2, on notification of circumstances which might affect the airworthiness and submission of information necessary for performance of inspection shall apply to the aircraft commander. He shall be required to inform the aviation authority, in accordance with the regulations issued by the King, of circumstances of importance concerning the qualifications of flight personnel.

Art. 64. The aircraft, crew, passengers and cargo shall be subject to supervision by the commander.

If he deems it necessary the commander may temporarily assign members of the crew to duties other than their normal responsibilities.

To maintain order and decorum aboard an aircraft the passengers must follow the directions of the commander.

If the circumstances require it the commander may refuse to take aboard or he may remove from the aircraft members of the crew, passengers and goods.

Art. 65. For maintenance of order and safety aboard an aircraft the commander, if need be, may use force to the extent deemed necessary according to the circumstances.

If the aircraft is in danger or an emergency exists, the commander shall be entitled to use all means which are deemed necessary for the restoration of order and safety aboard the aircraft. Each member of the crew shall assist the commander even without any order.

In the use of force or emergency procedures provided by this Article no other responsibility than that which follows from the general provisions of law shall apply.

Art. 66. If a serious crime is committed aboard an aircraft the commander shall, as far as possible, take necessary measures for clearing up the case if the postponement of such measures would be detrimental.

The aircraft commander shall exercise due diligence in preventing the escape of the offender. The aircraft commander may, if necessary, take the offender into custody until he can be handed over to the police in Norway or to a competent authority in a foreign country.

The aircraft commander may also take into custody items of evidence which are considered essential for clearing up the case until such evidence can be handed over to the police or authority mentioned in paragraph 2.

Art. 67. The aircraft commander shall see that the prescribed aviation documents are aboard and are duly kept.

Art. 68. In case of emergency, it shall be the responsibility of the aircraft commander to take all measures in his power for the safety of the aircraft, and the persons and goods aboard. If the aircraft must be abandoned, the commander shall take such care as necessary to preserve the aircraft documents.

Art. 69. It shall be the responsibility of the aircraft commander to inform the aviation authority and as soon as possible submit a report on those cases of air accident which result in death, or grave injury to persons, to aircraft or property outside the aircraft. This shall also apply in the event if there was a serious threat to such accident or an essential defect in the aircraft, ground installations, or in their operation.

If the aircraft commander is not in a position to submit this information or make such report, it must be submitted by the owner or user of the aircraft.

The King may issue regulations on the limitation of responsibilities for the submission of this information or on the extension of these responsibilities to other members of the crew, or its submission to agencies other than the aviation authority.

Art. 70. A person who serves on an aircraft must follow the orders of his superior, take care of the aircraft, persons, and goods aboard and, in general, conscientiously perform his duties.

Art. 71. No person may perform service on an aircraft if he is under the influence of alcohol or narcotics or, because of illness, weakness or similar reasons, is in a condition that renders him unable to perform his responsibilities in a satisfactory way. If his blood has an alcohol concentration 0.4 per thousand or more, or such quantity of alcohol has been consumed that may result in such concentration, he may be considered to be in a state of intoxication pursuant to the provisions of this law. An error in the degree of the alcohol concentration shall not exempt him from punishment.

A person who has operated an aircraft may not use alcohol or narcotics during the first 6 hours after duty if he knows or should know

that a police investigation may be initiated as to his condition while he was on duty. This provision shall not apply when the blood analysis was taken by a physician on the request of the police, or when the police decided that the analysis shall not be taken.

If there are reasons to assume that a person has violated the regulations of the first or second paragraph, the police may take him to a physician who may take a specimen of his blood. The competent authority shall issue regulations concerning an investigation by a physician and other related problems.

Art. 72. The King stipulates to what extent the provisions of this Chapter shall apply to foreign aircraft within Norwegian territory.

CHAPTER VI. LANDING AREAS AND GROUND SERVICE

A. General Provisions

Art. 73. Territory for landing and other aviation installations must conform to the safety and other requirements stipulated by the King.

The King may stipulate under which conditions a territory may be used as a landing area without being planned for this purpose.

The King issues regulations on the operation and maintenance of landing areas and other aviation installations service.

Art. 74. The aviation authority supervises airports and other installations and shall see that the provisions of this Chapter and regulations issued on the basis of this Chapter are observed. The authority may demand at any time access to places, installations and other property to the extent necessary for the performance of the authority's responsibility.

Art. 75. The King may determine air routes and other areas where aviation is subject to special regulations.

Art. 76. For safety and rescue purposes a safety service shall be established.

The King issues instructions on the activities of the safety services and stipulates to what extent these duties may be performed by other than government agencies.

B. Concessions

Art. 77. For the establishment, operation, or possession of a landing area for public use a concession granted by the King shall be required. No concession shall be needed for landing areas run by the State.

The King may stipulate that a landing area may be operated and possessed without a concession taking into account the nature of the landing area, dimensions and duration of the traffic, or any other circumstances.

Art. 78. A concession may be granted only if it is compatible with the public interest. Prior to granting a concession the opinion of the municipality and other agencies concerned shall be requested.

Art. 79. A concession shall be granted for a specified period and shall be dependent on such conditions as may be deemed necessary.

Art. 80. The State has the right of redemption for payment, in whole or in part, of the installations of the holder of concession with rights to movable accessories installed by the holder of the concession if the concession period has expired; the value shall be estimated ac-

according to a procedure on evaluation (*skjønnsprosees*). The compensation shall be fixed according to expenditures for procurement of a new installation calculated at the replacement value at the time of redemption, with deductions for diminution in value by lapse of time, use, reduction of applicability and the like. For objects which no longer can be obtained, the market value shall be taken as a basis for compensation.

The redemption may be carried out during the concession period with one year's notice, if it is considered necessary in the general or public interest, for compensation according to the provisions on expropriation.

Art. 81. A concession may be revoked if in the exercising of the activities the conditions of the concession or provisions of law or regulations are essentially disregarded.

Art. 82. The King may decide that for the establishment, operation and possession of a landing area which is not in the public use, or for the establishment, operation or possession of other aviation installations, the license of the competent department is required. The King may issue appropriate regulations concerning such license.

C. Approval

Art. 83. Landing areas which are open for public use must be approved by the aviation authority. For landing areas mentioned in Article 73, second paragraph, an approval is not required unless the aviation authority decides otherwise. The King determines to what extent this approval shall be required for landing areas which are not open for public use and for other aviation installations.

The approval shall be subject to conditions set up by the aviation authority.

The aviation authority may revoke the approval if the installation does not correspond to requirements in effect for approval of such installations, or if the conditions established are essentially disregarded.

The owner shall inform the aviation authority if circumstances occur which might make the installations unsuitable to the requirements as soon as he obtains knowledge of these circumstances. If the use of the installations is dangerous, the owner must, to the extent necessary, cease operation without waiting for a decision of the aviation authority.

D. Obstructions to Aviation

Art. 84. The competent department may determine that for a landing area for public use there shall be prepared and approved a plan showing the maximum height and other restrictions in property rights with reference to buildings, masts, wires, plants, disturbing activities and other obstructions to aviation, which are to be found on the area adjacent to the landing area. As to sea and ice airports a plan shall also include the port area.

The plan shall indicate the border line of the area it comprises.

The validity of the plan may be limited for a specified period.

Art. 85. If the decision is made according to Article 84, the aviation authority will prepare a draft-plan.

The draft-plan shall be put on public notice in a suitable place for inspection by persons interested. The place and time thereof

shall be announced in *Norsk Lysingsblad* and in one or more other papers. A notice shall be sent to property owners and other persons whose interests are presumed to be essentially involved in the case. The property owners and other interested persons shall be invited to submit possible objections within a specific period, which shall not be less than 4 weeks from the first announcement. If objections are submitted to the draft-plan it shall be subject to revision by the aviation authority. If substantial changes are made in the course of the revision, the draft shall be republished for inspection as provided for above.

When this procedure is completed the aviation authority shall submit the draft to the competent department for confirmation.

The aviation authority may require that the owner of the landing area collect information and materials, and render such other assistance as necessary for handling the matter. The department may impose on the owner the performance, in whole or in part, of actions for which the aviation authority is responsible in accordance with paragraphs 2 and 3.

Art. 86. The plan shall be published and announced in the same way as provided for in Article 85, paragraph 2, numbers 1-3. The department may determine that the plan shall be announced in another manner.

A department may require that the plan be recorded in the Land Register for any properties on which restrictions on property rights are noted. If the evaluation is claimed according to Article 90 the recording shall be mandatory with respect to properties for which remuneration is claimed.

Expenses for publishing a notice and recording shall be paid by the owner of the landing area.

Art. 87. The maximum height and other restrictions on property rights which are specified in the plan may not be exceeded without the consent of the department. This consent may be given subject to conditions, such as altering or making the building with a special sign, etc.

If the restrictions are disregarded without the consent of the department, the aviation authority may set a deadline for adjustment. The aviation authority may act in the same manner if the conditions under which the consent was given pursuant to paragraph one were not observed.

After the deadline expires, the necessary adjustments may be carried out under the direction of the aviation authority with the assistance of the proper local authority (*namsmyndighet*) and for the account of the person concerned. If the expenses of the State are not covered by him, the expenses shall be paid by the owner of the landing area.

Art. 88. If, on the territory included by the plan, there are obstructions to aviation in conflict with the plan at the time of the making of the plan, the obstructions shall be removed unless the department concludes otherwise. Provisions of Article 87, paragraph 1, number 2, and paragraphs 2 and 3 shall apply accordingly. The expenses according to Article 87, paragraph 3 shall be covered by the owner of the landing area except where Article 87, paragraph 2, number 2, is applied.

Art. 89. The owner of the property shall be compensated by the owner of the landing area if he is restricted in his property rights and if, because of the restrictions, the property cannot be used for the purpose for which it is designed with respect to its dimensions, locations and other circumstances, or if the owner in another way sustains a loss of rights for which he has a right of compensation according to the general principles of law. The provisions of this paragraph shall apply accordingly to the rights in real property.

Compensation may be also claimed by any person who sustains damage or loss as a result of actions taken in accordance with Article 88.

Compensation may be claimed only if, by application, no exemptions have been made according to Article 87, first paragraph. The State guarantees that compensation will be paid.

Art. 90. Cases on compensation according to Article 89 shall be decided according to the procedure on evaluation.

An evaluation may be claimed by the person who claims compensation within a time limit specified in the plan. The time limit may not be less than two years from the date of the notice. The provisions on prolongation of terms on the Law on the Judiciary of August 13, 1915, Articles 153 to 158, shall apply accordingly.

The expenses of evaluation shall be covered by the owner of the landing area unless the evaluation court (*skjõnsretten*) decides otherwise. If the other party has claimed re-evaluation, and there is an adverse decision, he shall cover the expenses of the re-evaluation provided he has not been exempted by the evaluation court from paying the expenses. The decision of the evaluation court on re-evaluation is final when its decision is against the claimant.

Art. 91. The owner of the landing area shall be required to see that restrictions on property rights are observed. The owner shall inform the aviation authority without delay of violations of restrictions.

Art. 92. The plan may be amended by the same procedure as that stipulated for the preparation of the plan. Modifications of restrictions on property rights may be made without putting the draft on public notice.

Art. 93. The plan shall be in force until repealed by the department or until the time of its validity has expired.

In the case of repeal the provisions of Article 86 shall apply accordingly.

Art. 94. The King may issue regulations on obstructions to aviation as to land which is outside any plan. In this case the provisions of Article 87, paragraph 1 and 2, and paragraph 3, number 1, and Articles 88 to 90 shall apply accordingly with the exception that expenses which are assumed by the owner of the landing place in accordance with Articles 88 to 90 shall be assumed by the State.

E. Other Provisions

Art. 95. The King may issue regulations as to which landing areas may be used for international or domestic aviation or for aviation of a special nature.

Art. 96. The King may issue regulations on access to and traffic on landing areas and on landing of aircraft thereon.

Art. 97. The King may fix fees for the use of landing areas and other installations which are in public use.

Art. 98. Landing areas and other installations for public use shall be open to foreign aircraft under the same conditions as for Norwegian aircraft in international aviation, provided an agreement has been concluded with the foreign country concerned.

Art. 99. The King determines the conditions for employment on the landing area or other installation, or employment outside the aircraft in positions which are of importance for the safety of aviation, and issues regulations on certificates for such employment.

CHAPTER VII. COMMERCIAL AVIATION, ETC.

A. Scheduled Service

Art. 100. For scheduled commercial air traffic (scheduled service) within Norwegian territory a license granted by the King is required.

The King may determine that for certain types of scheduled air service the license granted according to Article 107 is sufficient.

Art. 101. The license shall be granted only if it is compatible with the public interest.

Art. 102. A license to operate a scheduled air service exclusively within the Realm may be granted only to persons who, according to Article 7, are considered Norwegian owners.

The license shall be annulled if the holder of the license no longer conforms to the provisions of the first paragraph and has not corrected the defects within the time specified by the competent department.

In exceptional circumstances the King may make exemptions from the provision of the first paragraph.

Art. 103. The license shall be granted for a specified period and be dependent upon conditions deemed necessary.

Art. 104. The State has the right of redemption in whole or in part of the undertaking of the holder of the license in accordance with the provisions of Article 80. The King may make exceptions from this provision with respect to scheduled air service between Norway and foreign countries.

Art. 105. The license may be revoked if the conditions of the concession, or provisions of law or regulations concerning the activities of the holder of the license are substantially disregarded during operations.

Art. 106. In granting the license, deviations from the provisions of this chapter may be made to the extent to which an agreement with the foreign country requires it.

B. Other Commercial Aviation, etc.

Art. 107. In commercial aviation other than scheduled air service, within Norwegian territory a license granted by the competent department is required, unless otherwise determined by the King. The King may determine that such license is required for a flying school, air exhibition, competitive flying or other flying activities of a special nature, even if not operated for commercial purposes.

For these licenses the provisions of Articles 101-103, and 105-106 shall apply accordingly.

Art. 108. The King may issue regulations on the transfer of an aircraft, its accessories or spare parts to another person for use to his account.

CHAPTER VIII. PROVISIONS ON AIR TRAFFIC, ETC.

Art. 109. The King issues regulations on measures which must be observed in order to prevent collisions between aircraft or other flight accidents and, in general, on safety measures to prevent accidents and inconvenience during flight.

Art. 110. The King may determine air routes which aircraft must follow within Norwegian territory, issuing special regulations for aircraft which cross the boundary of the Realm, indicating where the boundary may be crossed and which landing areas the aircraft may use for take-off and landing.

Art. 111. If it is required for reasons of public order and security the competent authority may direct the landing of an aircraft. The landing shall be made as soon as possible. If not otherwise directed the aircraft must land on the nearest landing area in the Realm which is open for public use and where a landing is possible.

If an aircraft enters an area where flights are prohibited, it must leave the territory without delay, immediately informing the competent authority; if the authority has not directed otherwise the aircraft must land immediately on the nearest landing area in the Realm which is open for public use and where a landing is possible.

Insofar as the provisions of the first and second paragraph are not complied with, the competent authority may prevent the continuation of a flight by all suitable means.

Art. 112. Without a license from the competent department the aircraft may not carry war material. The King issues regulations on what shall be included under war material, and grants exceptions to the provisions of this article.

If required for reasons of public order and safety the King may prohibit, or issue regulations on, the carriage of goods other than war material.

The King may prohibit, or issue regulations on the admittance of, the carrying of cameras and their use aboard an aircraft.

Art. 113. If not otherwise provided for by law, the King determines which documents an aircraft must have, to what extent they shall be available on board, and how they shall be let set up, kept, and maintained.

Art. 114. Any person who has a legal interest therein may examine the contents of aircraft documents.

Art. 115. The King issues regulations as to the extent persons serving on aircraft shall carry with them certificates and other documents.

Art. 116. The competent authority may search an aircraft and check the crew for certificates and other documents they must carry aboard.

CHAPTER IX. AIR TRANSPORTATION ⁴*A. Extent*

Art. 117. The provisions of this chapter that apply to the transportation of passengers, baggage and goods if the transportation is carried out for payment. The provisions of this chapter shall apply even if the transportation is carried free of charge by an air transportation enterprise.

⁴ Effective as of Aug. 1, 1963.

Art. 118. The provisions of this chapter shall not apply to the transportation of mail.

The provisions of Articles 119 to 125 on documents of air transportation shall not apply if the transportation is carried out under unusual circumstances and outside the scope of normal air operations.

B. Documents of Air Transportation

Art. 119. (Ticket). In passenger transportation a ticket shall be issued and shall state:

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

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

If a ticket is not issued, or if its contents do not comply with the regulations, or if the ticket is lost, the transportation contract shall still be valid. However, if the passenger to whom a ticket was not issued, boards the aircraft with the consent of the carrier or if the ticket does not include the notice provided for in paragraph 1, (c), the carrier may not avail itself of the provisions of Article 138 on the limitation of the liability.

Art. 120 (Baggage check). In the transportation of registered baggage a baggage check shall be issued. If the baggage check is not attached to, or inserted with the passenger ticket conforming to the provisions of Article 119, paragraph 1, it shall state:

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

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

If a baggage check is not issued or if its contents do not comply with the regulations, or if the check is lost, the transportation contract shall still be valid. However, the carrier shall not be entitled to avail itself of the provisions of Article 138, paragraph 2, on the limitation of liability if it has accepted the baggage for which the baggage check was not issued, or if the check does not contain the notice as provided for in paragraph 1(c), and the check is not attached to, or inserted with the passenger ticket conforming to the provisions of Article 119, paragraph 1(c).

Art. 121 (Bill of lading). In the transportation of goods the carrier may require the shipper to execute and deliver a document referred to as a bill of lading and the shipper may require the carrier to accept this document.

If the bill of lading is not executed, or if its contents do not comply with the regulations, or if the bill is lost, the transportation contract shall still be valid.

Art. 122. The bill of lading shall be executed by the shipper in three copies and shall be delivered to the carrier along with the goods. The first copy shall be noted "for the carrier" and signed by the shipper. The second copy shall be noted "for the consignee" and signed by the shipper and the carrier. This copy shall accompany the goods. The third copy shall be signed by the carrier and be delivered to the shipper after the acceptance of the goods.

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

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

Art. 123. If there are several parcels the carrier may require the shipper to execute a separate bill of lading for each parcel.

Art. 124. The bill of lading shall state:

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

Art. 125. The carrier may not avail itself of the provisions of Article 138, paragraph 2, on the limitation or liability if the goods were loaded on the aircraft with the consent of the carrier without executing a bill of lading, or if the bill of lading does not contain a notice mentioned pursuant to Article 124(c).

Art. 126. The shipper shall compensate the carrier or any other person to whom the carrier is liable for damages sustained as a result of the shipper's declaration concerning goods in the lading bill, when the declaration does not conform to the regulations, or is incorrect or incomplete.

Art. 127. Unless otherwise established the bill of lading shall be evidence of the transportation contract, of receipt for the goods, and of the terms of transportation.

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

C. The Right of Disposal and Delivery of Goods

Art. 128. If the shipper fulfills his responsibility pursuant to the transportation contract, he shall have the right to dispose of the goods,

take them back at the place of departure or destination, stop the transportation at a place of landing en route, demand delivery of goods at the place of destination or landing en route to a consigner other than mentioned in the bill of lading, or demand return of the goods to the place of departure. The shipper may exercise his right of disposal only when this does not cause damage to the carrier or to other shippers, and provided he pays the necessary expenses. The carrier must immediately inform the shipper if the orders of the shipper cannot be fulfilled.

When the carrier executes the orders of the shipper without demanding a copy of the bill of lading, the carrier shall be liable for any damage which might result to the true holder of the bill of lading, however, with a right of recourse against the shipper.

The rights of the shipper shall terminate when the consignee assumes his rights pursuant to Article 129. If the consignee refuses to accept the bill of lading or the goods, or if he cannot be reached, the right to dispose of the goods shall revert to the shipper.

Art. 129. When the goods have arrived at the place of destination, the consignee may demand, except under the conditions indicated in Article 128, that the carrier deliver the bill of lading and the goods to him on payment of the amount owed and fulfillment of other conditions in accordance with the terms of the bill of lading.

Unless otherwise agreed, the carrier shall immediately inform the consignee when the goods have arrived.

Art. 130. If the carrier gives notice that the goods are lost, or if the goods have not arrived within seven days after the day when they should have arrived, the consignee may bring action on his rights against the carrier in accordance with the transportation contract.

Art. 131. An agreement which contains exceptions from Articles 128, 129 or 130, shall be invalid unless the exceptions are included in the bill of lading.

Art. 132. The shipper shall be required to submit information and attach to the bill of lading documents required for implementation of custom regulations, or regulations on other fees, and of police regulations prior to delivery of goods to the consignee. The shipper shall be liable to the carrier for damages which might result from omission of such information and documents, or if they are incomplete or do not conform to the regulations unless the carrier or its agents are guilty of errors or negligence.

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

D. Liability of a Carrier

Art. 133. A carrier shall be liable for the death, bodily injury, or disablement of passengers resulting from an accident on board an aircraft, or while enplaning or leaving the aircraft.

Art. 134. A carrier shall be liable for the loss of or damage, in whole or part, to registered baggage or goods as a result of an accident occurring while the baggage or goods were under his care, whether at the landing area aboard the aircraft or at any other location if the landing occurs beyond the landing area.

If the transportation contract includes transportation on land or water areas outside the landing area with loading, delivery or re-load-

ing, the damages shall be presumed to have occurred during the period as indicated in paragraph 1, unless proved otherwise.

Art. 135. The carrier shall be liable for damages resulting from a delay in the transportation of passengers, registered baggage and goods.

Art. 136. A carrier shall not be liable if he establishes that it or its employees have taken all possible action to avoid the damage or that it was impossible for them to do so.

Art. 137. If the carrier proves that the person who sustained the injury was guilty of causing it its liability may be reduced or excluded according to laws in effect.

Art. 138. The liability of a carrier in the transportation of passengers shall be limited to 118,500 crowns per person. By a special agreement between the carrier and passenger a higher limit of liability may be established.

In the transportation of register baggage and goods the liability shall be limited to the amount of 120 crowns per kilogram weight. If, when delivering the goods to the carrier, the passenger or shipper declares a special value in connection with the delivery of goods to the place of destination and pays the fixed additional freight charge, the declared value shall be the limit of liability of the carrier, unless the carrier proves that the amount declared exceeds the true value to the passenger or shipper. When there is a loss, damage or delay in delivery of a part of registered baggage or goods or an article therein the total weight of the parcel in question shall be taken as a basis to determine the extent of liability of the carrier. If the loss, damage or delay reduces the value of other parcels which are included on the same baggage check or bill of lading, also the total weight of these parcels shall be taken into account to determine the extent of liability.

For objects retained by the passenger the limit of the liability of the carrier shall be 2400 crowns per passenger.

In court actions costs shall be allowed the plaintiff without limitation mentioned in this Article. This provision shall not apply where the judgment, exclusive of costs, does not exceed the amount offered by the carrier in writing to the plaintiff within six months after the damage occurred or prior to the commencement of an action for damages.

If the gold value of the crown changes from the value submitted to the International Monetary Fund at the time of the enactment of this law, the limit of liability fixed in this Article shall be changed as a matter of course in accordance with the new gold value. In court actions the gold value of the crown on the day when a judgment is rendered shall be effective. The King establishes the limits of liability in crowns if the gold value of the crown is changed.

Art. 139. Any condition exempting the carrier from liability or establishing a lower liability than provided for in Article 138 shall be invalid.

However, when in transportation of goods their loss or damage occurred as a result of the quality or defects in goods, this shall be taken into account in establishing the liability of the carrier.

Art. 140. Upon proof that the carrier or its employees caused the damage within the scope of their duties intentionally or by gross negligence with knowledge that damage would result, the provisions of

Article 138 referring to the limitation of the liability of the carrier shall not apply.

Art. 141. If employees of a carrier are sued for damages caused in service by negligence of a lesser degree than provided for in Article 140, the amount of compensation imposed on them and the carrier jointly shall not exceed the limits of liability established for the carrier.

Art. 142. If the consignee accepts the registered baggage or goods without any reservation, the goods shall be presumed to be delivered in good condition and in accordance with the transportation documents, unless there is a proof to the contrary.

When the goods are damaged or partially lost, notification shall be made to the carrier immediately upon discovery of the damage and at the latest within 7 days for baggage and 14 days for goods from the date of the receipt. In the cases of delay the notification shall be made within 21 days from the date the baggage or goods are turned over to the consignee's disposal.

Notice may be made by a notation on the transportation documents or by a letter mailed prior to expiration of the time limit indicated above.

Art. 143. If the notification is not made within the period specified in Article 142, no cause of action will lie against the carrier unless it has acted fraudulently.

Art. 144. An action for damages provided for in this Chapter may be commenced at the place where the carrier resides, or where the enterprise has its main office, or business office which concluded the transportation contract, or at the place of destination.

An action may be commenced in a Norwegian court or in a court of a convention State unless the place of departure or destination noted in the shipping contract is in a State which does not adhere to the Warsaw Convention.

Art. 145. The right to claim damages according to this Chapter lapses if the claim was not presented within two years of the date of arrival of the aircraft at the place of destination, or the date when the aircraft should have arrived, or the date when transportation was discontinued.

Art. 146. If according to one or more transportation contracts the transportation is considered a single operation and is carried out by several carriers on succession, each carrier who takes on board passengers, registered baggage or goods shall be liable for the portion of transportation he performs.

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

E. Other Provisions

Art. 147 (Compound transportation). If transportation is carried out partly by aircraft and partly by other means of transportation the provisions of this Chapter shall apply only to air transportation.

The terms covering transportation other than air transportation may be entered in the air transportation documents.

Art. 148. Reservations in the transportation contract or special agreements made prior to the time of damage shall be invalid if they provide for settlement of disputes pursuant to other laws which deviate from the provisions on transportation of this law, or provide for venue other than that provided for in this chapter.

Concerning the transportation of goods the provisions of paragraph 1 shall not prevent an agreement on the settlement of disputes by arbitration in the Realm or in another Convention State at the place where the action shall be commenced according to provisions of Article 144, provided that the dispute shall be settled in accordance with the provisions of the Warsaw Convention.

Art. 149. Transportation documents issued by a foreign country, fulfill the requirements on notification prescribed in Article 119, paragraph 1, (c), Article 120 paragraph 1, (c), and Article 124, (c), if the documents provide that the transportation may be subject to the Warsaw Convention and that this convention generally limits the liability of the carrier referred to on pertinent provisions.

When in international transportation the agreed place of departure or destination is in a country which does not adhere to the Warsaw Convention the carrier may refer to Article 138 or to the limitation on liability even if no notice under paragraph 1 is given.

Art. 150. When, in domestic air transportation, an intermediate landing in a foreign country is not agreed upon, the department may approve issuance of transportation documents in a form other than that provided for in Articles 119, 120, and 124.

Art. 151. The Warsaw Convention in the sense of this law, is the Convention for the Unification of Certain Rules Relating to International Transportation by Air of October 12, 1929, as amended by the Protocol signed at The Hague on September 28, 1955.

Art. 152. When a country has made a reservation in accordance with Article XXVI of the Hague Protocol of September 28, 1955, the provisions of this Chapter shall not apply to air transportation by military authorities of that country by aircraft, registered in that country, insofar as the whole carrying capacity of the aircraft has been reserved by, or on behalf of, such authorities.

The provisions of this chapter shall not apply to international transportation by air performed directly by the State, or by the territory for international relations of which this State is responsible, insofar as the State at the time of ratification of, or adherence to, the Warsaw Convention of October 12, 1929, has made a reservation in accordance with Article 2 of the Additional Protocol to the Convention.

CHAPTER X. COMPENSATION FOR DAMAGES AND INSURANCE

Art. 153. The owner of an aircraft, or the user who operates it on his own account, shall be liable for damages for an injury to a person or object outside the aircraft, if the injury results from using the aircraft for aviation, even if nobody is guilty of causing the injury.

Art. 154. The provisions of Article 153 shall not apply to injury of persons or things within an approved landing area.

Art. 155. Damages in accordance with Article 153, may not be claimed when the person who sustained the injury is guilty of causing the injury intentionally or by gross negligence.

Art. 156. When an aircraft causes damages to another aircraft or injury to persons or objects in such other aircraft, the provisions of Article 153 shall not apply.

Art. 157. When damages are caused by two or more aircraft the owners or users of aircraft involved shall be jointly liable as provided for in Article 153. The court decides which portion of damages each of them may reclaim from other owners or users.

Art. 158. The provisions of this Chapter shall not restrict the right to claim damages pursuant to the general rules on damages.

Art. 159. If a person serving on an aircraft is found liable for damages resulting from aviation, and is accused of errors or negligence in service, the court may reduce the amount of compensation taking into account mitigating circumstances in his guilt, the amount of the damage, and other considerations. This shall apply accordingly to ground service personnel in positions of importance to the safety of aviation.

Art. 160. An aircraft used in aviation in accordance with this law shall carry approved insurance or other surety for indemnification of damages in accordance with Article 153 unless determined otherwise by the King.

The King may determine, that an aircraft shall carry an approved valid insurance or other surety for the indemnification of injury to persons or damage to objects abroad an aircraft, or injury or damages in connection with enplaning and leaving the aircraft, or transportation of objects to or from the aircraft, or damages to registered goods, for which the carrier is liable according to Chapter IX.

Regulations on insurance or other surety and on consequences when they are not valid are issued by the King.

CHAPTER XI. AIRCRAFT ACCIDENTS

A. Rescue Service

Art. 161. The King issues regulations on search and rescue service when an aircraft is lost, in peril, or wrecked. The regulations may oblige persons, enterprises and organizations to cooperate in preparing and carrying out search and rescue work, and establish compensation for such cooperation.

Art. 162. If it is not contrary to international agreements, the competent department may force the owner or user of an aircraft to refund in whole or part the expenses incurred by the Treasury in the search for a lost aircraft. The same applies to expenses in rescue operations, insofar as they are not covered by salvage compensation.

B. Salvage

Art. 163. A person who salvages or assists in salvaging an aircraft wrecked or in peril, or cargo or any part of aircraft or cargo, shall have a right to salvage money in accordance with the provisions of the Maritime Law of July 20, 1893, Chapter 9, whether the salvage is performed on the sea, land or in the air. A person who rescued, or assisted in the rescue, of a life from the aircraft under the emergency circumstances which caused the salvage also has a right to share in the salvage money.

Compensation may be claimed for extraordinary and unavoidable expenses for preserving the aircraft or its cargo. The provisions of paragraph 1 on salvage shall apply accordingly to this compensation.

If salvage is performed in this country the rights of the claimant shall be secured by a lien on the aircraft and the goods, and shall have priority over any other rights. If there are several such liens those based on a later event shall have priority over those based on an earlier one. The owner of the goods shall not be personally liable for the claim.

The lien on goods shall cease when the goods are delivered. The lien on the aircraft shall cease after 3 months, unless this right is entered into the register and the amount approved, or an action on a lien is initiated. The action may be commenced at the place where the work was accomplished or where the aircraft and goods are located.

C. Investigation of Flight Accidents

Art. 164. If in using of an aircraft, there occurs an air accident causing death or serious injury to persons, or serious damage to aircraft or property outside the aircraft, an investigation shall be made by the authority appointed by the King. This shall also apply when there was a serious threat to such accident or events which indicate an essential defect in the aircraft or ground service.

Art. 165. Upon request, any person shall furnish information to the investigative authority about the circumstances known by him which would be of importance in the investigation.

The authority shall have the right to use private land and may investigate and take possession of the aircraft, wreckage, documents and other things to the extent necessary for the performance of its duties. The authority may order physical examination pursuant to the provisions of Article 71, paragraph 3. If necessary the assistance of the police may be requested.

If it is found necessary for the investigation, the authority may, request taking and recording of evidences according to the provisions of the Law on Civil Procedure.

In accordance with the regulations issued by the King the authority shall as far as possible, inform the owner of the aircraft, or if the aircraft is used by a person other than the owner, the user, the insurer, and others involved in the case on the performance of the investigation, and give them an opportunity to present, prior to conclusion of the investigation, all facts they deem necessary for the promotion of their interests. The interested parties shall have a right to be present during the investigation and to acquaint themselves with the documents, provided this does not hinder the investigation.

Art. 166. A person who is an eyewitness to an accident in flight must immediately inform the nearest police or aviation authority unless, under the circumstances, he has good reason to assume that such action is not necessary. This shall also apply to a person who finds an aircraft, parts or pieces of an aircraft or other objects which indicate that an aircraft accident has occurred.

Art. 167. When an aircraft is destroyed the wreckage or other objects from such aircraft or traces of the accident may not be removed or displaced without the permission of the investigative authority or police, unless it is necessary for the saving of life or property, or to prevent the loss or destruction of material essential for the investigation.

Art. 168. When a destroyed aircraft or the wreckage or other objects from such aircraft are an obstacle to traffic, or otherwise are of

inconvenience to the public, or of danger to persons or property, and the owner fails to remove such objects or to take other action, the police may give the owner a specified period of time to do so. If the period has expired the police may order this done at the expense of the owner.

If the owner is not known, or if it is unavoidable for traffic or other reasons to act immediately, the police may take the measures mentioned in the first paragraph without giving the owner any time limit.

CHAPTER XII. MISCELLANEOUS PROVISIONS

Art. 169. When, at the beginning of a flight, there are reasons to assume that an aircraft is not airworthy, or is not properly manned, or in general might be considered as being operated contrary to the provisions of this law or regulations issued on the basis of this law, the flight may be prohibited and the aircraft may be, if necessary, prevented from leaving the landing area. The decision on such action shall be made by the aviation authority or by an agency authorized by it. In the latter case the decision shall be submitted without delay to the aviation authority for approval.

Art. 170. The owner of a landing area for public use may prevent the aircraft from leaving until fees for the use of the landing are paid or a proper guarantee is given.

Art. 171. In the interests of safety of aviation the King may issue regulations on the treatment, storage and delivery of fuel and other materials used by aircraft, and on the enforcement of such regulations.

Art. 172. The owner or user of an aircraft and the owner of an approved landing area or other aviation installations shall give all information required by the aviation authority in the exercise of its responsibilities. The same shall apply to the owner of an approved enterprise mentioned in Article 52, or to any other enterprise which is operating with the approval or a license pursuant to this law or regulations issued on the basis of this law.

Information may be forwarded insofar as required by international agreements. In general, the information may be forwarded or disseminated to the extent it does not include business or manufactory secrets. If a person who supposes to have a right to demand concealment has intervened against the forwarding or dissemination of the information, the forwarding or dissemination may be made only by a special decision of the competent department.

Art. 173. A person who, by virtue of his position, has access to information referred to in Article 172, is obliged to keep silence to the extent that the information may not be forwarded or disseminated.

Art. 174. When the State has incurred expenses in accordance with an international treaty where an aircraft is used for Norway's account in a foreign country, the competent department may claim a refund of expenses from the owner or user of the aircraft, insofar as it is not otherwise provided for by the conditions of the concession or license pursuant to Chapter VIII.

Art. 175. A fee specified by the King for the use of a landing area or other installations for aviation for public use, or a refund which the State may claim under this law, may be collected by lien.

CHAPTER XIII. PENAL PROVISIONS

Art. 176. Any owner or user of an aircraft of non-Norwegian nationality or of foreign nationality other than according to Article 4, (b), who without special permission uses the aircraft for aviation within Norwegian territory or who violates the conditions of the license granted, shall be punished by a fine or by imprisonment of up to one year.

Art. 177. Any person who submits incorrect or incomplete data in an application for registration of an aircraft or its striking from the register, or in his application for license pursuant to Article 7, paragraph 2 or Article 13, (b), shall be punished by a fine or by imprisonment of up to 6 months.

Any person who fails to submit a notice to the registrar in accordance with this law, or who submits incorrect or incomplete information, shall be subject to the same punishment.

Art. 178. Any person who without authorization removes from an aircraft a nationality or registration marking or any other prescribed marking or who supplies an aircraft with incorrect markings shall be punished by a fine or by imprisonment of up to one year.

Any owner or user operating an aircraft without nationality or registration markings or with incorrect markings shall be subject to the penalty specified in paragraph 1.

Art. 179. Any owner or user of an aircraft who operates an aircraft which lacks airworthiness, is improperly manned, equipped or loaded for the assigned flight, or in any other manner does not comply with safety regulations and such aircraft was not certified to fly according to this law, shall be punished by a fine or by imprisonment of up to 2 years.

Art. 180. Any person who wilfully or negligently constructs an aircraft or manufactures accessories and spare parts, or performs maintenance and repairs, or alters an aircraft, and who by such action gives cause to believe that the aircraft may be used in violation of safety regulations, shall be punished by a fine or by imprisonment of up to 2 years. Any person who recklessly loads, unloads or in any other manner clears an aircraft shall be subject to the same punishment.

Art. 181. Any owner or user of an aircraft who operates an aircraft without the prescribed insurance or without other surety specified in Article 160, shall be punished by a fine or by imprisonment of up to 6 months.

Art. 182. Any commander of an aircraft who operates a flight by an aircraft under such conditions as mentioned in Articles 176, 178, paragraph 2, and Articles 179 or 181 shall be subject to the same penalty as the owner or user.

Art. 183. Any person who performs work on an aircraft without a valid certificate or license as required by this law or in the case such document is not required, without complying with the conditions required for such service, shall be punished by a fine or by imprisonment of up to one year.

Art. 184. Any person who agrees to perform a service on an aircraft and fails to render such service or refuses to perform it, shall be punished by a fine or by imprisonment of up to 3 months.

Any person who is a member of the crew and, without sufficient reason, fails to arrive on duty on time or leaves without permission, shall be punished by a fine.

Art. 185. Any person who is a member of the crew of an aircraft who fails to observe orders shall be punished by a fine or by imprisonment for a period of up to 3 months.

When a person, by such act of insubordination, puts an aircraft or life in danger, or when he refuses to obey repeated orders, or when there are other aggravating circumstances, imprisonment of up to 3 years may be imposed.

Art. 186. Any person who performs a service or attempts to perform a service on an aircraft in violation of the provisions of Article 71, paragraph 1, shall be punished by a fine or by imprisonment of up to 2 years. Any person who performs a service while under the influence of alcohol or other narcotics, or violates the provisions of Article 71, paragraph 2, shall be punished by imprisonment, unless there are extenuating circumstances.

Art. 187. Any person who violates the regulations issued by the King regarding measures for the prevention of collisions of aircraft or other flight accidents or regarding safety measures for the prevention of accidents and inconveniences during flight, shall be punished by a fine or by imprisonment of up to 2 years.

Any person who deviates from air routes established according to Article 110, or who violates the orders issued by the King for aircraft which cross the boundary of the Realm, shall be punished by a fine or by imprisonment of up to one year.

Art. 188. Any person in flight on air routes or in areas where aviation is subject to special regulations, and who fails to observe, or acts in violation of, directions of air traffic control which he must follow, shall be punished by a fine or by imprisonment of up to 2 years.

Any aircraft commander who violates the provisions of Article 111 concerning landing shall be subject to the same punishment.

Art. 189. Any owner or user of an aircraft who violates the provisions of Article 112, paragraph 1, on carriage of war material, or of regulations issued in accordance with paragraph 2 of the same article on carriage of other goods, shall be punished by a fine or by imprisonment of up to one year.

Any aircraft commander who engages in the illegal transportation specified in paragraph 1 shall be subject to the same punishment.

Art. 190. Any person who violates an order of the King issued in accordance with the provisions of Article 5, shall be punished by a fine or by imprisonment of up to 2 years.

Art. 191. Any aircraft commander who in case of emergency fails to take measures in his power to safeguard the aircraft and people and goods aboard, or other measures he must take in accordance with Article 68, shall be punished by a fine or by imprisonment of up to one year.

Art. 192. Any member of the crew of an aircraft who, by the act of smuggling or other means which are in violation of his duties, creates a situation where the aircraft or goods can be confiscated or detained by Norwegian or foreign authorities, shall be punished by a fine or by imprisonment of up to 6 months.

Art. 193. Any aircraft commander or member of the crew who is responsible therefor and fails to set up, keep, and maintain the aircraft

documents, or carry aboard the aircraft certificates or other documents, shall be punished by a fine or by imprisonment of up to three months.

Any person who makes a false entry on an aircraft document or otherwise produces a false statement in an aircraft document, shall be punished by a fine or by imprisonment of up to one year.

Art. 194. Any aircraft commander or member of the crew, in cases not included under Articles 176 to 193, who continuously neglects his duties or who, in general, improperly performs his duties, shall be punished by a fine.

Art. 195. Any owner of a landing area or other installation for aviation, who permits its use, even though it does not meet operating requirements or, where approval by the aviation authority is required, permits its use without such approval, shall be punished by a fine or by imprisonment of up to one year.

If the owner violates the provisions of Article 98, he shall be punished by a fine.

Art. 196. Any person who violates restrictions on property rights as provided for in Articles 84 to 87, or such regulations as are issued in accordance with Article 94, shall be punished by a fine or by imprisonment of up to 3 months. Any attempt to commit such violation shall be subject to the same punishment.

Art. 197. Any person who carries on aviation activities or other activities without a concession, license, or approval, as required by this law, or by regulations issued in accordance with this law, shall be punished by a fine or by imprisonment of up to 6 months.

Art. 198. Any person who acts in violation of the provisions of Article 169 on the prohibition for an aircraft to leave a landing area, shall be punished by a fine or by imprisonment of up to 6 months.

Any attempt to commit such violation shall be subject to the same punishment.

Art. 199. Any person who prevents inspection, supervision or other investigation pursuant to this law or regulations issued on the basis of this law, or who fails to render assistance to such investigation if required in accordance with the law or regulations, shall be punished by a fine or by imprisonment of up to 3 months. Any person who in conflict with the provisions of Article 167 removes or displaces an aircraft, wreckage or other material after an air collision, shall be subject to the same punishment.

Any attempt to commit such violation shall be subject to the same punishment.

Art. 200. Any person who is required to take part in search and rescue work in accordance with the regulations issued in accordance with Article 161, and who fails to provide such service or otherwise fails in his duty, shall be punished by a fine.

Art. 201. Any person, in cases other than indicated in Article 177, who fails to submit information required under this law or regulations issued on the basis of this law, or information required in accordance with the law or regulations, or who submits incorrect and incomplete information shall be punished by a fine or by imprisonment of up to 6 months.

The punishment pursuant to this Article shall not apply to violations of the provisions of Chapter IX.

Art. 202. Any person who fails to return a nationality or registration certificate, or other documents if required by law or on the basis of the law, shall be punished by a fine.

Art. 203. When there is no penalty under other provisions of this Chapter, any person who violates regulations issued in accordance with this law shall be punished by a fine or by imprisonment of up to 3 months.

Art. 204. When the offenses mentioned in Articles 179, 180, 182, 185-188, 191 or 194-196 result in loss of human life or serious bodily harm, or injury to health, or damage to property, a penalty of imprisonment of up to 5 years may be imposed.

Offenses mentioned in Article 181 shall be subject to the same penalty when any person sustains a major economic loss as a result of failure to maintain casualty insurance or other surety.

Art. 205. Any act of negligence under Articles 176-203 shall be punished by a fine or by imprisonment of up to 6 months, provided the penalty is not greater than that for an act wilfully committed.

Art. 206. Accessory in violations under Articles 176-185 and 187-205 is punishable and shall be punished in accordance with the pertinent articles.

Art. 207. The penalty specified in this chapter against the owner or user of an aircraft, the owner of a landing area or aviation installation, or the owner of an enterprise referred to in Article 197, shall also apply to their agents or employees if they commit a violation of a pertinent article while in the course of their employment. This provision shall also apply to members of the board and other representatives of companies and other legal entities.

Art. 208. When a violation subject to a penalty under this chapter is committed by a person who acts on behalf of a company, foundation, or union, the fine and the loss of the right to engage in such business may be imposed on the company, foundation, or union. This shall apply only when the offense is committed in order to promote the interests of the company, foundation, or union, or when it is assumed that the company, foundation, or union derives considerable advantage from the offense. Article 28 of the Criminal Code shall not apply to a fine pursuant to this article.

Art. 209. Except for violations under Article 204, violations referred to in this chapter shall be subject to the provisions of Article 287, paragraph 2, of the Law on Criminal Procedure whether or not the punishment is greater than that provided for in the above-mentioned article.

CHAPTER XIV. PROVISIONS ON APPLICATION OF THIS LAW

Art. 210. For an aircraft without pilot or which is operated without an engine or is in general of an extraordinary type, the King may enact exceptions from the provisions of this law or issue special regulations to provide for the safety of aviation or for other reasons. However, no changes may be made in the provisions which are part of the civil or criminal statutes.

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

Art. 211. The King may determine that a foreign aircraft used by a Norwegian national shall be subject to certain provisions of the law and regulations which apply to Norwegian aircraft.

Violations committed by such aircraft shall be considered as committed by Norwegian aircraft in accordance with Article 12, No. 1 and 2 of the Criminal Code.

Art. 212. The King determines which agency shall be the aviation authority according to this law, and stipulates, insofar as the question is not regulated by a special law, to what extent the aviation authority may, according to law, transfer its authority to other agencies.

Art. 213. Administrative decisions made in accordance with this law may be appealed to a higher authority. The appeal shall be submitted within a period of 3 weeks after the interested party has received the decision. The appeal shall have no effect of deferment, unless so decided by the agency whose decision was appealed or by the authority to whom the appeal was submitted.

The King may issue regulations concerning the authorities to whom the decision may be appealed and concerning grounds on the procedure of the cases appealed. He may determine that certain appeals must be decided by a reviewing committee, and may issue regulations on the composition of the committees and appointment of the members. If necessary several committees may be appointed.

The King may determine that certain decisions may not be appealed.

The provisions of this Article shall not apply to appeals from decisions of the department and registrar.

Art. 214. The King may issue regulations on the application and execution of the provisions of this law.

SECOND PART. MILITARY AVIATION AND OTHER AVIATION OF THE STATE FOR PURPOSES OF PUBLIC USE

CHAPTER XV. MILITARY AVIATION

Art. 215. An aircraft may be used for Norwegian military aviation if it has Norwegian nationality according to Article 216, or is subject to the provisions of Article 225.

Art. 216. An aircraft shall be considered a Norwegian military aircraft if:

1. It is entered in the register of military aviation;
2. it is temporarily used for military aviation in accordance with Article 224.

Art. 217. The register of military aviation shall be kept by an authority appointed by the King.

An aircraft entered in the register of civil aircraft may not be entered in the military register prior to a cancellation of the registration in the civil register.

The King shall issue regulations on the military register and on conditions and procedure for such registration.

Military aircraft shall be marked in accordance with the regulations issued by the King.

Art. 218. Norwegian military aircraft must comply with the regulations issued by the King on airworthiness and manning.

Art. 219. Landing areas and other installations for the use of military aviation must adhere to requirements determined by the King, and shall be approved by the authority appointed by the King.

Art. 220. The provisions of Articles 60, 71, 84 to 94, 96, 153 to 159, 161, 163, paragraphs 1 and 2, Articles 164 to 167, and 169 shall also apply to Norwegian military aviation.

Art. 221. Regulations issued in accordance with Articles 75, 76 and 109 shall apply to Norwegian military aviation unless otherwise determined by the King.

Art. 222. The King may determine that provisions of this law other than those mentioned above shall apply to Norwegian military aviation.

Art. 223. Any person who has a legal interest therein may request to examine the contents of aircraft documents of Norwegian military aircraft unless the competent authority finds that their contents should be kept secret for military purposes.

Art. 224. Without regard to the provisions of Part I an aircraft entered in the register of civil aviation may be temporarily used for Norwegian military aviation, insofar as the aircraft is provided with an additional identification marking and the aviation authority is informed in advance.

During the use of an aircraft for military aviation it shall remain subject to the provisions of Chapter II.

The aviation authority shall be informed when the use of an aircraft for military aviation is terminated.

Art. 225. The preceding articles of the Chapter shall apply insofar as possible and provided there is no conflict with international treaties, as to foreign aircraft used by Norwegian State for military aviation.

Art. 226. The King may issue regulations on the application and execution of the provisions of this Chapter, and he may authorize a military authority in place of the aviation authority to enforce the provisions of Part I insofar as they apply to Norwegian military aircraft.

Art. 227. The King may issue additional regulations on Norwegian military aviation.

Art. 228. The King determines whether and under what conditions an aircraft used for military aviation by a foreign state or international organization may have access to Norwegian territory.

If not otherwise indicated by the provisions of paragraph 1, the preceding provisions on Norwegian military aviation, insofar as they are not in conflict with international treaties or general principles of international law, shall also apply to foreign military aviation within Norwegian territory.

Art. 229. Any person who violates the provisions of Articles 215 to 227, or regulations and decisions issued on the basis of these articles, shall be punished in accordance with the provisions of Chapter XIII.

The provisions of paragraph 1 shall not apply if the offense is subject to military Criminal Law, except where there is a violation of the provisions of Article 71, cf. Article 220.

Art. 230. Any person who violates the provisions of Article 228, or the regulations and decisions issued on the basis of this Article, shall be punished in accordance with the provisions of Chapter XIII.

CHAPTER XVI. OTHER AVIATION OF THE STATE FOR PURPOSES OF PUBLIC USE

Art. 231. The provisions of Part I of this law shall also apply to Norwegian aircraft which are exclusively used for public purposes, but are not military aircraft with the exception of Articles 160 and 163, paragraphs 3 and 4.

The King may grant additional exceptions from the provisions of Part I or issue special regulations for such aviation. However, the provisions which are part of the civil or criminal statutes may not be changed.

Art. 232. The King determines whether and under what conditions an aircraft used for the purposes mentioned in Article 231 by a foreign State or international organization may have access to Norwegian territory.

If not included under the provisions of paragraph 1, the provisions of Part I of this law, with the exception of Articles 35 to 42, 160, and 163, paragraphs 3 and 4, shall also apply to aviation within Norwegian territory by aircraft referred to in paragraph 1, provided these provisions are not in conflict with international treaties or the general principles of international law.

Final Provisions

Art. 233. This law shall become effective on the date determined by the King.

It may be determined that certain parts of this law shall enter into force before other parts.

[Article 234 contains a list of laws which will be repealed by the entering into force of the present law, and some amendments to previous laws.]

Art. 235. While the Warsaw Convention of October 12, 1929, in force in Norway, the Law on Transport by Aircraft of June 12, 1936, and regulations issued on the basis of this law, shall continue in force in regard to international air transportation if the place of departure and the destination according to the transportation contract are in States both of which have adhered to the Convention but not to the Hague Protocol, or if these places are in one Convention State which has not adhered to the Hague Protocol, and a place of intermediate landing in another State has been agreed upon, even if such State is not a Convention State.

Art. 236. The regulations issued on the basis of the provisions of laws repealed by this law shall continue in force insofar as they are compatible with this law, until they are repealed or amended in accordance with this law. The provisions of Article 235 shall be valid.

Art. 237. The references in other laws to provisions of laws repealed by this law shall be considered as references to the pertinent provisions of this law.

REGULATIONS IN FORCE

1) Regulations for the Application of the Law on Aviation. Part II of the Royal Decree of December 8, 1961. *Norsk Lovtidend* (Norwegian Law Gazette) of December 28, 1961, No. 39.

2) Instructions relating the Register of Norwegian Aircraft of December 9, 1961. *Norsk Lovtidend* of May 28, 1962, No. 17.

3) Instructions on Airworthiness of Civil Aircraft and on Supervision by the Direction of Aviation of December 9, 1961. *Ibid.*

4) Instructions relating to glider flights of March 21, 1962. *Ibid.*

PAKISTAN

PRELIMINARY

The basic legislation for civil aviation in Pakistan is the Indian Aircraft Act of 1934 and the Indian Aircraft Rules of 1937.¹ The former provides for control of the use and operation of aircraft, while the latter implements the 1934 Act and covers flying conditions, safety, aerodromes, airworthiness, registration of aircraft, communications, licensing, etc. All legislation dating from pre-partition times has since had the word "Pakistan" substituted for the word "Indian." Other important legislation pertaining to civil aviation includes Part IX of the Indian Aircraft Rules of 1920 covering Customs regulations, the Indian Carriage by Air Act of 1934 which covers the application of the Warsaw Convention, the Indian Aircraft Rules of 1946 which pertain to public health requirements, and the recently issued Civil Aviation Ordinance of 1960 in which the President of Pakistan has reasserted the Government's power to make rules concerning the regulation of air transport services and commercial flying along with all other phases of civil aviation.

ORDINANCE XXXII OF 1960²

CIVIL AVIATION ORDINANCE, 1960

An Ordinance to make better provision for the control of manufacture, possession, use, operation, sale, import and export of aircraft, the control and regulation of air transport services, and the control and development of aerodromes in Pakistan.

Whereas it is expedient to make better provision for the control of manufacture, possession, use, operation, sale, import and export of aircraft, the control and regulation of air transport services, and the control and development of aerodromes in Pakistan:

Now therefore, in pursuance of the Proclamation of the seventh day of October 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and application.*—(1) This Ordinance may be called the Civil Aviation Ordinance, 1960.

(2) It extends to the whole of Pakistan, and applies to all citizens of Pakistan and persons on any aircraft registered in Pakistan, wherever such citizens or persons may be, and to all persons on any aircraft while in Pakistan, but nothing in this Ordinance or the rules or any order made thereunder—

(a) shall apply to or in respect of any aircraft belonging to or exclusively employed in the naval, military or air force of Paki-

¹ See India.

² The All-Pakistan Legal Decisions, October 1960, p. 307; Gazette of Pakistan, Extraordinary, 27th July 1960; Central Stat. vol. XII, 1960.

stan, or persons employed in connection with any such aircraft, unless the Central Government, by notification in the Official Gazette, applies to any such aircraft or person, with or without modification, any of the provisions of this Ordinance or the rules; or

(b) shall apply to or in respect of any lighthouse to which the Lighthouse Act, 1927 (XVII of 1927), applies, or prejudice or affect any right or power exercisable by any authority under that Act.

2. *Definitions*.—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "aerodrome" means any area of land or water designed, equipped, set apart or commonly used or intended to be used, either wholly or in part, for affording facilities for the landing and departure of aircraft, and includes all buildings, sheds, vessels, piers, and other structures thereon or appertaining thereto;

(b) "aircraft" means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons, whether captive or free, airships, kites, gliders and flying machines;

(c) "airport" means an aerodrome at which facilities have, in the opinion of the Central Government, been sufficiently developed to be of importance to civil aviation;

(d) "air transport service" means a service of aircraft for the purpose of effecting public transport of passengers, goods, mails and other things;

(e) "commercial flying" means flying for carriage by air of any passenger, mail or goods for hire or reward and such other flying for the purposes of any trade or business as may be specified by the Central Government and "commercial flight" shall be construed accordingly;

(f) "export" means taking out of Pakistan;

(g) "import" means bringing into Pakistan;

(h) "landing area" means the part of the movement area intended for the landing or take off run of aircraft;

(i) "prescribed" means prescribed by rules;

(j) "purposes of civil aviation" include all purposes connected with air navigation except purposes of defence by air;

(k) "rules" means the rules made under this Ordinance.

3. *Power to exempt, etc.*—The Central Government may, by notification in the Official Gazette, either exempt from all or any of the provisions of this Ordinance any aircraft or class of aircraft, and any person or class of persons, or may direct that all or any of such provisions shall apply to any aircraft or person subject to such modifications or conditions as may be specified in the notification.

4. *Power to make rules to implement certain International Conventions*.—The Central Government may, by notification in the Official Gazette, make such rules as appear to it to be necessary for carrying out the provisions of—

(a) the Convention on International Civil Aviation signed in Chicago on the seventh day of December, 1944, and any amendment of the Convention or Annex thereto made in accordance with the provisions of Article 94 of the Convention;

(b) the Convention on International Recognition of Rights in Aircraft signed in Geneva on the nineteenth day of June, 1948, and any amendment thereto;

(c) The Convention on Damage caused by Foreign Aircraft to Third Parties on the Surface signed in Rome on the seventh day of October, 1952, and any amendment thereto; and

(d) any other treaty, agreement or convention between Pakistan and any other country or any decision taken at any international body relating to civil aviation.

5. *Power to make rules generally.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for one or more of the following matters, that is to say,—

(a) the authorities by which any of the powers conferred by or under this Ordinance are to be exercised;

(b) the regulation of air transport services and commercial flying, and the prohibition of the use of aircraft in such services and in commercial flights except under the authority of, and in accordance with, a license authorizing the establishment of any such service or flight;

(c) the information to be furnished by an applicant for, or the holder of, a licence authorizing the establishment of an air transport service to such authorities as may be prescribed;

(d) the licensing, inspection and regulation of aerodromes or airports, the conditions under which aerodromes or airports may be maintained, and the fees which may be charged for the use of, and for services provided at, such aerodromes or airports, and the prohibition or regulation of the use of unlicensed aerodromes or airports, and the regulation of conduct of persons at aerodromes or airports or in the vicinity of aerodromes or airports;

(e) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where aircraft are manufactured, repaired or kept;

(f) the registration of marking of aircraft;

(g) the conditions under which aircraft may be flown, or may carry passengers, goods, mails and other things, or may be used for industrial purposes, and the certificates, licenses or documents to be carried by aircraft;

(h) the inspection or supervision of aircraft for the purpose of enforcing the provisions of this Ordinance and the rules, and the facilities to be provided for such inspection or supervision;

(i) the conditions subject to which persons may be engaged or employed in, or in connection with, air navigation;

(j) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft and at aerodromes or airports;

(k) the conditions under which, and the aerodromes or airports to or from which, aircraft entering or leaving Pakistan may fly, and the conditions under which aircraft may fly over Pakistan or from one place in Pakistan to another;

(7) the prohibition of flight by aircraft over any specified area, either absolutely or at specified times, or subject to specified conditions and exceptions:

(m) the supply, supervision and control of air-route beacons, aerodrome or airport lights, and lights at or in the neighbourhood of aerodromes or airports and on or in the neighbourhood of air-routes;

(n) the formulation and observance of uniform standards in respect of obstruction clearances for areas adjoining the landing area at aerodromes and airports:

(o) the installation and maintenance of lights on private property in the neighbourhood of aerodromes or airports and on or in the neighbourhood of air-routes, by the owners or occupiers of such property, payment by the Central Government for such installation and maintenance, and the supervision and control of such installation and maintenance, including the right of access to the property for such purpose, and the removal of lights, radio and electrical equipment and smoke producing apparatus which may endanger the safety of aircraft in the vicinity of aerodromes or airports;

(p) the regulation and making of signals and communications by or to aircraft, and by or to persons carried therein:

(q) the measures to be taken for securing the requirements of obstruction clearances at aerodromes and airports, for the safety, efficiency and regularity of air navigation and the safety of aircraft, passengers, goods, mails and other things carried therein, and for preventing aircraft from endangering other persons and property:

(r) the prohibition or regulation of carriage in aircraft of any specified article or substance:

(s) the issue and maintenance of log-books;

(t) the manner in which and the conditions subject to which any licence or certificate may be issued under this Ordinance or the rules, the examination and tests to be undergone in connection therewith, and the form, custody, production, endorsement, cancellation, suspension or surrender of any such licence or certificate, or of any log-book:

(u) the fees to be charged in connection with any inspection, examination, test, certificate or licence, made, issued, or renewed under this Ordinance or the rules:

(v) the recognition, for the purposes of this Ordinance, of licences and certificates issued elsewhere than in Pakistan relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircraft;

(w) the supply, for purposes of air navigation, of meteorological information by persons engaged or employed in connection with air navigation:

(x) the regulation of the use of the civil air ensign and any other ensign established by the Central Government in connection with air navigation:

(y) any matter subsidiary or incidental to matters referred to in this subsection.

6. *Power to make orders in times of war or emergency.*—(1) In the event of war or other emergency, or in the interests of public safety or tranquillity, if the Central Government is of opinion that the issue of all or any of the following orders is expedient, it may, by notification in the Official Gazette,—

(a) cancel or suspend, either absolutely or subject to such conditions as it may think fit to specify in the order, all or any of the licences or certificates issued under this Ordinance or the rules;

(b) prohibit, either absolutely or subject to such conditions as it may think fit to specify in the order, or regulate in such manner as may be specified in the order, the flight of all or any aircraft or class of aircraft over the whole or any part of Pakistan;

(c) prohibit, either absolutely or conditionally, or regulate the construction, maintenance or use of any aerodrome or airport, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, or any class or description thereof: and

(d) direct that any aircraft or class of aircraft or any aerodrome or airport, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, together with any machinery, plant, material or things used for the operation, manufacture, repair or maintenance of aircraft shall be delivered forthwith or within a specified time, for being placed at the disposal of the Central Government, to such authority and in such manner as it may specify in the order.

(2) Any person who suffers direct injury or loss by reason of any order made under clause (c) of subsection (1) or by the delivery of any aircraft or class of aircraft in pursuance of clause (d) of that subsection, shall be paid such compensation as may be determined by such authority as the Central Government may appoint in this behalf.

(3) Any person interested in any such aerodrome or airport, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept as is delivered in pursuance of clause (d) of subsection (1) shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person qualified for appointment as Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation:

(e) the arbitrator in making his award shall have regard to—

(i) the provisions *mutatis mutandis* of subsection (1) of section 23 of the Land Acquisition Act, 1894; and

(ii) The permanent or temporary nature of the acquisition;

(f) an appeal shall lie to the High Court against the award of an arbitrator except in cases where the amount thereof does not exceed the amount prescribed in this behalf;

(g) save as provided in this subsection or the rules, nothing in any law for the time being in force shall apply to arbitrations under this subsection.

(4) The Central Government may authorize such steps to be taken to secure compliance with any order made under subsection (1) as appear to it to be necessary.

(5) Whoever knowingly disobeys, fails to comply with, or does any act in contravention of an order made under subsection (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both, and the Court by which he is convicted may direct that the aircraft or thing, if any, in respect of which the offence has been committed, or any part of such thing shall be forfeited to the Central Government.

7. *Power to make rules for investigation of accidents.*—(1) The Central Government may, by notification in the Official Gazette, make rules providing for the investigation of any accident arising out of or in the course of the navigation—

(a) in or over Pakistan, of any aircraft; or

(b) anywhere, of aircraft registered in Pakistan.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) require notice to be given of any accident in such manner and by such person as may be prescribed.

(b) apply for the purposes of such investigation, either with or without modification, the provisions of any law for the time being in force relating to the investigation of accidents;

(c) prohibit, pending investigation, access to, or interference with, an aircraft to which an accident has occurred, and authorize any person, so far as may be necessary for the purposes of investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft; and

(d) authorize or require the cancellation, suspension, endorsement or surrender of any licence or certificate granted or recognised under this Ordinance or the rules, if it appears on investigation that the licence ought to be so dealt with, and provide for the production of any such licence for such purpose.

8. *Power to detain aircraft.*—(1) Any authority authorized in this behalf by the Central Government may detain any aircraft, if in the opinion of such authority—

(a) having regard to the nature of an intended flight, the flight of such aircraft would involve danger to persons in the aircraft or to any other person or property; or

(b) such detention is necessary to secure compliance with any of the provisions of this Ordinance or the rules or to prevent a contravention of any rule made under clause (i), (j) or (k) of subsection (2) of section 5.

(2) The Central Government may, by notification in the Official Gazette, make rules regulating all matters incidental or subsidiary to the exercise of the powers conferred by subsection (1).

9. *Power to make rules for protecting public health.*—The Central Government may, by notification in the Official Gazette, make rules for the prevention of danger arising to public health by the introduction or spread of any infectious or contagious disease from aircraft arriving or being at an aerodrome or airport and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome or airport, and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or airports or any specified aerodrome or airport, rules providing for any of the matters for which rules under sub-clauses (i) to (viii) of clause (p) of subsection (1) of section 6 of the Ports Act, 1908 (XV of 1908), may be made with respect to vessels and ports.

10. *Emergency powers for protecting public health.*—(1) If the Central Government is satisfied that Pakistan or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force are insufficient for the prevention of danger arising to public health through the introduction or spread of the disease by the agency of aircraft, the Central Government may take such measures as it deems necessary to prevent such danger.

(2) In any such case the Central Government, without prejudice to the powers conferred by section 9, may, by notification in the Official Gazette, make such provisional rules with respect to aircraft and persons travelling or goods, mails and other things carried therein, and aerodromes or airports, as it deems necessary in the circumstances.

(3) Notwithstanding anything contained in section 15, the power to make rules under subsection (2) shall not be subject to the condition of previous publication, but such rules shall not remain in force for more than three months from the date of notification:

Provided that the Central Government may, by special order, continue them in force for a further period or periods of not more than three months in all.

11. *Penalty for flying so as to cause danger.*—Where an aircraft is flown in such manner as may cause unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and, unless he proves to the satisfaction of the Court that the aircraft was so flown without his actual fault or privity, the owner thereof, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—In this section "owner" in relation to an aircraft includes any person by whom the aircraft is chartered at the time the offence is committed.

12. *Wreck and salvage.*—(1) The provisions of Part VII of the Merchant Shipping Act, 1923 (XXI of 1923), relating to wreck and salvage shall apply to an aircraft in, on or over, the sea or in tidal waters, or on or over the shores of the sea or tidal waters as they apply to ships, and the Central Government may, by notification in the Official Gazette, make such modifications of the said provisions in their application to aircraft as appear to it to be necessary or expedient.

(2) 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 in tidal waters, or on or over the shores of the sea or any tidal water, shall

be deemed to be salvage in cases in which they would have been salvaged had they been rendered in relation to a ship, and where services are rendered by an aircraft to any property or person, salvour shall be entitled to the same reward for those services as he would have been entitled to had the aircraft been a ship.

(3) The provisions of subsection (2) shall have effect notwithstanding that the aircraft concerned is a foreign aircraft and that the services in question are rendered elsewhere than within the limits of the territorial waters of Pakistan.

13. *Use of patent.*—The provisions of section 42 of the Patents and Designs Act, 1911 (II of 1911), shall apply to the use of an invention on any aircraft not registered in Pakistan in like manner as they apply to the use of an invention in a foreign vessel.

14. *Power to apply customs procedure.*—The Central Government may, by notification in the Official Gazette, declare that any or all of the provisions of the Sea Customs Act, 1878 (VIII of 1878), shall, with such modifications and adaptations as may be specified in the notification, apply to the import and export of goods by air.

15. *Provisions relating to rules.*—(1) Rules may provide that a breach of any of them shall be punishable with imprisonment for a term not exceeding three months or with fine not exceeding one thousand rupees or with both.

(2) Save as provided in subsection (3) of section 10, any power to make rules conferred by this Ordinance is subject to the condition of previous publication, and a period of not less than three weeks shall have elapsed between such publication and the making of the rules.

16. *Penalty for abetment of offences and attempted offences.*—Whoever abets the commission of any offence under this Ordinance or the rules, or attempts to commit such offence and in such attempt does any act towards the commission of the offence, shall be liable to the punishment provided for the offence.

17. *Power of court to order forfeiture.*—Where any person is convicted of an offence for breach of any rule made under clause (1) or clause (r) of subsection (2) of section 5, the Court by which he is convicted may direct that the aircraft or article or substance, as the case may be, in respect of which the offence has been committed, shall be forfeited to the Central Government.

18. *Bar to certain suits.*—No suit shall be brought in any civil Court 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 by reason only of the ordinary incidents of such flight.

19. *Protection of acts done in good faith.*—No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance or the rules.

20. *Repeal.*—The Aircraft Act, 1934 (XXII of 1934) is hereby repealed.

PANAMA

PRELIMINARY NOTE

There was no basic air law in force in the Republic of Panama until Decree-Law No. 19 was passed on August 8, 1963. The following executive decrees according to Article 221 of that Law, are still in effect insofar as they are not in conflict with Decree-Law No. 19.

Decree No. 203 of April 25, 1961, modifying Decree-Law No. 5 of August 18, 1949, dealing with the National Aeronautics Board, licensing of air carriers, and their liability;

Decree No. 236 of November 21, 1935, giving jurisdiction over aviation to the Secretary of Foreign Affairs;

Decree No. 147 of August 23, 1932, regulating commercial aviation in general;

Decree No. 148 of August 23, 1932, regulating aviation schools;

Decree No. 149 of August 23, 1932, regulating the use of parachutes;

Decree No. 150 of August 23, 1932, regulating entry into, and departure from Panama by air;

Decree No. 7 of January 19, 1937, regulating scheduled air traffic.

There is, in addition, the Law 29 of December 11, 1936, dealing with the organization of commercial aviation in Panama by providing for the establishment of a government supported national air carrier.

*Regulation on National Aviation*¹

DECREE-LAW NO. 19 OF AUGUST 8, 1963

The President of the Republic, pursuant to the extraordinary powers conferred on him by Article 1, Section 3 of Law 56 of 1963, having heard the favorable report on this matter by the Cabinet Council, and with prior approval of the Permanent Legislative Commission, and,

WHEREAS :

The growing development of civil aviation in general and of air transportation in particular, within the Republic of Panama requires an adequate regulation, in order to promote safety of air navigation, facilitate security and efficiency in air services, strengthen the economic structure of the Nation, and broaden and reaffirm our economic and cultural relations with other nations;

Panama is a member of the International Civil Aviation Organization, and [whereas] the standards approved by this organization should be, as far as possible, incorporated in our domestic legislation for proper observance;

¹ Published in *Gaceta Oficial*, September 18, 1963.

THEREFORE DECREES

TITLE I. CIVIL AVIATION IN PANAMA

Sovereignty and Organization

CHAPTER I. GENERAL PRINCIPLES

Article 1. Sovereignty.

The Republic of Panama has complete and exclusive sovereignty over all the air space above its continental and insular territory comprised between Colombia and Costa Rica, and over its territorial seas.

Article 2. Jurisdiction.

1) The Panamanian State exercises jurisdiction in the space above the national territory and its territorial seas, in conformity with the Constitution and laws of the Republic, the regulatory decrees, and the international agreements on civil aviation ratified by the Republic.

2) All civil aircraft within the national territory or air space, as well as their crews, passengers and cargo, shall be subject to the jurisdiction and competency of the Panamanian authorities.

Article 3. Jurisdiction on board aircraft.

The following are subject to Panamanian jurisdiction:

a) Acts performed, events occurring, and crimes and misdemeanors committed on board Panamanian aircraft, within the territory or airspace of the Republic, or during a flight over the high seas or over territories not subject to the sovereignty of another State;

b) Acts performed, events occurring, crimes and misdemeanors committed on board Panamanian aircraft during a flight over territory of a foreign State, except in those cases related to the security or public order of the subjacent State;

c) Acts performed, events occurring, crimes and misdemeanors committed on foreign civil aircraft flying over the territory of Panama or which are parked thereon, when such acts, events, crimes or misdemeanors relate to the security or public order of Panama. In addition, in the case of a crime committed during the flight of a foreign aircraft, the law of Panama shall be applicable if the first stop following the crime is made on the soil of the Republic, unless there is a request for extradition.

CHAPTER II. REGULATION AND ADMINISTRATION OF CIVIL AVIATION IN PANAMA

Article 4. Executive Agency.

The regulation of Civil Aviation in Panama is the function of the Executive Power, through its Ministry of Government and Justice, in accordance with the provisions of the present Code.

Article 5. National Board of Civil Aeronautics.

1) The National Executive Power shall be advised by a consultative agency to be known as National Board of Civil Aeronautics.

2) The Board shall be composed of nine (9) members, as follows:
The Minister of Government and Justice, who shall preside;

The Minister of Foreign Relations, who shall be Vice-President;

The Director General of Civil Aeronautics, who shall act as Secretary;

The Administrator of the National Airport of Tocumen;

The Manager of the Panamanian Tourist Institute;

One (1) Panamanian pilot with a national or international commercial license, appointed by the Executive for a period of four (4) years, and

Three (3) Panamanian citizens appointed by the Executive for a period of four (4) years, who must be of acknowledged moral reputation, with knowledge of aeronautics or law, and who have no direct or indirect relation with airline companies.

With the exception of substitutes for the two (2) Ministers, who shall be their respective Assistant Ministers; of the substitute for the Director General of the Civil Airport, who shall be the Chief of Air Safety; and the substitute for the Administrator of Tocumen, who shall be the Assistant Administrator of Tocumen, the *Executive*, shall designate the substitutes for all other members of the Board, who must possess the same requirements as the principals.

The term of four (4) years, referred to in this article for the pilot and the three (3) Panamanian citizen members of the Board, shall commence on the first of November of 1964.

The present Board of Civil Aeronautics shall continue in its functions until October 21, 1964.

The members of the Board of Civil Aeronautics shall receive from the National Treasury a per diem of twenty *balboas* (B/.20.00) per meeting up to the maximum of four (4) meetings a month.

3) At the request of the Minister of Government and Justice, the Board shall formulate the recommendations it deems proper in the following matters:

a) The standards, rules, and procedures related to civil air transport; the contracts and agreements which domestic companies conclude on air navigation and mutual facilities with domestic or alien companies or enterprises; and the flight frequencies and rates for air services, regulating the capacity of the traffic;

b) The issuance of certificates of operation to airlines and commercial air services;

c) The rates for air transportation of passengers, freight and mail within the national territory and abroad;

d) The aeronautical fees and taxes to be charged at the airports and airdromes, and for administrative services related to civil aviation;

e) The advantages of having the Republic ratify, adhere to, or terminate international conventions concerning civil aviation;

f) Policy matters as to air navigation and air transport;

g) All matters submitted to its consideration by the Executive Branch.

In addition, the Board may formulate suggestions which it deems proper to the development of civil aeronautics in Panama.

Article 6. General Bureau of Civil Aeronautics

1) The management, administration and supervision over Civil Aeronautics in Panama shall be in charge of an administrative agency

to be known as General Bureau of Civil Aeronautics, and which shall be subordinate to the Ministry of Government and Justice.

2) In addition to the functions indicated in the present law and the regulations issued thereunder the General Bureau shall be charged with:

a) The study and proposal to the Minister of Government and Justice of any measure or regulation to increase safety and improve the efficiency of air navigation in Panama, and for the development of aviation generally;

b) The care of problems related to the observance of international agreements regarding civil aviation approved by the Republic, and of every other matter concerning the international agencies concerned with civil aviation.

3) Commencing on the first of March of 1964, the General Bureau of Civil Aeronautics shall have the following administrative and technical staff for the exercise of the functions stipulated by this Law and the regulation issued thereunder. The Director General of Civil Aeronautics, the Assistant Director of Civil Aeronautics; one (1) Secretary, one (1) Chief of Air Safety, two (2) Technical Flight Inspectors, two (2) Technical Inspectors of Aircraft and Engines, and two (2) Technical Airport Inspectors.

The salaries of these officials shall be included in the Budget of Revenue and Expenses of the next fiscal year, in accord with the General Law on Salaries.

The functions of the personnel of the Bureau of Civil Aeronautics are incompatible with the performance of any service or activity in aviation enterprises.

4) The Director General of Civil Aeronautics and other technical personnel of the Bureau appointed by the Executive Power must have certificates which attest to their experience and competency in civil aviation and their fitness to perform their respective duties.

Article 7. Jurisdiction of other Ministries.

1) The execution of national public works for civil Aeronautics shall be under the jurisdiction of the Ministry of Public Works.

2) The regulation and application of the provisions of the present Law affecting fiscal, immigration, health, and labor matters shall be under the jurisdiction of the competent authorities in the respective Ministries, including the application to aeronautical matters of other laws and regulations on the same subjects.

TITLE II. AIR NAVIGATION

CHAPTER I. AIRCRAFT

SECTION I. GENERAL PROVISIONS

Article 8. Definition.

For the purposes of this Law and the regulations issued thereunder, an aircraft shall be considered to be any machine lighter or heavier than air which can support itself in the atmosphere by reaction of the air.

Article 9. Classification.

1) Panamanian aircraft are classified as State aircraft and civil (private) aircraft. State aircraft are those owned by the State, the

municipalities, or by autonomous or semi-autonomous government agencies. All others shall be considered civil aircraft, whether in public or private service.

2) Civil aircraft permanently used in the service of the State shall be considered as State aircraft.

3) The articles of the present Law are not applicable to State aircraft unless the contrary is stated.

SECTION 2. REGISTRATION AND NATIONALITY

Article 10. Registration Records.

1) It is the duty of the General Bureau of Civil Aeronautics to maintain current under the authority of the Ministry of Government and Justice, the Aircraft Register, in which there may be recorded only the following:

a) Panamanian State aircraft, except military;

b) Civil aircraft for public transportation or air services, exclusively owned or operated by national physical or corporate persons, legally authorized to operate them;

c) Civil aircraft for private service owned by or operated in Panama by national or foreign physical or corporate persons.

Registration shall be subject to the general condition that aircraft comply with the technical conditions required by the applicable regulations and are not registered in another country.

2) The registration of an aircraft in the Register confers on it Panamanian nationality.

Article 11. Applications.

The registration of an aircraft in the Aircraft Register must be requested by the physical or corporate owner of the aircraft or his agent.

Article 12. Certificate of Registration.

A registration certificate, conforming to the model prescribed by international standards, shall be issued to the owner or operator of the aircraft and must always be carried in a visible location thereon.

Article 13. Prohibition of Registration in Another Country.

No aircraft which has been registered in the Republic may do so in another country, as long as it has not cancelled its Panamanian registration.

Article 14. Cancellation of Registration.

1) The registration of an aircraft in the Aircraft Register shall be cancelled, upon application of the interested party or *ex officio*, as follows:

a) When said aircraft is to be registered in another country;

b) When the ownership of the aircraft was acquired by a person not included among those listed in Article 10;

c) When the aircraft has been totally destroyed, or presumed lost in accordance with the Law, and when, in cases of disappearance without justification, ninety (90) days have elapsed from the date of the last notice thereof.

2) By cancellation of registration in the Aircraft Register, the registered aircraft shall lose its Panamanian nationality.

Article 15. Regulations.

In order to obtain, amend, or cancel the registration of an aircraft, the formalities stipulated in this Law and in the regulations issued thereunder must be observed.

SECTION 3. MARKS

Article 16. Nationality and Registration Marks.

The nationality marks for Panamanian civil aircraft shall be the letters "HP"; the registration mark shall consist of a group of numbers added to this nationality mark, as determined by the General Bureau of Civil Aeronautics.

Article 17. Location of Marks.

1) All Panamanian aircraft must be identified by the Panamanian flag and the distinctive marks of their nationality and registration, located in a visible place on the outside of the aircraft, in accord with the rules contained in international regulations.

2) Any aircraft shall bear, in a visible place, near the principal entrance, an identification plate of fireproof material, on which shall be inscribed at least the marks of nationality and registration.

SECTION 4. AIRWORTHINESS

Article 18. Competent Authorities.

It is a duty of the General Bureau of Civil Aeronautics to issue, re-validate or validate certificates of airworthiness for all aircraft recorded in the Register.

Article 19. Issuance and Validation.

1) A certificate of airworthiness shall be issued only on a previous written report of a Technical Inspector of Aircraft and Aviation Engines, appointed for this purpose by the General Bureau of Civil Aeronautics, who shall personally verify the condition of the aircraft in the manner prescribed in the respective regulation.

2) The expenses occasioned by the inspection of an aircraft shall be charged to the interested parties in accord with a rate schedule fixed by Executive Decree.

3) Nevertheless, certificates of airworthiness issued in a foreign country may be recognized or validated, pursuant to the standards contained in the international regulations.

Article 20. Form of Certificate.

The certificates of airworthiness issued by the General Bureau of Civil Aeronautics must be in conformity with the model approved by the international regulations.

Article 21. Suspension or cancellation of Certificate.

The General Bureau of Civil Aeronautics may suspend or cancel a certificate of airworthiness when the aircraft does not fulfill the necessary requirements. In such cases the interested party shall be first heard, and a period of time shall be granted to him for proof and defense. Nevertheless, for reasons of safety, the certificate may be suspended without the above mentioned procedure.

SECTION 5. OF FEES FOR AIRCRAFT AND THE AIRCRAFT REGISTER

Article 22. Aircraft.

For the purposes of this section, the term "aircraft" shall include the combination of the fuselage, the engines, the propellers, radio apparatus, and any other equipment necessary for its operation.

Article 23. Legal Nature.

Aircraft, even though they are personal property by nature, constitute a special class of personal property governed by the rules of civil and commercial law, except as amended by the provisions of this Section.

Article 24. Sale of Aircraft.

1) The sale or transfer of an aircraft must be made by public instrument. If the act takes place abroad, it shall be incorporated in the proper document conforming to the formalities of the place, and shall have a certification by a notary or other competent authority, to the effect that, in his presence, the seller has proved that he is owner of the aircraft, and that the person signing in his name had the power to execute the instrument of sale. Documents issued abroad shall be authenticated by the respective consul of the Republic, and in his absence, by one of a friendly nation.

2) All judicial sales of aircraft shall be at public auction, in conformity with legal procedures.

Article 25. Aircraft Mortgage.

An aircraft is subject to mortgage and to sale with reservation of title [conditional sale], as is a complete fleet belonging to an airline company. Insofar as not covered by this Law, such mortgage shall be governed, by the provisions applicable to chattel mortgages.

Article 26. Preference [in liens].

The encumbrance mentioned in the preceding article shall have preference over any other encumbrance, with the following exceptions:

- a) Indemnity for assistance or salvage of the aircraft; and,
- b) Indispensable expenses for preservation of the aircraft.

Article 27. Attachment or Seizure.

In case of judicial seizure of any aircraft used for public air transportation service, the authority decreeing the measure shall immediately communicate the fact to the General Bureau of Civil Aeronautics in order that the latter may take the necessary measures so as not to prejudice the service.

Article 28. Aeronautical Register.

In the Public Register there shall be a Section to be known as "Aeronautical Section," in which shall be recorded:

- a) The deeds by which ownership and other property rights in Panamanian civil aircraft are constituted, acquired, transferred, modified, burdened, or extinguished;
- b) leases and charter contracts;
- c) judgments of attachment or seizure, writs, or other judicial or administrative decisions affecting title or ownership of aircraft.

Article 29. Lack or Registration.

The documents referred to in the preceding article shall not affect third persons except from the date of their presentation for registration in the Aeronautical Section.

Article 30. Regulation.

The Executive Power, having heard the opinion of the Board of Civil Aeronautics, is authorized to administer the Aeronautical Section in all aspects, to prescribe the information which must be incorporated in the deeds and contracts referred to before they may be registered, as well as [to prescribe] the formalities of registration.

CHAPTER II. AVIATION PERSONNEL

Article 31. Categories.

Technical aviation personnel shall include:

- a) persons engaged in operation of an aircraft as pilots or other members of the crew; and,
- b) persons on the ground in charge of air traffic control, inspection, maintenance and repair of aircraft, engines or other equipment, or who serve as flight dispatchers.

Article 32. Licenses.

Technical aviation personnel must hold licenses and certificates.

Article 33. Competent Authority.

It is a duty of the General Bureau of Civil Aeronautics to issue, revalidate, and validate licenses and certificates.

Article 34. Requirements for Issuing Licenses.

Upon recommendation of the Civil Aeronautics Board, the Executive Power, shall, in conformity with the standards of international regulations in this field, prescribe as to the categories of pilots and other members of aviation personnel, and the requirements they must fulfill in order to acquire their licenses and certificates in the respective categories. The respective regulation shall also prescribe the effective dates, conditions for renewal, revalidation, validation, suspension, and revocation of said licenses and certificates.

Article 35. Validation of Licenses.

The General Bureau of Aeronautics may recognize or validate the licenses and certificates issued abroad by the competent authorities, provided the requirements under which they were issued or declared valid are at least equal to the minimum standards required in Panama for issuance of such licenses and certificates, and provided that in said countries similar licenses issued in Panama are recognized and validated.

Article 36. Nationality of Personnel.

1) The crews and other technical aviation personnel defined in Article 31 of this Law and in the service of national aviation enterprises, and in all commercial aircraft and transport aircraft of Panamanian registration shall be Panamanian nationals.

2) Airlines may hire foreign technicians until Panamanian personnel can be technically trained to provide the service, and such

[training] shall be completed in a period of not more than one (1) year, but the captain, as well as the remainder of the crew, must be Panamanians.

3) For aviation services such as aerial crop-dusting, low level flights, etc., the Executive may issue temporary permits to foreign pilots coming to the country to perform these services on an occasional basis, provided that there is evidence that no Panamanian person is available for such service.

4) The technical ground personnel of all foreign airlines operating in the country must be Panamanian in the proportion stipulated by the respective laws.

Article 37. Aircraft Commanders.

The commander of any aircraft must be a pilot. His functions shall be defined in this Law and the regulations issued thereunder.

Article 38. Flight Hours.

The Executive after having heard the opinion of the Civil Aeronautics Board, shall fix the limit of flight hours which must be observed by pilots and other crew members in public air transportation and aerial service companies.

Article 39. Flight Time.

1) The flight hours accumulated by any pilot or other member of the flight crew must be recorded in a personal log of flight time, the form of which shall be prescribed by the General Bureau of Civil Aeronautics. The pilot or other member of the flight crew applying for the issuance, revalidation, or validation of a license or certificate must present his log of flight time.

2) The flight time shall be the total time elapsed from the moment in which the aircraft moves by its own force for the purpose of taking off, up to the moment in which it stops at the end of the flight.

CHAPTER III. AIRDROMES

SECTION 1. GENERAL PROVISIONS

Article 40. Definition.

An airdrome shall be deemed to be any defined area on land or water, including all of its buildings and equipment, used entirely or partially for the arrival, departure, and movement of aircraft.

Article 41. Classification.

1) Civil airdromes, airports, and landing fields are classified as national and private, according to the legal rules of ownership to which they are subject.

2) The respective regulation shall classify the airdromes and specify the conditions and technical requirements for each category.

SECTION 2. CONSTRUCTION OF AIRDROMES

Article 42. National Airdromes.

1) The Executive Branch, through the Ministry of Government and Justice, after having heard the opinion of the Board of Civil Aeronautics shall establish, maintain, and modify, in conformity with

the international regulations, all national airdromes, aids to air navigation, and any facilities necessary for domestic or international services.

2) The following may be declared to be of public use and subject to forced expropriation [eminent domain]:

a) The lands necessary for the construction or enlargement of national airdromes or for the establishment of auxiliary services; and,

b) Any right in an established airdrome or in lands which is necessary to construct or enlarge an airdrome.

3) The corresponding declaration shall be made by the Ministry of Government and Justice which shall communicate its decision to the competent authority, for the purpose of initiating the expropriation proceedings through legal channels.

Article 43. Private Airdromes and Landing Fields.

1) For the construction and operation of airdromes and landing fields under private ownership, authorization in advance by the General Bureau of Civil Aeronautics shall be required, which, if it deems it necessary, may assume the functions of advisor in such constructions, may inspect them, and also close down any airdromes which do not fulfill the necessary conditions for safety.

2) Private airdromes and their installations may be declared to be of public use and subject to forced expropriation under the conditions of the preceding article.

SECTION 3. AIR SERVITUDES (EASEMENTS)

Article 44. Obstacles.

The constructions and installations on lands adjacent to or near airdromes, within the restricted and safety zones thereof, shall be subject to the restrictions prescribed in the respective regulations.

Article 45. Marking of Obstacles.

Objects or parts thereof within the boundaries of approach area and which project above the horizontal surface shall be considered as obstacles, and shall be marked.

Article 46. Restrictions.

For construction within the restricted areas of water tanks, buildings, radio and television aeriels, and other structures which may constitute obstacles to air navigation and are over seventeen (17) meters in height, shall require a special permit issued by the Civil Aeronautics Bureau, following consultation with the Municipal Engineer of the respective locality and which shall be based on the respective regulations of the Executive in this matter.

SECTION 4. USE AND OPERATION OF AIRDROMES

Article 47. Competent Authority.

1) All civil airdromes and airports of the Republic are subject to the control, inspection, and supervision of the General Bureau of Civil Aeronautics.

2) National airdromes are open to public air traffic by any aircraft, which is suitable for the technical specifications of each airdrome, and against payment of the fees approved by law.

Article 48. International Airports.

1) International airports shall be those declared to be such by the Executive Power, and which have capacity for the corresponding international services of Immigration, Customs, and Health, in addition to possessing the required technical installations.

2) The Executive Power may also establish a free zone at any international airdrome or airport.

Article 49. Restriction.

The use of private airdromes and landing fields may be restricted partially or wholly by the Executive, during war or national disturbances.

Article 50. Airdrome Administrator.

1) At civil airdromes in the Republic, the highest authority shall be exercised by an Administrator appointed by the Executive insofar as concerns the internal administration of the airdrome.

2) At national and international airports, the Administrator shall coordinate the activities of the officials of Immigration, Customs, Health, and Police, and shall have disciplinary authority over the employees of any of these services, as long as such employees are performing their services at the airport under his supervision.

CHAPTER IV. AUXILIARY SERVICES TO NAVIGATION

Article 51. Classification.

Services which are auxiliary to air navigation are those of air traffic control air radiocommunications, weather reports, day or night beaconage services (aural and visual signals by radio), services for search and salvage, aeronautical information, and any others necessary to guarantee safety, regularity, and efficiency of air navigation.

Article 52. Competent Authority.

1) The control of all auxiliary services to air navigation shall be under the jurisdiction of the Ministry of Government and Justice. In the performance of this duty it shall enact the measures necessary to the greater safety, regularity, and effectiveness of flights, for the purpose of protecting human life and property.

2) When it is in the national interest, the Executive may grant permission to individuals or entities to render such services deemed to be of public use. [These] shall be under the supervision of the General Bureau of Civil Aeronautics. The Executive shall fix the rates to be paid by persons using of such private services, until such time as the Government may assume them.

Article 53. Air Communications.

1) The Executive shall take any regulatory measures deemed necessary to establish a national network of air communications.

2) The operation of systems and equipment of air radiocommunication already in existence in the country, as well as the installation and operation of those to be established in the future shall be subject to the supervision of the General Bureau of Civil Aeronautics.

3) The persons or entities engaged in air transportation who are owners of air radiocommunication equipment shall obey the instructions of the General Bureau of Civil Aeronautics as to the adequate distribution of such equipment, for the purpose of improving the telecommunication services throughout the national or international air routes.

Article 54. Meteorology.

After the National Meteorological Service has been established in the Republic, it shall work in coordination with the General Bureau of Civil Aeronautics for the purpose of linking this service with the national network of air communications.

Article 55. Search and Salvage.

1) The General Bureau of Civil Aeronautics shall create auxiliary centers of search and salvage in the locations it believes appropriate.

2) Operations of search and salvage, whether of a private or official nature, shall be undertaken under the direction and control of the General Bureau of Civil Aeronautics.

Article 56. Air Information.

When deemed convenient, and at the appropriate place, the General Bureau of Civil Aeronautics shall create a service of air information.

CHAPTER V. CONDITIONS OF AIR TRAFFIC

Article 57. Knowledge of the Law.

The pilot commander of any aircraft flying over Panamanian territory must have knowledge of the laws and regulations governing air navigation in the country.

Article 58. General Conditions.

1) No aircraft may overfly, land on, or take off from territory of the Republic, unless it fulfills the following requirements:

- a) carries the nationality and registration marks of the State where the aircraft is registered;
- b) is in an airworthy condition;
- c) is under the control of a flight crew whose members hold valid licenses and certificates recognized in the Republic;
- d) has on board the documents enumerated in the following article;
- e) acts in conformity with all rules on flight and operations mentioned in the present Law and the regulations issued thereunder.

2) The General Bureau of Civil Aeronautics may exempt in writing from observance of the condition in sections (d) and (e) an aircraft which operates in Panama only in test flights, or engages in certain aerial work or in private flights.

Article 59. Flight Papers.

With the exception noted in paragraph 2 of the preceding article, any aircraft undertaking a flight must carry on board the following papers:

- a) Registration Certificate;
- b) Airworthiness Certificate;

- c) Licenses proper to each crew member;
 - d) Flight Log;
 - e) If carrying radio apparatus, the corresponding license;
- And, in addition,
- f) If the aircraft carries passengers, a list of their names and the places of boarding and destination;
 - g) If carrying cargo, a manifest and waybills.

Article 60. Flight Log.

1) In addition to listing the marks of nationality and registration and the name of the owner, the flight log of an aircraft must indicate for each flight: the date, nature of the flight (private, aerial services, scheduled or non-scheduled air transportation), the names of the crew, the place and hour of departure, the place and hour of arrival, any incidents or observations, the signature of the chief pilot, and, where pertinent, the visas of the competent authorities.

2) The chief pilot shall be responsible for entering these facts in the flight log.

Article 61. Radio Equipment.

1) All aircraft used in public air transport service with capacity for five (5) or more passengers, and any other aircraft used in public or private service which, in the judgment of the Civil Aeronautics Board so requires it, must be provided with the necessary radio equipment. The license for use of such equipment must be obtained from the competent authority.

2) When an air aircraft of Panamanian registry makes a flight to another country, it shall use its radio equipment subject to the regulations of the State it is overflying.

3) When overflying the territory of the Republic, all aircraft of foreign registry carrying radio equipment must possess a license issued by the State of registry. Such equipment shall be used only by authorized personnel.

Article 62. Landing and Take-off.

1) With the exception of emergency or forced landings, the arrivals and departures of any national or foreign aircraft in international flight may take place only at international airports duly designated as such.

2) Upon arrival or departure of any aircraft in international flight, the competent authorities, particularly the administrators of airports, may inspect and examine the certificates and other documents prescribed by this Law and the regulations issued thereunder.

3) Aircraft and its crew and passengers, while they remain on the ground or in the airspace of the Republic, shall be subject to Panamanian law.

Article 63. Prohibited and restricted Zones.

1) For reasons of safety, the Executive may declare parts of the territory of the Republic as zones prohibited or restricted for air navigation. Danger zones may also be designated therein, [wherever] activities are carried on which constitute or may constitute a danger to overflying aircraft.

2) It shall not be permitted to overfly prohibited zones. In the cases of restricted zones the aircraft must observe all limitations and restrictions established thereon.

Article 64. Inaccessible Regions.

The General Bureau of Civil Aeronautics may require, for reasons of flight safety, that aircraft wishing to fly over inaccessible regions or lacking the necessary facilities for air navigation must follow designated routes and hold special permits, to operate such flights.

Article 65. Photographic Equipment.

The Executive may regulate the use of photographic equipment on board aircraft overflying the territory of the Republic.

Article 66. Prohibited Transportation.

1) It shall be prohibited to transport the following:

a) On any aircraft in international service, any articles which, according to international agreements approved by the Republic, are not in open commerce;

b) On civil aircraft in public transportation service any arms and war munitions, [or] explosives and inflammable materials, unless the operator of the aircraft holds a permit issued by the competent authorities in the form established by the regulations, or persons under the influence of narcotics or in an obvious state of intoxication.

2) The transportation of cadavers or of persons who have a contagious or mental illness may be made only with permission of the competent health authority.

Article 67. Military Aircraft.

The operation of military aircraft on national air routes, in controlled traffic zones, or at civil airdromes, is subject to the provisions on air traffic contained in this Law and its regulations.

CHAPTER VI. AIR TRAFFIC RULES

SECTION 1. GENERAL PROVISIONS

Article 68. Application of Rules.

1) All aircraft in the territory of Panama, or which fly in the airspace of the Republic shall obey the rules contained in the present chapter.

2) These Rules shall also apply to all aircraft registered in Panama, wherever located, provided they are not contrary to the rules of the State which has jurisdiction in the territory which they overfly.

Article 69. Liability of the Commander.

1) The pilot commander, whether or not he is at the controls, shall be responsible that the operation of the aircraft is performed in accord with the present Rules. Except as otherwise instructed by the air traffic control, the pilot commander may decide to make the flight under visual flight rules or under instrumental flight rules. He may deviate from these rules only under circumstances which make such deviation absolutely necessary for reasons of safety.

2) The pilot commander shall have complete authority over all matters related to the aircraft while he is in control thereof.

3) The pilot commander shall, on his own responsibility, apply to the instructions of the competent air traffic control.

SECTION 2. PREPARATION FOR FLIGHT

Article 70. Preparation by the Commander.

1) Prior to starting a flight, the pilot commander must familiarize himself with all available data applicable to the proposed flight. For flights which are not limited to the vicinity of an airdrome and for all instrumental flights, the pilot commander must, as to the route followed, make a detailed study of the weather reports and forecasts; of the navigation aids; of the airdromes; and of the rules of air traffic control.

2) When this chapter so prescribes, the pilot commander shall supply the competent air traffic control with a flight plan containing all information respecting the planned flight or any part thereof, either prior to departure or during the flight.

Article 71. Flight plan.

1) A flight plan must be presented prior to undertaking an instrument flight in a controlled airspace, on the routes or in the areas which have advisory services, or in any other areas as required by air traffic control.

2) The General Bureau of Civil Aeronautics may also require a flight plan to be presented before undertaking a flight within certain areas along certain routes or across international frontiers, in order to facilitate the supplying of search and salvage services.

SECTION 3. GENERAL RULES OF AIR TRAFFIC

Article 72. Prohibitions.

1) No aircraft may be operated negligently or imprudently so as to place the life or property of others in jeopardy.

2) No aircraft may undertake acrobatic flights which constitute a danger to air traffic.

3) No aircraft may undertake acrobatic flights over groups of buildings in cities, towns, or inhabited places, or over groups of people out in the open, unless it has obtained the corresponding permission of the General Bureau of Civil Aeronautics.

4) No person may pilot an aircraft or act as a flight crew member while under the influence of alcoholic beverages or of any narcotic or drug.

5) No night flights shall be made out of airports which are not equipped for this purpose.

Article 73. Minimum safe Altitudes.

1) Unless it possesses a permit from the General Bureau of Civil Aeronautics, no aircraft may overfly groups of buildings in cities, towns, or inhabited places, or over groups of persons out in the open, unless it flies at an altitude which will permit, in case of emergency, to make a landing without endangering persons or property on the ground.

2) Over cities, inhabited areas, or over groups of persons, this altitude shall not be less than one thousand (1,000) feet above the highest obstacle situated within a radius of two thousand (2,000) feet from the aircraft; over other places, the altitude shall not be less than five hundred (500) feet above land or water.

3) These minimum altitudes shall not be applicable:

- a) to landing or take-off;
- b) in cases of *force majeure*;
- c) to flights in aerial work, in compliance with a permit from the General Bureau of Civil Aeronautics; and,
- d) to training flights.

Article 74. Jettisoning of Articles.

1) Nothing may be jettisoned from an aircraft in flight which may constitute a danger to persons or property on the ground.

2) Exceptions to this prohibition are:

- a) the jettisoning of ballast;
- b) the dumping of fuel, in case of emergency, but always over areas where this will not cause damage;
- c) the dropping of provisions or equipment during salvage operations.

3) The General Bureau of Civil Aeronautics may also authorize the jettison, in places difficult of access or under special circumstances, the dropping of some objects including postal matter, and the spreading of chemicals in agricultural or health aerial work.

Article 75. Various Operations.

The following may be undertaken only with permission of the General Bureau of Civil Aeronautics and in conformity with the requirements prescribed therefor:

- a) Descent of persons in parachutes, except in cases of emergency;
- b) Towing of objects;
- c) Lifting of persons or objects by an aircraft in flight.

SECTION 4. PREVENTION OF COLLISION

Article 76. Necessary Vigilance.

For the purpose of avoiding possible collisions, the vigilance by the flight crew must not be neglected on board the aircraft; no provision of this Chapter shall exempt the pilot commander from his duty to act in the most efficient manner to avoid a collision.

Article 77. Proximity.

1) No aircraft may fly near another in a manner that may cause danger of collision.

2) Aircraft may not fly in formation except when an agreement in advance has been made between the pilot commanders, and after notice to the air traffic services, and then only in daytime and under VFR weather conditions.

CHAPTER VII. INVESTIGATION OF AVIATION ACCIDENTS

Article 78. Definition.

For the purposes of this Chapter, an aviation accident is any event related to the use of an aircraft which occurs during the period be-

tween the moment when a person boards the aircraft for the purpose of making a flight, and the moment in which all persons have disembarked, during which:

a) Any person dies or suffers serious injuries as a result of being inside the aircraft, on it, or in contact with it or with anything belonging to it; or,

b) the aircraft suffers considerable damage.

Article 79. Accidents occurring in Panama.

1) Any person having knowledge of an air accident should communicate by the most rapid means possible with the General Bureau of Civil Aeronautics and with the nearest authorities.

2) Air inspectors or, in their stead, the Administrator of the nearest airport, have a duty to appear personally at the place of accident, take the appropriate measures, and make an immediate report to the Director General of Civil Aeronautics.

3) The authorities are under a duty to send out salvage groups, upon receipt of news of an air accident, to give immediate first aid to the victims, and to establishing the necessary guards around the place of accident until the investigators appointed for this purpose by the General Bureau of Civil Aeronautics arrive.

4) Radio, telegraphic, and radiotelephonic messages concerning an air accident must be sent directly to the General Bureau of Civil Aeronautics and shall be handled without charge as urgent official messages.

Article 80. Assistance.

In the case of an air accident, any national or foreign aircraft may give assistance to the victims, without having to request permission to do so; but it shall have the duty to communicate immediately with the General Bureau of Civil Aeronautics by the most rapid means.

Article 81. Safety of Mail.

The correspondence being transported by an aircraft suffering an accident or making a forced landing must be delivered by the finder, as soon as possible, to the Post Office nearest the place of the accident.

Article 82. Preliminary Information.

The investigator or investigators appointed by the General Bureau of Civil Aeronautics must submit to it their preliminary report within a period of six (6) days following the accident.

Article 83. Investigation Board.

1) If the accident is of an international character or is very serious, the investigation shall be in charge of a Board, as follows:

2) The Board shall be composed of the Director General of Civil Aeronautics, who shall preside; the Legal Adviser of the Ministry of Government and Justice; and the Chief of Air Safety.

3) The report of the Board must be presented as soon as possible to the Minister of Government and Justice.

Article 84. Crimes.

In cases of air accidents caused by criminal acts, the facts shall be communicated to a competent official of the Public Ministry [Attorney General] for purposes of initiating preliminary investigative proceedings (*sumario*).

Article 85. Accidents of foreign aircraft in Panama.

1) When a foreign aircraft suffers an accident in Panama, in addition to the measures specified in Articles 79, 80, 81 and 82, the Minister of Government and Justice shall notify the State of registry with the least possible delay and by the most rapid means. The notice shall incorporate all information available thereon.

2) The State of registry of the aircraft may appoint an accredited representative and advisers to assist in the investigation.

3) The report of the Investigative Board shall be forwarded, without loss of time, to the State of registry of the aircraft.

Article 86. Accident of Panamanian aircraft outside of Panama.

1) When a Panamanian aircraft suffers an accident outside of the Republic of Panama, the pilot commander or any crew member, if in condition to do so, or the owner, operator, or charterer of the aircraft, must immediately notify the General Bureau of Civil Aeronautics.

2) The General Bureau of Civil Aeronautics may appoint an accredited representative to assist in the investigation and may request that the aircraft, its contents, or any evidence remain intact until such representative has examined them.

3) When it cannot be clearly established whether the place of accident is in the territory of another State, the General Bureau shall appoint an investigator to undertake the necessary procedures.

Article 87. Regulation for Investigations.

The General Bureau of Civil Aeronautics shall draft a "Regulation for investigation of air accidents," at the latest one year following the adoption of the present Law, with due regard for the international regulations.

TITLE III. AVIATION SERVICES

CHAPTER I. GENERAL PROVISIONS AND DEFINITIONS

Article 88. Classification of Services.

Aviation services shall be classified as:

- a) Public air transport services, scheduled and non-scheduled, domestic or international;
- b) Aerial work services;
- c) Private air services.

Article 89. Public Air Transport Services.

1) Public air transport services are those which perform the transportation by air of passengers, baggage, cargo, and mail on a basis of remuneration. They are divided into scheduled and non-scheduled services:

a) The former are services performed by flights permanently accessible to the public, and engaged in traffic between two or more points which are always the same; they follow to a published schedule by means of flights so regular or frequent as to constitute a series that may be called systematic:

b) The latter are services which do not have any of the characteristics specified in preceding paragraph.

2) International public air transport services are scheduled or non-scheduled services which pass over the territory of more than one State.

Article 90. Aerial work Services.

Aerial work services are those performed for remuneration, and include:

- a) aerial photography, aerial cinematography, air topography;
- b) commercial or other air advertising;
- c) exploration of soil and subsoil by means of aircraft;
- d) aerial activities in development of agricultural production;
- e) spraying or dusting by air for agricultural or health purposes;
- f) scientific and educational flight;
- g) teaching or training of flight personnel through private schools or individually;
- h) industrial activities, other than of public transportation.

Article 91. Private Air Services.

Private air services are those undertaken without remuneration and include:

- a) tourist flights by the owner of the aircraft being flown, or made with permission of the owner;
- b) aerial work services for the exclusive benefit of the owner of the aircraft being used;
- c) personal services of individuals or of corporations which are not public airlines, when these are exclusively using aircraft owned by them;
- d) training of flight personnel for the private service aircraft.

Article 92. Air Service Companies.

1) An air carrier is any natural or corporate person who, with regularity, performs transport services by air for remuneration.

2) Aerial work companies are any natural or corporate persons who perform for others and for remuneration any work by aircraft except transportation.

Article 93. Representation of foreign Companies.

Foreign international air carriers and companies for aerial services operating in the Republic shall maintain a permanent representative in the country, with adequate power to appear before administrative and judicial authorities, national or municipal, and before autonomous and semi-autonomous State authorities, for the purpose of replying to any complaint or claim which may be filed against them for acts or omissions related directly or indirectly to the transportation or aerial services. In case of non-compliance with this provision the Executive shall cancel the operating certification.

Article 94. Authorization to Operate.

1) The operation of any public air transport or work service by national or foreign companies requires an authorization, permit, or certificate issued in conformity with this Law and the regulations issued thereunder.

2) A certificate of operation of a public air transport or aerial work service may not validly be transferred to another company, unless the company wishing to make the transfer has been operating for at least two (2) years, and the transferee fulfills all legal requirements for securing an operation certificate.

Article 95. Use of Equipment.

- 1) Civil aircraft must be operated within the limitations of their certificates of airworthiness.
- 2) Civil aircraft may not be used for any other purpose than the one for which the proper permit or certificate of operation has been issued.

Article 96. Operator.

For the purpose of the present Law, an "operator" or "user" of aircraft is considered to be any person, who renders the services enumerated in Article 85:

- a) The air carrier holding a certificate (or permit) for question of public air transport or aerial work services;
- b) The owner of an aircraft, or whoever uses it personally or through his employees, in the field of private air services; unless there is evidence to the contrary, the owner is the person whose name appears in the Register;
- c) The lessor who has reserved for himself the technical operation of the aircraft and the management and authority over the crew;
- d) The charterer, if the charter contract provided that he assumes all duties of the operator or user and acquires all the rights of management and authority over the crew and operation of the aircraft, during the charter period;
- e) The lessee who has acquired technical operation of the leased aircraft and the management and authority over the crew.

Article 97. Cases of foreign Aircraft.

When a Panamanian company of public air carrier or aerial work services company, because of temporary lack of its own flight equipment, duly justified, find it necessary temporarily to lease aircraft of foreign registry, the General Bureau of Civil Aeronautics may authorize the use of such aircraft within the country, for purpose of public transportation or aerial work; for this use it shall issue a provisional flight permit. This permit shall be issued for a maximum term of three (3) months.

Article 98. Flight of foreign Aircraft.

The operator or owner of any foreign aircraft wishing to use it for flights over the national territory, or to have it land thereon without taking on or unloading passengers, cargo, or mail, must:

- a) At least twenty-four (24) hours, in advance of its arrival, give notice to the (General Bureau of Civil Aeronautics, either directly or through the consular officials of the country, and as far as possible, give the following information: type of aircraft, nationality and registration marks, reason for the flight, the nationality and name of the crew members, the number of passengers, the approximate date of arrival and departure from national territory, places of departure and destination, altitudes where it will stop in Panama, and the frequency and radio call signal;
- b) Observe the safety requirements provided for in this Law and the regulations issued thereunder as well as the law of his own country relating to nationality and registration marks, equipment

and safety devices; and have on board the certificate of airworthiness, licenses of flight personnel, certificate of insurance covering damage to persons on the ground, and other pertinent documents;

c) Observe the provisions in force on customs, immigration, and health.

Article 99. Test Flights.

The General Bureau of Civil Aeronautics may authorize the performance of flights solely for tests and technical studies over unexplored routes, for the purpose of gathering information and evidence concerning the establishment of air transport or aerial work services. These authorizations shall be granted for a maximum period of thirty (30) days, and may be renewed if necessary.

Article 100. Exemption from Taxes.

1) The companies which, under an operating permit, perform public air transport or aerial work services, shall be exempt from payment of import taxes and consular fees for the duration of the operating permit, in regard to:

- a) aircraft to be operated by national air carriers;
- b) equipment of radiotelegraphy, radio beacons, and apparatus which, in the judgment of the Executive, may be useful to air navigation;
- c) special equipment exclusively for servicing of aircraft, equipment for airdromes, loading platforms, hangars, and repair shops;
- d) repair parts and spare engines for aircraft;
- e) fuel and oil which the aircraft brought with them or obtained in the country for their own use on flights to their places of destination.

Taxes, fees, imposts, royalties, rates and service charges not mentioned in this article are compulsory for said companies, in conformity with the legal provisions in force.

Article 101. Requisition of Aircraft.

1) If the Government requires the air transport and aerial work services of national companies in case of war, suspension of constitutional guarantees, or serious public emergency, it may requisition any aircraft.

2) The companies shall be duly compensated.

CHAPTER II. PUBLIC AIR TRANSPORT SERVICES

SECTION 1. DOMESTIC AND INTERNATIONAL TRANSPORTATION

Article 102. Operating Certificates.

1) In order to operate any public air transport service, scheduled or non-scheduled, domestic or international, a traffic authorization, issued by the Executive through the Ministry of Government and Justice, is required pursuant to this Law and the regulations issued thereunder.

2) Such authorization may be granted through provisional permits or permanent certificates of operation, as the case may be.

3) Provisional permits may be issued until a permanent certificate is obtained, in the special cases defined in this Law or the regulations

issued thereunder; the duration of such permits shall be up to six (6) months, renewable only once. These provisional permits may be authorized by the Ministry of Government and Justice, following a report of the General Bureau of Civil Aeronautics.

4) Permanent certificates shall be granted for periods of three (3) years, computed from the date of issue, renewable for periods of like duration upon the express application by the interested party, at least sixty (60) days prior to the expiration date. There shall be no renewal or extension when the certificate has been suspended, cancelled, or revoked. These permanent operating certificates will be issued or renewed by the Executive Branch after a report of the National Board of Civil Aeronautics.

5) No permit or certificate for operation of public air transport services shall confer exclusive ownership in or rights to the use of air routes, airways, airdromes, airports or services of aid to air navigation.

Article 103. Domestic transportation or Cabotage.

The operation of domestic public air transport services between two or more points anywhere in the Republic is reserved to Panamanian natural or corporate persons. In the latter situation at least 60% of the paid-up corporate capital must be owned by citizens, and the administration of the corporation shall be by Panamanian citizens.

Article 104. International Transportation.

1) International public air transport services may be effected by national or foreign enterprises.

2) The operation of such services under the Panamanian flag is reserved to Panamanian natural or corporate persons; in the latter case, no less than 51% of the paid-up capital must be owned by citizens.

3) Certificates issued for operation of such services by foreign enterprises shall be pursuant to the terms of approved treaties or agreements on civil aviation in effect with the respective States. In the absence thereof, such certificates shall be issued on the basis of equitable reciprocity.

4) The Executive Branch shall not grant commercial rights to foreign enterprises to operate on national territory [in the following cases]:

a) When the granting thereof represents a danger to the security of the Republic; or

b) If there is no guarantee of due reciprocity on the part of the respective government.

Article 105. Applications for Operating Certificates.

1) In order to obtain an operating certificate, it is necessary to fulfill the requirements established by this Law and the regulations issued thereunder, and post a cash bond or State Bonds for the sum of five hundred *balboas* (B/500.00) when the service to be undertaken is domestic, and ten thousand *balboas* (B/10,000.00) in the case of international service, and such sum will be reimbursed upon initiation of operations. Companies already established need not post this bond.

2) No operating certificates shall be issued to national or foreign companies:

a) when the rendering of the service is contrary to the national interests or to international agreements entered into by the Republic;

b) If, at the time of application, the air traffic needs between specified points are already satisfactory, so that the granting of the requested certificate might result in ruinous competition.

Article 106. Contents of Operating Certificates.

1) Provisional operating permits and certificates for scheduled air transport services shall specify the following:

a) The terminal points on the route as well as intermediary ones, if any, indicating those which constitute commercial stops and those which are merely technical stops;

b) the authorized frequency of flights;

c) the terms, conditions, and limitations which will duly guarantee the safety of transportation on airports and airways, as stipulated in the certificate;

d) the conditions and limitations which the public interest may require.

2) The provisional operating permits and certificates for non-scheduled air transport services shall specify:

a) the points between which service is authorized;

b) the same requirements provided for in paragraphs (c) and

(d) in the preceding section of this article.

3) In all operating certificates, the enterprise must be given a period of six (6) months computed from the date of issue in which to initiate its operations. This period may be extended up to sixty (60) days by the General Bureau of Civil Aeronautics, when, in its judgment, there is justification therefor, and upon request of the interested party. If services are not initiated within such period, the certificate shall be considered void, and the enterprise shall forfeit its respective bond.

4) Notwithstanding the frequency authorized in the certificate of operation, the carrier may, with advance permission of the General Bureau of Civil Aeronautics, occasionally undertake additional flights between the points authorized in the certificate.

Article 107. Prohibitions [imposed] on Public Carriers.

1) No public air carrier may:

a) render services which differ from those authorized in the certificate of operation: and,

b) alienate, assign, or transfer, or in any manner create liens on the certificate of operation, or on any of the rights conferred on the enterprise, without advance permission of the Executive Branch, without thereby affecting the provisions of Article 94.

2) In case of violations of these prohibitions, the certificate of operation shall be suspended or cancelled, according to the seriousness of the offense.

Article 108. Causes for Cancellation.

The certificates of operation shall be cancelled for any of the following reasons:

a) Where scheduled carriers are involved, when the service between two or more points on the assigned route is totally or partially interrupted for six (6) consecutive flights without prior authorization from the General Bureau of Civil Aeronautics, or on order of a competent authority, or when the interruption is due

to a voluntary act of the carrier or of its legal representative. Interruptions caused by *force majeure*, strikes, civil disturbance, riots or public disorders shall be excepted.

b) Where carriers engaged in non-scheduled services are involved, when they fail to render the authorized services or when sixty (60) days elapse without their rendering such service.

Article 109. Routes.

1) The routes of scheduled public air carriers and the points served by non-scheduled carriers must be approved by the General Bureau of Civil Aeronautics.

2) National scheduled carriers shall have first choice to perform non-scheduled flights between points on their own air routes, without prejudice to its scheduled services.

3) If a non-scheduled carrier requests permission to undertake flights between points already covered by a scheduled air carrier, this [permission] shall be granted only in the event of evidence that the scheduled carrier is not in a condition to render it.

Article 110. Changes in Routes.

No scheduled public air carrier may change a fixed route or any part thereof, until it obtains permission from the General Bureau of Civil Aeronautics, following the publication of the application.

Article 111. Schedules.

The schedules of scheduled services of public air transport carriers must be approved by the General Bureau of Civil Aeronautics and may not be altered or suspended. Exceptions are to be made in cases of *force majeure*, strikes, civil disturbances, riots, and public disorders.

Article 112. Publicity of Services.

Scheduled public air carriers must publish, as notice to the public, their routes, flight frequencies, schedules, fare rates, and any other requirement provided in respect to the service.

Article 113. Rates.

1) All scheduled and non-scheduled public air carriers, whether domestic or international, must submit fare and freight rates for approval of the Executive.

2) No carrier may charge for its services any amounts or sums which differ from those specified in the approved rate schedules, except in special cases provided in this Law or the regulations issued thereunder.

3) The rates shall be stipulated in national currency, but when international transportation is involved, the equivalent in other currencies may be indicated.

Article 114. Air Taxis.

1) The public air transport companies known as air taxis shall be assimilated to aerial work services, if the aircraft being used has a maximum capacity of six (6) seats for transportation of passengers, or of six hundred (600) kilograms for carriage of cargo. If they carry passengers they must have radio communications.

2) The fare and cargo rates of these services shall be regulated by the Executive, who shall consider the interests of both the company and the users.

Article 115. Statistical Information.

National public air carriers shall present periodically to the General Bureau of Civil Aeronautics a detailed report on flight hours, number of kilometers flown, routes covered, number of passengers, weight of cargo transported, and other statistical data required by the respective regulations.

SECTION 2. TRANSPORTATION, CHARTER, AND LEASE CONTRACTS

Article 116. Applicable Provisions.

1) All matters concerning domestic air transportation shall be subject to the provisions of the present Law, or in absence of any, to the pertinent provisions of the Commercial Code and subsidiarily, to those of the Civil Code.

2) In the absence of international treaties, conventions, or agreements, international air transportation shall be governed by the principles established in this law.

Article 117. Domestic and International Transportation.

For purposes of the present Section of the Law, and also of Title IV thereof:

a) All transportation shall be considered domestic in which the place of departure and the place of destination are both situated within the national territory; in such cases, the transportation shall not lose its character of domestic transportation by the fact that the aircraft, because of *force majeure*, is forced to make an unforeseen landing on foreign soil;

b) All transportation shall be considered international in which, pursuant to an agreement between the parties: the place of departure and that of destination are situated on the territory of two different States; or, the place of departure and that of destination are both situated on the territory of the same State, but one or more landings are intended on the territory of another State.

Article 118. Successive Carriers.

Performance by several carriers by air successively shall constitute a single transport, if the parties have treated it as a single operation.

Article 119. Transportation Contract.

An air transport contract is deemed to be one concluded by a natural or corporate person, known as the carrier, who binds himself for remuneration to take or carry from one place to another, by air, passengers with or without registered baggage, or cargo delivered by a shipper to be sent to the consignee to whom it is addressed.

Article 120. Form of Contract.

1) The contract for carriage of passengers is proved by the issuance of a travel ticket. The carriage of registered baggage may be proved by an entry on the flight ticket or by issuance of a baggage check.

2) The contract to carry cargo is proved by the issuance of an air way bill, which shall contain the information required by the Law and the regulations issued thereunder.

3) When international transportation of passengers, baggage, or cargo is involved, the document which constitutes the transportation contract must indicate at least the places of departure and arrival, whether these places are in the Republic with a stop abroad, and a statement that the transportation is subject to the rules on liability established by the applicable Air Transport Convention indicated.

4) The flight ticket, the baggage check, and the waybill are *prima facie* evidence, unless there is proof to the contrary, of the conclusion and the conditions of the transportation contract. The lack, irregularity, or loss of these documents does not affect the existence or validity of the transportation contract.

Article 121. Visas.

In cases of international air transport, the carrier may not load passengers who do not prove that they are duly authorized to disembark at the place of destination and at the stops provided, when the country in which the stop is made requires a transit visa.

Article 122. Charter.

1) The charter is a transportation contract by which an operator, the lessor, for remuneration assigns to another person, known as the charterer, the use of all or part of an aircraft with crew, for one trip, a series of trips, or for a specified period of time.

2) The carrier is the contracting party so designated in the charter contract. In the absence of such designation, for purposes of the present Law, the operator or charterer shall be considered to be the carrier, whether or not his name appears on the transportation documents.

Article 123. Lease.

1) The leasing of an aircraft is a contract by which the operator binds himself to give another the enjoyment or use of an aircraft for one or more flights, or for a specified time and a certain price.

2) A Panamanian aircraft may not be leased for service abroad without advance permission from the General Bureau of Civil Aeronautics.

3) Panamanian aircraft may not be leased to aliens without advance permission from the General Bureau of Civil Aeronautics.

SECTION 3. TECHNICAL CONDITIONS FOR OPERATION OF PUBLIC AIR TRANSPORT SERVICE

Article 124. Application.

1) The rules of the present Section shall be applicable to all Panamanian companies operating public air transport services.

2) Public air carriers must supply the services authorized in their certificates of operation in a safe, adequate, and effective manner, and for this purpose to have the aeronautical equipment and facilities required for these services.

Article 125. Maintenance of Aircraft.

Every operator must have an organization comprising specialized personnel, workshops, and other equipment and installations to maintain his aircraft in conditions of airworthiness.

Article 126. Maintenance Manual.

1) Every operator shall have, for the use and guidance of his personnel, maintenance manuals with the corresponding revisions and amendments;

2) Every operator must ensure that his personnel is instructed in the methods of maintenance, particularly when new equipment is introduced in the service, and shall also see that the personnel obey the instructions in the Manual.

3) A copy of the Manual shall be delivered to the General Bureau of Civil Aeronautics.

Article 127. Maintenance Records.

1) Every operator shall keep records indicating, as required in the manual, with respect to the aircraft parts, their total time of operation, the date of the last general overhaul and the date of last inspection.

2) These records may be inspected by the General Bureau of Civil Aeronautics and shall be kept for a period of ninety (90) days after the time of use of the unit or part referred to.

Article 128. Manual of Operations.

1) Every operator shall supply for the use and guidance of operations personnel a manual of operations, and revisions thereof, so that the information it contains will be kept current.

2) The manual should contain complete information on the flights generally, and also for each route flown.

3) Operators must submit their manual of flight operations for study and approval of the General Bureau of Civil Aeronautics.

4) Each member of the operation staff must obey the instructions in the manual corresponding to his respective functions and responsibilities.

Article 129. Flight Hours.

Every operator shall keep current records of the flight time of each of his pilots.

Article 130. Expertise of Pilots.

Every operator of scheduled public air transport services must prove the technical flight skill and expertise of his pilots by means of semi-annually examinations, supervised by the General Bureau of Civil Aeronautics.

Article 131. Flights Abroad.

Every operator of international transport services must ensure that:

a) his employees, agents, or subordinates, while they are abroad, obey the laws, regulations, and procedures of the States where the aircraft is operating;

b) his pilots know and obey the rules and procedures applicable to the zones to be crossed, the airdrome to be used, and the services and installations thereof;

c) the other flight crew members know and obey the rules and procedures applicable to their respective functions.

Article 132. Aircraft Commanders.

1) For each flight of public air transport services the operating company shall name a commander from among the pilots comprising the flight crew.

2) The pilot commander is responsible for the operation, care, order, and safety of the aircraft, its crew, the passengers and their baggage, the cargo, and the mail being transported. This responsibility commences when he takes charge of the aircraft to commence the flight, and terminates at the end of it when the representative of the operating company or any competent authority takes charge of the aircraft, passengers, cargo, baggage, and mail.

- 3) The pilot commander may, before commencing the flight;
- a) prevents the loading of persons in abnormal physical or mental condition, which would endanger the order or safety of the flight.
 - b) reject prohibited articles and cargo obviously in bad condition, which would constitute a danger to passengers and crew.
- 4) It is the duty of the pilot commander during the flight to:
- a) maintain order on the aircraft and take all disciplinary measures he deems proper aboard;
 - b) for serious cause suspend a member of the crew from his duties;
 - c) arrest any person who commits a crime or misdemeanor, record information concerning the act, and deliver the offenders to the competent authority at nearest place of landing;
 - d) register births, deaths, and other acts occurring on board, which may have legal consequences, and record these in the proper log book;
 - e) adopt the necessary safety measures in case of forced landings outside of the airdromes of his route;
 - f) vary the route in case of need or *force majeure*;
 - g) jettison matter to protect the aircraft from imminent danger.

Article 133. Records made on Board.

In the case specified in section (d) of the preceding article, the pilot commander shall report the facts to the authority in the place of first landing on national territory, or to the competent foreign authority or nearest Consul of Panama, if the landing is outside the country.

Article 134. System of Flight Checks.

1) The operator shall establish a system of flight checks to be followed by the flight crew before take-off, at the time of take-off, during the flight, upon landing, and in case of emergency.

2) The pilot commander shall assure himself that the system of checking is scrupulously followed.

Article 135. Duties prior to commencing Flights.

Before commencing any public air transport flight, the pilot commander must assure that:

a) The aircraft complies with the conditions for air-worthiness, and has on board the documents and books required by the laws and regulations;

b) The instruments and equipment prescribed for the type of operation he is undertaking are installed, and are adequate to perform the flight;

c) The maintenance of the aircraft has been observed according to rules;

d) The weight of the aircraft is such that he can fly in safety, in view of the prescribed conditions for the flight;

- e) The cargo transported is distributed and secured in such manner that the aircraft may make the trip with safety;
- f) The aircraft carries sufficient fuel and oil to complete the flight without danger, and has the necessary fuel and oil reserves;
- g) The prescribed crew is on board;
- h) Instructions of the air traffic control services are observed.
- i) The necessary maps and charts for the flight are on board;
- j) There is on board the safety equipment corresponding to the type of flight being made.

Article 136. Weather Minima at Airports.

1) The General Bureau of Civil Aeronautics shall fix the weather minima for each airdrome.

2) No operator may fly at weather minima below those established by the General Bureau of Civil Aeronautics.

Article 137. Chief Pilots.

1) During flight, there must be at least one pilot at the control position.

2) If the certificate of airworthiness or other document requires two (2) pilots, they shall both remain at the control posts during the take-off and landing, and under dangerous conditions.

Article 138. Access to the Cockpit.

Access to the cockpit during a flight is strictly prohibited for any person not a member of the crew, with the exception of inspectors of the General Bureau of Civil Aeronautics or of the company operating the aircraft.

Article 139. Weather Observations.

Whenever possible, the pilot commander must communicate observations on the weather along his routes at the times and places prescribed, as requested by the authorities of the weather service.

2) The pilot commander must also communicate as soon as possible the pertinent details which may affect the safety of other aircraft.

Article 140. Documentation.

The pilot commander of any aircraft in public air transport coming from abroad or leaving the country, must present to the respective competent authorities at the airdrome of entry or departure the documents prescribed by the international regulations.

Article 141. Emergency Landing.

In case an aircraft in international flight, is forced in an emergency to land outside an international airport, it must immediately notify the aviation authorities of the place, or in the absence thereof, the nearest authority, for the purpose of taking the necessary measures to avoid the unloading of an aircraft without complying with the requirements of the Law. Extraordinary expenses caused to the Government by this action shall be to the account of and chargeable to the owner or operator of the aircraft.

Article 142. Flight Reports.

Upon terminating or during a flight, in case of urgency, the pilot commander shall notify the authority designated by the General Bureau of Civil Aeronautics, and the operator of the aircraft, of any

incident or accident occurring during the flight, and any defect noted or suspected in the aircraft, in the airports, in the aids to air navigation, and in other aviation equipment.

CHAPTER III. AERIAL WORK SERVICES

Article 143. Authorization.

1) Aerial work services undertaken by national or foreign companies shall be authorized by the Executive Branch, which shall issue the proper authorization.

2) The Executive may cancel, suspend, or change any authorization for aerial work for non-compliance with the provisions of this Law or the regulations issued thereunder, or with any of the terms or limitations of the respective permit or certificate.

3) However, no permit or certificate may be permanently revoked or cancelled without granting the interested parties a reasonable time to present allegations and evidence they may deem proper in defense of their interests.

Article 144. Term.

The authorization for aerial work services shall be issued for the period of one (1) year.

Article 145. Aircraft.

1) Aircraft owned by national aerial work companies shall be registered in Panama; aircraft of foreign companies undertaking aerial work in Panama must also be registered in Panama, if they are to remain in the country for more than six (6) months.

2) All aircraft engaged in aerial work must fulfill all of the requirements for safety and airworthiness provided for in the present Law and the regulations issued thereunder.

Article 146. Flight Personnel.

The pilots of aircraft used for certain aerial works who need to make flights at an altitude less than the minimum provided for in the air regulations must have a certificate for low-altitude flying, which shall be issued by the General Bureau of Civil Aeronautics, in conformity with the regulations for aerial work and agricultural aviation enacted by the Executive Branch.

Article 147. Liability.

All natural or corporate persons operating aircraft used for agricultural purposes, shall be financially liable for damages and injuries caused to persons or property on the ground by reason of application of dangerous chemical substances, or in cases of low flights, by the crash of an aircraft, or by objects falling or thrown therefrom.

CHAPTER IV. PRIVATE AIR SERVICES

Article 148. Conditions.

Owners and operators of private air services shall not need permits to undertake their air activities. It shall suffice if they obtain the proper registration from the General Bureau of Civil Aeronautics and keep their licenses, certificates of airworthiness, and log books in a state of validity. However, they must comply with all provisions

on safety of air navigation contained in this Law and the regulations issued thereunder.

Article 149. Prohibition.

The aircraft in private service may not undertake public air transport services, except in special cases justified to the General Bureau of Civil Aeronautics.

Article 150. Foreign aircraft in private Service.

1) Owners and operators of foreign aircraft used for private services, who wish to fly over the national territory or to land thereon, shall conform to the provisions of Article 98 of this Law.

2) Owners of foreign aircraft who wish to remain in Panama for some time exclusively for tourist purposes, may obtain a temporary permit from the General Bureau of Civil Aeronautics for up to three (3) months.

3) All aircraft in private air service used in Panama for more than six (6) months must be registered in Panama.

CHAPTER V. AVIATION CLUBS, SCHOOLS, WORKSHOPS

Article 151. Permits.

The civil air activities of natural or corporate persons for the development of air tourism or training of pilots or ground personnel, may be pursued by permission issued by the Executive, provided they fulfill the requirements of this Law and the regulations issued thereunder.

SECTION 1. AVIATION CLUBS

Article 152. Development.

The General Bureau of Civil Aeronautics shall encourage the formation of Aviation Clubs, supply the technical assistance and guidance it believes proper to the public interest and to safety of air navigation, and shall control their air and technical activities.

Article 153. Organization.

Aviation clubs shall be established as civil associations for purposes of promoting aviation, through the reduction of flying expenses to their membership and the exchange of technical information and skills, as well as of rendering aid during certain emergencies. The persons concerned must submit to the Executive Branch through its Ministry of Government and Justice, an application for recognition of its legal personality. The decision on the application shall be made by the Executive, following a favorable report in advance by the General Bureau of Civil Aeronautics. If, later, the General Bureau of Civil Aeronautics finds that the operation of any aviation club or its activities are prejudicial to the safety of aircraft, or violate the Law or the respective regulations, it shall recommend that said legal capacity be revoked.

Article 154. Exemption from Taxes.

No taxes of any kind shall be imposed on the importation of aircraft, engines, or repair parts intended for the use of aviation clubs whose legal capacity has been recognized by the Executive. Recognized clubs shall be exempt from landing fees.

SECTION 2. AVIATION SCHOOLS

Article 155. Training.

Flight instruction in Panama shall be primarily in the charge of training schools or centers which shall function in accordance with this Law, and the Regulation, to be enacted by the Executive for that purpose.

Article 156. Study Plans.

The Executive shall approve in advance the respective plans for study and teaching.

Article 157. Instructors.

The teachers and instructors in the civil aviation schools must be certified by the Executive by issuance of a proper license to teach.

Article 158. Examinations.

The General Bureau of Civil Aeronautics shall accept the results of examinations taken at duly recognized aviation schools as credit toward obtaining the corresponding license, pursuant to the standards established in the regulation.

Article 159. Cancellation of the License.

The license given to training schools or centers by the Executive may be cancelled at any time if there is proof of any irregularities or defects in the teaching or in the issuance of competency certificates.

SECTION 3. AERONAUTICAL WORKSHOPS

Article 160. Requirements.

Any person or enterprise presenting an application for a license to establish a workshop for aircraft maintenance must prove his competency and technical capacity to the satisfaction of the General Bureau of Civil Aeronautics.

Article 161. Regulation.

Licenseses of aircraft workshops, in every case, must pursue their activities conforming to the regulations and safety provisions of this Law and of the special regulation to be enacted by the Executive.

TITLE IV. CHARGES AND FEES

Article 162. Authority.

1) The services which the State must render directly to individuals by means of its agencies, in accordance with this Law and the regulations issued thereunder, shall justify collection by [the State] of these charges and fees.

2) The proceeds of these charges and fees shall be deposited in the National Treasury.

Article 163. Registration Fees.

1) For recording an aircraft in the Registration Book of the General Bureau of Civil Aeronautics, and the issuance of the corresponding Certificate, B/25.00.

For aircraft of six (6) passengers or less, B/10.00.

2) For amendment of or alteration in said Register because of change of name of the owner, alteration in the structure of the aircraft, or any other data requiring the issuance of a new registration certificate, B/10.00.

3) For issuance of a new registration certificate because of destruction or loss of the original certificate, B/10.00.

4) For issuance of a decree cancelling the registration of an aircraft because of change of flag [nationality], B/25.00.

5) No fee shall be charged for issuance of a decree cancelling the registration of an aircraft because of its total destruction or loss.

Article 164. Fees relating to Airworthiness.

For issuance, revalidation, or validation of a certificate of airworthiness for an aircraft, for each act, B/5.00.

Article 165. Fees relating to Licenses.

For issuance, revalidation, or validation of licenses or qualifications of pilots, other flight crew members, and other technical aviation personnel, for each act, B/5.00.

Article 166. Fees for temporary Permits.

For issuance of a temporary traffic permit to a foreign aircraft leased temporarily by a Panamanian company of public transportation or aerial work, and used exclusively by it, B/5.00.

On aircraft up to 12,500 pounds of weight, B/10.00.

On any exceeding this weight, B/25.00.

Article 167. Airport Charges.

The charges, fees, and taxes to be collected for the use of airports, airdromes, and other facilities for public air navigation shall be fixed by a special law.

Article 168. Public Registry Fees.

1) The recording of public or certified documents in the Property Section of the Public Register shall be subject to the fees indicated below:

a) Forty hundredths of a *balboa* (B/0.40) for each one hundred *balboas* (B/100.00) or fraction thereof in the value of the documents or contracts by which ownership in an aircraft is established or transferred, provided that this value does not exceed one thousand *balboas* (B/1,000.00). For amounts exceeding one thousand *balboas* (B/1,000.00) there shall be charged for the first thousand, four *balboas* (B/4.00) in fees, and in addition two *balboas* (B/2.00) for each additional thousand *balboas* (B/1,000.00) or fraction thereof.

The rates stipulated in this article shall be applied to the value registered at the General Bureau of Civil Aeronautics, if the value expressed in the document is less than the former. For this purpose, the document to be presented at the Public Register shall be accompanied by a certificate issued by the Bureau in which the registered value of the aircraft is stated. If this does not appear, it shall be evaluated and registered so that there may be compliance with the requirements of this article.

b) Ten hundredths of a *balboa* (B/0.10) for each one hundred *balboas* (B/100.00) or fraction thereof of the value of lease or

charter contracts on aircraft and these fees shall be based on the amount of the lease stated on the document for the term of the contract, and if not stated, on the rental for one (1) year.

c) Three *balboas* (B/3.00) for [documents] incorporating a promise to sell or buy an aircraft.

d) Twenty hundredths of a *balboa* (B/0.20) for each one hundred *balboas* (B/100.00) or fraction thereof on the value of the acts or contracts which constitute or transfer a mortgage on aircraft; for the registration of the documents in which mortgages are extended, the sum of five *balboas* (B/5.00) shall be paid, unless it is a case in which fees less than ten *balboas* (B/10.00) have been paid for the original registration. In such case, one-half of the original fee shall be paid for the extension or renewal.

e) Four *balboas* (B/4.00) for any other entry not specified in this article.

2) The certificates and copies issued by the Public Registry shall be subject to the following fees:

a) One *balboa* (B/1.00) for the first partially or fully written page of a certified copy of any entry or notation, or the certification concerning the same, and fifty hundredths of a *balboa* (B/0.50) for each additional partial or full page;

b) One *balboa* (B/1.00) for the certification to prove that no entry or annotation appears in the Register.

c) Fifty hundredths of a *balboa* (B/0.50) for each notation to be entered on later copies of documents which are already registered.

These fees shall be paid with stamps which shall be affixed and cancelled on the respective copy of the certification, without thereby affecting the use of stamped paper required in this section, as a tax.

3) No registration fees shall be charged for entering writs of seizure or attachment of an aircraft, or complaints filed relating to ownership of aircraft, or to property rights inherent therein. But fees shall be charged for the cancellation of attachments, embargos, and complaints relating thereto, as follows: For registration of the writ or judgment ordering the cancellation, four *balboas* (B/4.00); for each marginal note placed on each entry of the aircraft affected by the attachment, embargo, or complaint, fifty hundredths of a *balboa* (B/0.50).

Article 169. Deposit of Moneys Received.

1) The amounts received by the General Bureau of Civil Aeronautics and the national airport administrators shall be deposited daily with the respective collection officials.

2) The amounts received by the National Register shall be transferred in accordance with the regulations.

TITLE V. CIVIL LIABILITY

CHAPTER I. LIABILITY OF THE CARRIER

Article 170. Damages to Passengers.

The carrier must compensate the damages and detriments caused by death, injury, or wounds suffered by any passenger, if the act causing the damages takes place on board an aircraft or during the operations